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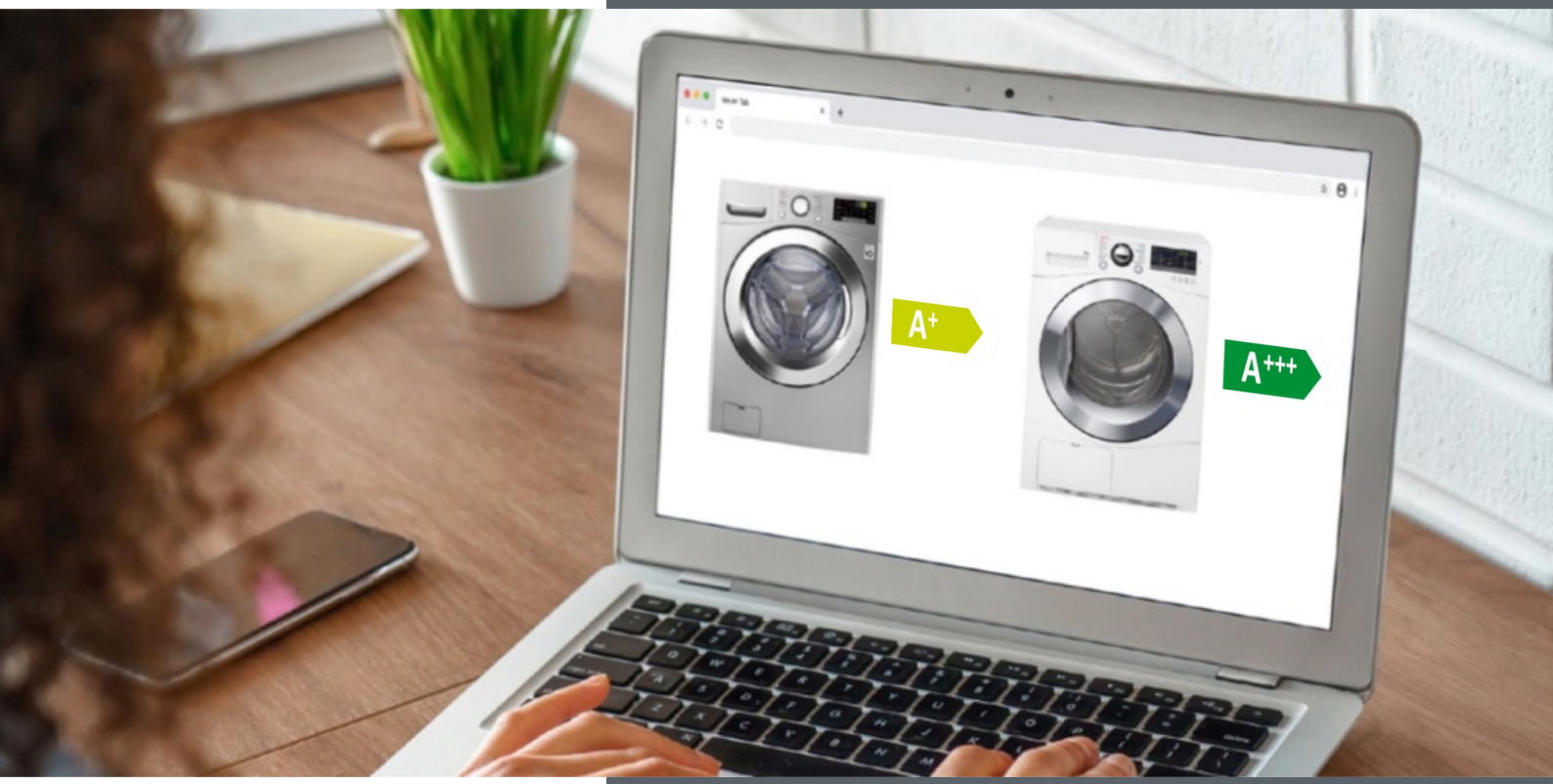

STUDY TO EVALUATE ONLINE ENERGY LABELLING COMPLIANCE IN THE EU

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GLOSSARY[1]

COMPLIANCE MONITORING – Activities undertaken to collect information about compliance with legal requirements

DEALER (also commonly referred to as retailer) – general terms covering natural or legal persons who offer for sale, hire, or hire purchase, or display products to customers or installers in the course of a commercial activity

