Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU (Text with EEA relevance)

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) The Union is committed to building an Energy Union with a forward looking climate policy. Energy efficiency is a crucial element of the Union's 2030 Climate and Energy Policy Framework and is key to moderating energy demand.

(2) Energy labelling enables customers to make informed choices based on the energy consumption of energy-related products. Information on efficient and sustainable energy-related products makes a significant contribution to energy savings and to reducing energy bills, while at the same time promoting innovation and investments into the production of more energy efficient products. Improving the efficiency of energy-related products through informed customer choice and harmonising related requirements at Union level benefits also manufacturers, industry and the Union economy overall.

(3) The Commission reviewed the effectiveness of Directive 2010/30/EU of the European Parliament and of the Council[(3)] and identified the need to update the energy labelling framework to improve its effectiveness.

(4) It is appropriate to replace Directive 2010/30/EU by a Regulation which maintains essentially the same scope, but modifies and enhances some of its provisions in order to clarify and update their content, taking into account the technological progress for energy efficiency in products achieved over recent years. As the energy consumption

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of means of transport for persons or goods is directly and indirectly regulated by other Union law and policies, it is appropriate to continue to exempt them from the scope of this Regulation, including means of transport with a motor that stays in the same location during operation, such as elevators, escalators and conveyor belts.

(5) It is appropriate to clarify that all products placed on the Union market for the first time, including second-hand imported products, should fall under the scope of this Regulation. However, products that are made available on the Union market for a second or additional time should not be included.

(6) A Regulation is the appropriate legal instrument as it imposes clear and detailed rules which preclude divergent transposition by Member States and thus ensures a higher degree of harmonisation across the Union. A harmonised regulatory framework at Union rather than at Member State level reduces costs for manufacturers, ensures a level playing field and ensures the free movement of goods across the internal market.

(7) Moderating energy demand is recognised as a key action in the European Energy Security Strategy set out in the Commission Communication of 28 May 2014. The Energy Union Framework Strategy set out in the Commission Communication of 25 February 2015 further emphasised the energy efficiency first principle and the need to fully implement existing Union energy law. The Roadmap for the Energy Union Framework Strategy set out in that Communication provided for a review of the energy efficiency framework for products in 2015. This Regulation improves the legislative and enforcement framework for energy labelling.

(8) Improving the efficiency of energy-related products through informed customer choice benefits the Union economy, reduces energy demand and saves customers money on energy bills, contributes to innovation and investment in energy efficiency, and enables industries which develop and produce the most energy efficient products to gain a competitive advantage. It also contributes to the achievement of the Union's 2020 and 2030 energy-efficiency targets, as well as to the Union's goals for the environment and climate change. Furthermore, it aims to have a positive impact on the environmental performance of the energy-related products and their parts, including use of resources other than energy.

(9) This Regulation contributes to the development, recognition by customers and market uptake of energy smart products, which can be activated to interact with other appliances and systems, including the energy grid itself, in order to improve energy efficiency or the uptake of renewable energies, reduce energy consumption and foster innovation in Union industry.

(10) The provision of accurate, relevant and comparable information on the specific energy consumption of energy-related products facilitates the customer's choice in favour of products which consume less energy and other essential resources during use. A standardised mandatory label for energy-related products is an effective means by which to provide potential customers with comparable information on the energy efficiency of energy-related products. The label should be supplemented by a product information sheet. The label should be easily recognisable, simple and concise. To that end, the existing dark green to red colour scale of the label should be retained as the basis for

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informing customers about the energy efficiency of products. In order for the label to be of real use for customers looking for energy and cost savings, the steps of the label scale should correspond to significant energy and cost savings for customers. For the majority of product groups, the label should, where appropriate, also indicate the absolute energy consumption in addition to the label scale, in order to allow customers to predict the direct impact of their choices on their energy bills. However, it is impossible to provide the same information with regard to energy-related products that do not themselves consume energy.

(11) The classification using letters from A to G has been shown to be cost effective for customers. It is intended that its uniform application across product groups raises transparency and understanding among customers. In situations where because of ecodesign measures pursuant to Directive 2009/125/EC of the European Parliament and of the Council[(4)] products can no longer fall into class 'E', 'F' or 'G', those classes should nonetheless be shown on the label in grey. In exceptional and duly justified cases, such as reaching insufficient savings across the full spectrum of the seven classes, the label should be able to contain fewer classes than a regular A to G scale. In those cases the dark green to red colour scale of the label should be retained for the remaining classes and should apply only to new products that are placed on the market or put into service.

(12) Where a supplier places a product on the market, each unit of the product should be accompanied by a label in paper form complying with the requirements of the relevant delegated act. The relevant delegated act should set out the most effective way of displaying the labels, taking into account the implications for customers, suppliers and dealers, and could provide that the label is printed on the packaging of the product. The dealer should display the label supplied together with the unit of the product in the position required by the relevant delegated act. The label displayed should be clearly visible and identifiable as the label belonging to the product in question, without the customer having to read the brand name and model number on the label, and should attract the attention of the customer browsing through the product displayed.

(13) Without affecting the obligation of the supplier to provide a printed label together with each unit of a product, advances in digital technology could allow for the use of electronic labels in addition to the printed energy label. The dealer should also be able to download the product information sheet from the product database.

(14) Where it is not feasible to display the energy label, such as in certain forms of distance selling, visual advertisements and technical promotional material, potential customers should be provided at least with the energy class of the product and the range of the efficiency classes available on the label.