DISTANCE SELLING – the offer for sale, hire or hire purchase by mail order, catalogue, internet, telemarketing or by any other method by which the potential customer cannot be expected to see the product displayed

ECODESIGN REQUIREMENT – means any requirement in relation to the EU legislation on ecodesign requirements, regulating a product, or the design of a product, with the intention to improve its environmental performance, or a requirement for the supply of information with regard to the environmental aspects of a product

EPREL DATABASE – database set up by the European Commission and organised as a collection of data concerning product models placed on the market by suppliers with the energy label, consisting of a consumer-oriented public part where information concerning product parameters is accessible by electronic means, an online portal for product registration for suppliers, and a compliance part, with specific accessibility and security requirements

ENFORCEMENT – the actions taken by an authority based on incidents of non-compliance with the rules of a programme with a purpose to obtain compliance

ENERGY LABEL – Mandatory comparison labels affixed to products sold in the EU and indicating energy efficiency class and complementary information that provide consumers with the defined information to make informed purchase decisions. It means a graphic diagram, either in printed or electronic form, including a closed scale using e.g. letters from A+++ to D or A to G, each representing an energy class and each class corresponding to energy savings. At the time of this study, the rules were established in Directive 2010/30/EU and its Delegated Acts

FICHE – 'Product information sheet' means a standard document precisely defined by each product regulation, containing information relating to a product, in printed or electronic form

MARKET SURVEILLANCE – activities undertaken to monitor compliance with legal requirements once products are placed on the market

MARKETPACE – type of e-commerce website where products are provided by multiple third parties and vendors. Consumer transactions are processed by the marketplace operator and then delivered and fulfilled by the participating partner dealers.

MODEL – a version of a product of which all units share the same technical characteristics relevant for the label and the product information sheet and the same unambiguous model identifier

MONITOR – observe and check that legal requirements are being met, either as a one-off or systematically, over a period of time

MARKET SURVEILLANCE AUTHORITIES – national or regional organisations within the EU Member States, with the authority to monitor the compliance of products placed on the market – in this document specifically within the area of energy labels and ecodesign

NON-COMPLIANCE – used as a term when legal requirements are not met. ***Important note:*** *as this study is not an official market surveillance activity led by authorities in charge, the term "non-compliance" is purely used in a descriptive way and does not bear any legal implication. Only authorities are entitled to confirm and state legal* non-compliance

ONLINE RETAIL SITE – is an internet-based "place" where products are sold using digital networks. It is an online store where customers can "visit" from anywhere and at any time using a Web browser or app on a computer or mobile digital device

ONLINE SHOPPING – Online shopping is a form of electronic commerce which allows consumers to directly buy goods or services from a seller over the Internet using a web browser or a mobile app. Consumers find a product by visiting the website of the retailer directly or by searching among alternative vendors using a shopping search engine, which displays the same product's availability and pricing at different e-retailers

PRODUCT – an item or system with an impact on energy consumption during use which is placed on the market or put into service, including parts with an impact on energy consumption during use

PRODUCT (MODEL) PAGE – a page on an online retail site website that defines a product model in its entirety. This page enables the visitors to view the model and review what the model offers, its specifications and features, and how it will benefit them once they buy it, as well as providing all formally requested information

PRODUCT GROUP MAIN PAGE – page where the full list of models available within a certain product group is displayed on a website

SHOP MAIN PAGE – homepage of the specific online retail sites

SUPPLIER – (also commonly referred to as *manufacturer* or importer) – a manufacturer, or the authorised representative of a manufacturer who is not established in the European Union, or an importer, who places a product on the EU market

1 Source and adapted from: REGULATION (EU) 2017/1369 of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU and other legal and analytical documents

Introduction

Ecodesign and Energy Labelling are now widely recognised as efficiency policies and critical tools to reach the European emission reduction targets. The EU has one of the world's most comprehensive energy standards and labelling programmes. The importance of ensuring a high level of compliance with these policies has been therefore increasingly recognised and both the Member States and the European level have mobilised in recent years to improve the situation.

IMPORTANCE OF IMPROVING ONLINE COMPLIANCE

E-commerce is steadily growing in the EU, and numerous websites offer energy-using products for sale. Some past projects have reported compliance concerns with Energy Labelling regulations on the online market.

Even more consumers who typically would have gone to a store to purchase an appliance were recently forced to select and purchase their product online because of the global pandemic crisis. Ensuring a high level of online compliance is therefore becoming an even higher stake both on the consumer and on the industry sides.

IN-DEPTH MONITORING

CLASP has initiated this study, covering six EU Member States to monitor the proper display of energy labels and related information on websites. The countries include Belgium, Czech Republic, Denmark, Germany, France, and Slovakia.

72 websites have been investigated – covering some of the largest online retail sites in the respective countries, specialised dealers, low price segment, do-it-yourself and high-end dealers, as well as price comparison websites.

The monitoring took place in end 2020 and covered some 3,000 product pages, as well as shop main pages, product group pages, basket pages and comparison pages. The monitoring also included a review of online retail site advertising and leaflets. The proper availability, location and size of the mandatory energy labelling information has been checked.

The project also included an additional monitoring of the potential sales of incandescent and halogen light sources, which should not have been brought to the market since 2016 (according to the Ecodesign legislation).

FINDINGS

The findings of the project are presented in several forms: first an overview of the compliance levels found on the monitored sample, then a comprehensive typology and description of all the non-compliance cases identified, and finally the main lessons from a survey carried out among a selection of key market actors. These findings inspired a number of recommendations presented in the last chapter.

Executive summary

INCREASING IMPORTANCE OF ONLINE SALES

E-commerce is steadily growing in the EU and globally, with numerous websites selling energy-consuming appliances. Since early 2020, the COVID-19 pandemic has accelerated the shift to online purchasing, as consumers who would typically purchase appliances in stores are now shopping online. This has increased the importance to both consumers and industry of ensuring a high level of compliance with efficiency labeling rules in online settings.

Recent research indicates there are low levels of compliance with EU energy labeling regulations in online retail. For example, the January 2020 Special Report of the European Court of Auditors noted that 57% of the inspected products sold online were not labelled properly or at all. CLASP and our study team conducted this research to address these mounting concerns, document the state of online energy labelling compliance, investigate the causes of non-compliance, and make recommendations for improvement.

RESEARCH – SCOPE AND METHODOLOGY

Our research consisted of online research and a survey of selected stakeholders. The online research covered websites selling refrigerators, washing machines, dishwashers, televisions and lamps. It covered 72 online retail sites and price comparison websites in Belgium, Czech Republic, Denmark, France, Germany, and Slovakia. We surveyed 33 individuals from online retailers, retailer associations, supplier associations (national and EU level) and market surveillance authorities.

RESULTS – TYPES AND FREQUENCY OF NON-COMPLIANCE

The most frequent non-compliance issues were related to the location of the energy label or nested display[2], the format and size of the graphic, the availability of the mandatory product information sheet (product fiche), and the absence of labelling information on some page types (catalogue, basket, comparator, etc).

The evaluation of the practices on price-comparison websites – which have no legal duty and limited labelling information but are highly relevant to consumers – showed a very low level of alignment with energy labelling requirements.

The study establishes a typology of the cases of non-compliance that were encountered during the research – availability, readability, accuracy and additional mention[3] and presents a quantitative and qualitative assessment of the level of compliance observed during the monitoring.

2 Since displaying the label and fiche next to the product may require significant screen space, an image of an arrow in the color corresponding to the energy efficiency class of the product on the label, can be used to provide the label through nested display. "Nested display" means visual interface where an image or data set is accessed by a mouse click, mouse roll-over or tactile screen expansion of another image or data set (Regulation (EU) No 518/2014)

3 Additional mentions are statements found on websites that may not be covered by energy labelling regulations per se but may also influence consumers and in some cases hinder the impact of energy labelling.

SEVERE AND FREQUENT

DIFFICULTY ACCESSING THE INFORMATION

ABSENCE OF PRODUCT FICHES

ABSENCE OF LABELS ON CERTAIN PAGE TYPES

MINOR AND FREQUENT

INCORRECT CLASS ARROW FORMAT

INCORRECT CLASS ARROW SIZE

SEVERE AND INFREQUENT

DIFFICULTY ACCESSING THE INFORMATION

FULL OR RECURRENT ABSENCE OF LABELS

CORRUPT LABELS

LABEL DISPLAY SIZE PROBLEMS

ILLEGIBLE PRODUCT FICHES

DISCREPANCY BETWEEN ARROW AND LABEL

MISALIGNMENT WITH SUPPLIER DATA

MINOR AND INFREQUENT

INCORRECT LABEL FORMATS

DISCREPANCY BETWEEN PAGE TEXT AND LABEL INFORMATION

MAIN BARRIERS TO FULL COMPLIANCE

Most online retailers show some effort to comply with labelling regulations, but are not fully successful. While suppliers and dealers generally have procedures in place to efficiently exchange information and ensure compliance, there are market segments where improvements are necessary (e.g. marketplaces[4]), as well as other reasons why the proper information is not fully and accurately displayed at online retail sites.