(15) Manufacturers respond to the energy label by developing and placing on the market ever more efficient products. In parallel, they tend to discontinue the production of less efficient products, stimulated to do so by Union law relating to ecodesign. This technological development leads to the majority of product models populating the highest classes of the energy label. Further product differentiation may be necessary to enable customers to compare products properly, leading to the need to rescale labels.

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This Regulation should therefore lay down detailed arrangements for rescaling in order to maximise legal certainty for suppliers and dealers.

(16) For several labels established by delegated acts adopted pursuant to Directive 2010/30/EU, products are available only or mostly in the top classes. This reduces the effectiveness of the labels. The classes on existing labels, depending on the product group have varying scales, where the top class can be anything between classes A to A +++. As a result, when customers compare labels across different product groups, they could be led to believe that better energy classes exist for a particular label than those that are displayed. To avoid such potential confusion, it is appropriate to carry out, as a first step, an initial rescaling of existing labels, in order to ensure a homogeneous A to G scale for three categories of products pursuant to this Regulation.

(17) Energy labelling of space and water heating products was introduced only recently and the rate of technological progress in those product groups is relatively slow. The current labelling scheme makes a clear distinction between conventional fossil fuel technologies that are at best class A, and technologies that use renewable energy, which are often significantly more expensive, for which classes A+, A++ and A+++ are reserved. Substantial energy savings can already be achieved by the most efficient fossil fuel technologies, which would make it appropriate to continue promoting them as class A. As the market for space and water heating products is likely to move slowly towards more renewable technologies, it is appropriate to rescale the energy labels for those products later.

(18) Following initial rescaling, the frequency of further rescaling should be determined by reference to the percentage of products sold that are in the top classes. Further rescaling should take into account the speed of technological progress and the need to avoid over burdening suppliers and dealers, and, in particular, small businesses. Therefore, a timescale of approximately 10 years would be desirable for the frequency of rescaling. A newly rescaled label should leave the top class empty to encourage technological progress, provide for regulatory stability, limit the frequency of rescaling and enable ever more efficient products to be developed and recognised. In exceptional cases, where technology is expected to develop more rapidly, no products should fall within the top two classes at the moment of introduction of the newly rescaled label.

(19) Before rescaling, the Commission should carry out an appropriate preparatory study.

(20) When a label for a product group is rescaled, confusion on the part of customers should be avoided by replacing the labels on the affected products displayed in shops within a short timeframe, and by organising adequate consumer information campaigns clearly indicating that a new version of the label has been introduced.

(21) In the case of a rescaled label, suppliers should provide both the existing and the rescaled labels to dealers for a certain period. The replacement of the existing labels on products on display, including on the internet, with the rescaled labels should take place as quickly as possible after the date of replacement specified in the delegated act on the rescaled label. Dealers should not display the rescaled labels before the date of replacement.

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(22) It is necessary to provide for a clear and proportionate distribution of obligations corresponding to the role of each operator in the supply and distribution process. Economic operators should be responsible for compliance in relation to their respective roles in the supply chain and should ensure that they make available on the market only products which comply with this Regulation and the delegated acts adopted pursuant thereto.

(23) In order for customers to retain confidence in the energy label, other labels that mimic the energy label should not be allowed to be used for energy-related products and non-energy-related products. Where energy-related products are not covered by delegated acts, Member States should be able to maintain or introduce new national schemes for the labelling of such products. Additional labels, marks, symbols or inscriptions that are likely to mislead or confuse customers with respect to the consumption of energy for the product concerned should not be allowed for the same reason. Labels provided for pursuant to Union law, such as the labelling of tyres with respect to fuel efficiency and other environmental parameters, and additional labels such as the EU Energy Star and EU Ecolabel should not be considered to be misleading or confusing.

(24) Increasingly, customers are offered software or firmware updates of their products after the products have been placed on the market and put into use. While such updates are typically intended to improve product performance, they may also impact the energy efficiency and other product parameters indicated on the energy label. If those changes are to the detriment of what is indicated on the label, customers should be informed about those changes and should be given the option of accepting or refusing the update.

(25) In order to ensure legal certainty, it is necessary to clarify that rules on Union market surveillance and control of products entering the Union market provided for in Regulation (EC) No 765/2008 of the European Parliament and of the Council[(5)] apply to energy-related products. Given the principle of free movement of goods, it is imperative that Member States' market surveillance authorities cooperate with each other effectively. Such cooperation on energy labelling should be reinforced through support by the Commission of the Administrative Cooperation Groups (AdCos) on Ecodesign and Energy Labelling.

(26) The Commission proposal for a new regulation on market surveillance of products integrates the provisions of Regulation (EC) No 765/2008, Directive 2001/95/EC of the European Parliament and of the Council[(6)] and several sector-specific Union harmonisation legislative acts. That proposal includes provisions on safeguard clauses contained in Decision No 768/2008/EC of the European Parliament and of the Council[(7)], which would apply to all Union harmonisation legislative acts. For so long as the new regulation is still under consideration by the co-legislators, it is appropriate to refer to Regulation (EC) No 765/2008 and to include safeguard clauses in this Regulation.

(27) Market surveillance activities covered by Regulation (EC) No 765/2008 are not directed exclusively towards the protection of health and safety, but are also applicable to the enforcement of Union law which seek to safeguard other public interests, including energy efficiency. In line with the Commission Communication entitled ‘20 actions for