To achieve a good level of compliance, each part of the supply chain needs to have a clear understanding of a relatively complex regulation, which is often not the case. Practices that can support higher compliance levels include regular monitoring and verification of the online market, proactive communication towards online retailers and explanation of the legal duties, personalized evaluation and recommendation and follow-up to ensure that the recommendations were well understood and implemented.. These practices are known to be effective but are not consistently used.

4 A marketplace means a type of e-commerce website where products are provided by multiple third parties and vendors. Consumer transactions are processed by the marketplace operator and then delivered and fulfilled by the participating partner dealers.

RECOMMENDATIONS

Based on our online research, stakeholder surveys, and other labelling compliance experience, we developed recommendations to increase online labelling compliance by retailers and establish requirements for price comparison websites and online marketplaces. We categorize those recommendations as informational, organisational, technical or regulatory solutions, and propose additional research and follow-up activities.

INFORMATIONAL SOLUTIONS market actors' knowledge of labelling regulations, include:

- Raising the awareness of stakeholders on correct implementation via guides and trainings;
- Increasing the visibility of MVE activities to ensure compliance pressure.

ORGANISATIONAL SOLUTIONS are internal procedures that retailers can adopt to improve their regulatory compliance:

- Improve internal awareness & consistency within online retailers, in all relevant departments (including IT, marketing, sustainability, etc);
- Put procedures in place to systematically verify compliance and launch follow-up actions when issues are detected;
- Marketplaces should put in place mechanisms to better inform, support and constrain their partner sellers to comply.

TECHNICAL SOLUTIONS are automated technical/IT tools that could help systematise compliance with less errors. Recommendations include:

- Develop a standardised online labelling module, in the form of a ready-to-embed box programmed to display all the necessary information in the right format;
- Use webcrawlers to assist market monitoring;
- Make mandatory information and documents easily available, for example through the EPREL database.

REGULATORY SOLUTIONS are recommendations to EU decision-makers to further improve and potentially simplify the online labelling rules so that compliance is easier and avoid gray areas. In particular:

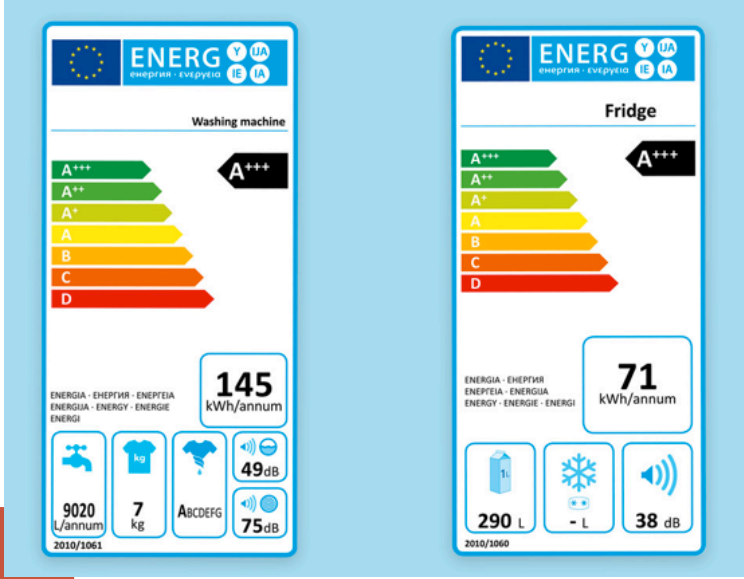
- Using the renewed focus on the energy label created by the introduction of the new energy labels to raise awareness on online compliance;
- Clarify and simplify regulations, avoiding superfluous requirements and language that leaves room for interpretation

1. Description of the scope of research

1.1. A BRIEF HISTORY OF ENERGY LABELLING IN EUROPE

The EU has started union-wide labelling of the energy performance of products in the 90's. The programme now covers 15 product groups, and is considered one of the success stories of the continent to achieve energy savings and greenhouse gas emission reductions, including a good appreciation by the consumers and wide replication to other regions.

The energy labels vary between product groups (and sometimes slightly between sub-categories within the same group), but they all build on a similar alphabetical energy efficiency ranking reinforced by a colouring from green to red. Additional performance information is supplied through pictograms and are provided in a language-neutral design.



TWO EXAMPLES of EU energy labels (2015 versions)

The labelling programme has been completed since 2005 by Ecodesign Regulations prohibiting the placing on the market of the least energy efficient product models (e.g. those with the lowest energy classes).

This report does not provide a thorough introduction to these programmes. Interested readers who are not familiar with the Energy Labelling and Ecodesign schemes in the EU are invited to consult further references, such as those indicated in the footnotes below in relation to:

- The list of concerned EU Directives and Regulations[5],
- The description of the decision-making process and evaluation of its achievements[6];
- The technical set-up behind the scene, notably the elaboration of the measurement methods that underpin the energy efficiency grades[7];
- The impact of the labels on consumer choice[8];
- The current status of the labelling and Ecodesign regulations product by product[9].

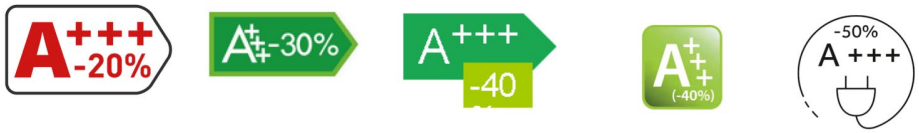
5 List of energy efficient products Regulations (European Commission)
6 Ecofys et al. (2014), Evaluation of the Energy Labelling Directive and specific aspects of the Ecodesign Directive
7 Toulouse E. (2014), Developing measurement methods for EU Ecodesign and Energy Labelling measures
8 CLASP (2013), Assessing Consumer Comprehension of the EU Energy Label
9 Products covered and their status in the ErP process (Eceee website)

An important point to note for this study is that systematic rules for displaying the energy labels online have only been implemented since 2015. Before that, the online sector was a "grey area" in which implementation of the labelling rules was not clearly specified and referred mainly to the display of specific information in catalogues.

Also worth mentioning is that the approach to update labels when they became obsolete (i.e. too many models in the top class) has been for long to pile up new efficiency classes above class A, named "A+", "A++", and then "A+++". The principle of rescalling labels has only been recently adopted for the first time, and the first rescaled labels started to be displayed in March 2021.

For the oldest labels (refrigerators, freezers, washing machines, dishwashers, lamps), the common status at the time of this study was that the vast majority of models were in the top classes with plusses, while the rest of the scale from class A downwards became empty (or nearly empty) of products – due to market development, but also because a majority of the energy classes still presented on the labels were below the minimum energy efficiency performance defined in the Ecodesign legislation. Studies have shown that this unbalanced situation may not have had a strong impact on the label comprehension, but has had some on the willingness to pay for a higher grade model[10].

Particularly for washing machines, the congestion in the A+++ class has led manufacturers and retailers to begin using marketing claims such as those shown below (claiming energy efficiency levels lower by certain percentages compared to A+++), illegally distorting the label display as requested in legal texts.



EXAMPLES of (online) marketing claims "beyond A+++"

1.2. PRODUCT GROUPS ASSESSED

In this project, we focus on online label display for five product groups that introduce a major change of the EU energy label in 2021, returning to an A-G scale, not using any plusses, and other modifications behind the scene (energy efficiency index calculations, measurement standards, etc.).

It seems relevant to make a solid assessment of on-line labelling compliance just before re-scaling of the labels takes place, to get a good picture of the status on the market before th e change.

THE FIVE PRODUCT GROUPS ARE:

1. domestic refrigerating appliances (including refrigerators, fridge-freezers, standalone freezers, and wine coolers),
2. domestic washing machines (including standard washing machines and washer-dryers),
3. domestic dishwashers,
4. light sources (including directional and non-directional lamps),
5. televisions.

10 Heinzle S. et al (2010), Disimproving the European Energy Label's value for consumers? Results from a consumer survey

The five product groups are varied in terms of product types, markets, energy labelling history, and energy efficiency challenges (*detailed descriptions are provided in chapter 2*).
As explained in the methodology (*chapter 3*), not all the subcategories of products within these product groups have been assessed with the same level of thoroughness:

- In product group 1, fridge-freezers have been the main focus, being the most widespread type within this category, whereas wine coolers, still a niche category, were more superficially checked. Professional storage refrigerators have also been reviewed, if available at the online retail sites monitored.
- In group 2, standard machines have been assessed, and combined washer-dryers, also a small market segment, more superficially.
- Within product group 4, LED lamps have been the primary focus, and in addition the potential persistence of offers of incandescent and halogen lamps with E14 and E27 sockets – theoretically fully banned from the EU market since 2015 – have also been monitored.

1.3. GEOGRAPHICAL SCOPE

The selection of the countries to be covered within this project has been made in order to create a representative EU-market picture. The scope of selected countries includes varied situations in terms of market size, culture, share of online shopping, and market surveillance activities.

COUNTRY	MARKET SIZE AND POPULATION (MILLIONS)	LEVEL OF ON-LINE SHOPPING[11]	PARTICIPATION IN PREVIOUS EU VERIFICATION PROJECTS / EXERCISES[12]	LEVEL OF ENERGY LABELLING MARKET SURVEILLANC IN THE COUNTRY[13]
Belgium	Medium: 11.3 M	Medium	Limited participation	Medium
Czech Republic	Medium: 10.6 M	Medium	Well represented	Low
Denmark	Small: 5.7 M	High	Well represented	High
France	Large: 67 M	High	Limited participation	Low
Germany	Large: 82.5 M	High	Well represented	Medium
Slovakia	Small: 5.4 M	Low	No participation	Low

THESE COUNTRIES have been chosen for the following reasons:

1. Representing small, medium, and large EU member states with a good variety between Western, Eastern, Northern and Southern cultures;
2. Some countries have been represented in previous monitoring efforts and so the progress in time can be therefore observed and analysed. Others are not yet presented and the situation will be reviewed publicly for the first time;
3. The countries show various consumer / user habits concerning e-commerce, including various sizes of e-commerce markets (*see chapter 2 for more details*);
4. Last, but importantly, each country was well-known by at least one of the members of this project team (in terms of language, knowledge of the market actors and consumer culture), which is key for ensuring a quality monitoring exercise.

1.4. LIST OF WEBSITES MONITORED

As in each European country, there are hundreds – if not thousands – of websites offering product model information or purchasing deals, it is not possible to design a monitoring sample that could be fully representative of the diversity of these sites.

11 Based on: https://www.ecommerce-europe.eu/wp-content/uploads/2019/07/European_Ecommerce_report_2019_freeFinal-version.pdf

12 See next chapters for more information about their specific representation and the individual projects

13 According to '*Market surveillance of Energy Labelling and Ecodesign product requirements*' (ADEME, SEVEn, SOWATT 2014) : https://www.iea-4e.orgt/files/otherfiles/0000/0301/MSA_ADEME_Brochure.pdf and their level of participation to international energy labelling market surveillance related projects

Our primary objective has been to focus on online retail sites where online consumers are most likely to consult information and purchase. To do so, our sample selection needed to target online retail sites that are top sellers and/or rank high in search engines for the product groups considered. These sites are usually the online retail sites from well-established appliance retail chains and shops from large (often multinational) online sellers.

In addition, we have chosen to add a number of alternative online retail sites, that may have less visitors but where the risks of non-compliance are theoretically increased as they might have more limited knowledge of the EU energy labelling regulations, less means to implement them properly, and/or be less frequently approached by market surveillance authorities. These websites are typically smaller shops, in the low-cost segment, or specialised in other market segments, as well as online retail sites from the "do-it-yourself" (DIY) retailers. The latter usually do not focus on appliances but may have a small portfolio of models. Lastly, price and product comparison websites, although not directly selling products, are important market players for consumer choice and seemed important to consider as well in this study.

In terms of the website layout, it is useful to note that online retail sites usually have the same website layout throughout all similar product groups, presenting product information in the same way – and especially for energy labelling aspects – within a whole product group, frequently also across product groups – meaning that for example the energy label is often displayed in the same way, on the same place, or in the same format across all or most products of the respective product category or segment.

Based on these preliminary considerations, an assessment of online energy labelling has been carried out on **72 websites (12 per country covered)**. Following a desk research (including marketing studies, media articles, and other sources on e-commerce), the 12 websites were chosen in each country in the following way:

- **Four** websites picked among the online retail sites considered as the largest sellers for the product groups in the scope of the study[14];
- **Two** picked from sites presenting themselves as low-price / low-cost online retail sites;
- **One** online shop from a major national do-it-yourself retail chain;
- **One** "specialised" online retail site (either selling specific quality products or considered as a rather high-end / high-quality shop for the product groups covered);
- **Three** additional online retail sites randomly selected among first results in search engines (when using keywords related to appliance purchasing);
- **One** price-comparison website (not selling products directly but compiling and comparing online retail site offers).

This selection offers an interesting picture of the situation in each country, able to deliver lessons on many of the compliance issues that may be potentially present on any website.

NOTE: *Online retail sites may have different ways of proposing models for sale and managing the purchasing and delivery phases. Online shops of retail chains usually offer the products that they also have in stock for their physical shops and deal with the full purchasing process. But they may also act as a "marketplace", meaning that they not only present models sold and delivered by them, but also by partner sellers (which can be small or specialised online retail sites or online importers). This is increasingly the case in some countries (e.g. France). This is an interesting situation with respect to energy labelling, since the responsibility of the label information display may be more diluted and hence potentially more difficult for marketplace offers. There are also online retail sites that are mostly acting as a marketplace, such as Amazon. This specific situation has been also monitored by this project and reflected in the evaluation, if a specific retailer acted also as a marketplace.*

14 It has to be mentioned that precise financial or sales information of online retail sites disaggregated by product groups is not easy to find in publicly available documents, so the selection has been more qualitatively than quantitatively set – e.g. based on available national overviews of main online retail sites.

2. Targeted markets and online labelling rules

2.1. OVERVIEW OF THE ONLINE MARKETS COVERED

ENERGY LABELLING AND E-COMMERCE

It is important to note that our study took place Autumn 2020 (monitoring online retail site October–November 2020) – which was a time of coronavirus-related lockdown or similar economic restrictions in a number of countries and when e-commerce became an essential channel for purchasing. During such periods, many consumers who may not have been so used to shop online had no other way of obtaining more information about available models, which considerably reinforces the importance of the energy information being clearly available online.

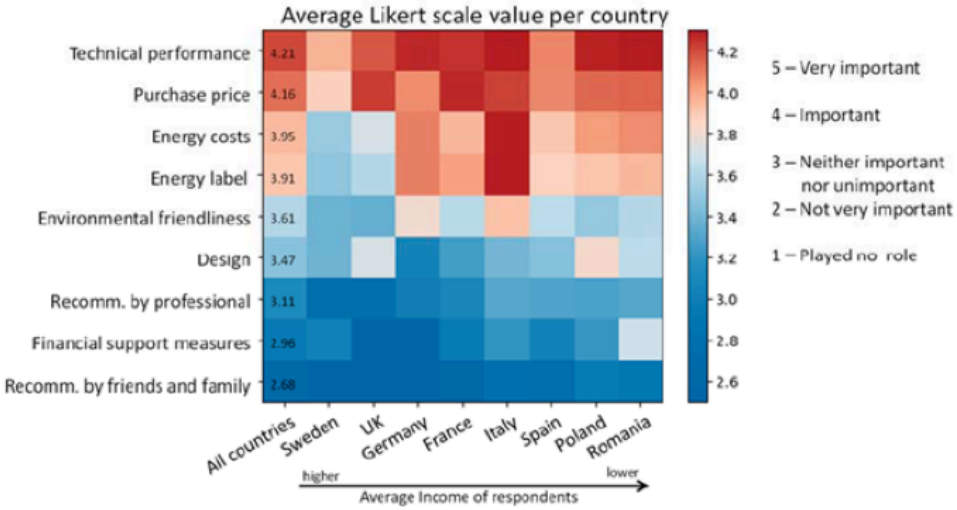
The study focuses on the following types of websites:

- **Large national online retail sites:** main selling websites for the product groups in our scope, often owned by well-established national or international retailer chains.
- **Low price segment:** Online retail sites promoting themselves and known to be focusing on low price offers.
- **DIY online retail sites:** selling websites of retailers from the do-it-yourself segment, usually focusing on home renovation/decoration, but also occasionally selling white goods and light sources.
- **Specialised & high-end online retail sites:** online retail sites positioning themselves or usually considered as proposing high quality / high-end products or with a specific premium value (e.g. sustainability, high level of consumer service, etc.).
- **Random selection / search engines:** online retail sites semi-randomly selected among the first results from internet search engines when using keywords that a consumer would use to look for a product.
- **Price-comparison websites:** sites offering large market overviews and selections of products, usually also proposing links to buy them in various online retail sites (which may be ranked by best price but also displayed as a commercial service to partner online retail sites).

There are not many publicly available statistics about online purchasing of energy-labelled product groups in the EU. GfK reports[15] (on a panel of 18 European countries) that the share of on-line sale channels for technical consumer goods grew from 13% in 2010 to 25% in 2017. The value share of on-line sales has reached 20% for major domestic appliances and audio-video equipment in 2017, thus becoming a substantial and increasing way of purchasing energy-labelled products.

Several studies have researched how far energy labelling information influences consumers in their purchasing decision-making process, although not focusing particularly on online sales. The EU project BRISKEE[16] (organised between 2015 to 2017), based on a large survey in 8 European countries, found that for domestic appliances technical performance is cited as the most important criterion for purchase, followed closely by price, energy cost and energy label. Therefore, energy labelling plays some role, and may do so especially if it is associated with the appreciation of product performance.

15 GfK, Major Domestic Appliances global trends (2018). *IFA Global Press Conference*
16 https://www.briskee-cheetah.eu/briskee/



Source: BRISKEE project (2018)

RATING OF PURCHASE CRITERIA for residental appliances (mean values) on a scale from 1 (played no role) to 5 (very important).

As far as online shopping is concerned, consumer surveys show that the top reason for deciding to buy online in general is saving money, followed by 'better selection'[17]. (These observations were made prior to the pandemic crisis). As widespread and regulated online energy labelling is still relatively recent in the EU, there is little feedback available about how online energy labelling actually influences consumer decisions. Yet, a 2014 exploratory study on online labelling in the EU (before it was implemented), based on a large survey in 10 European countries[18], provided interesting results:

- A vast majority of consumers search online for product information, whether they buy online or offline;
- Providing energy labelling information online has the potential to significantly impact consumer choice, if this information is well-adapted to online environments;
- Individual differences between consumers are more important than differences between EU countries in terms of the attention given to product energy aspects;
- Online labels need to simplify information for the consumer, but they also need to be interpreted correctly;
- Energy efficient models are less likely to be shortlisted for a final choice by an online consumer if energy information is not immediately available in the first stage of the choice process when the consumer is exposed to the full product model lists;
- As online shops tend to provide larger model selections than brick and mortar shops, the order in which models appear in online searches (through e.g. filters, sorting...) matters in the way the energy information might influence consumer decisions.

This study notably confirmed that online labelling information is not only important for e-sales, but also in the consumer documentation process prior to purchasing a product in a brick-and-mortar shop.

17 GfK, Major Domestic Appliances global trends (2018). *IFA Global Press Conference*
18 Ecorys et al. (2014), Study on the effects on consumer behaviour of online sustainability information displays

KEY CHARACTERISTICS OF THE NATIONAL ONLINE MARKETS IN THE SCOPE

BELGIUM

E-commerce in Belgium is not as developed as in larger neighbouring countries, yet more than 60% of Belgian consumers made at least one (any type) online purchase in 2018. Online shopping amounted for about 7% of the total retail turnover in 2019. Interestingly, 45% of consumers declare that they often go online and visit websites to get inspiration before going to a physical shop for a purchase.

The number of online retail sites is not as big as in other EU countries (yet estimated between 15,000 and 25,000 for all types of products and goods), and online buyers massively purchase on foreign websites (with close to 40% of online buyers declaring purchases on non-Belgian European sites).

About 20% of electronic appliance sales have been made online in 2018, with an average annual purchase expenditure of € 238[19].

CZECH REPUBLIC

Online commerce is considered to be well advanced in Czech Republic, with shares of online sales above many other EU countries. Due to the coronavirus this is even increasing further, for example the online market for products have increased by 20% in July 2020 in comparison to July 2019.

Virtually thousands (over 42 thousand) of online retail sites exist on the market and offer sales of products online – understood to be the highest number per capita in the EU, and 28% of the population of over 16 year claims to prefer online purchases over the traditional brick and mortar shops (up by 4.5% since 2013). Value of internet sales increased to 15% of total national retail in 2018, up by 7 percentage points since 2013.

Over 80% of Czech households were connected to the internet already in 2018 (up by 14% in comparison to 2013), appliances being the third most popular product category in online purchases (about 17% of the value of online sales in 2018), after PCs and smartphones.[20]

DENMARK

Denmark is the highest-ranking country in the EU related to the share of the population shopping online at least once a year. 2019 sales showed an increase in online sales of 13%, same as in 2018. Expectations are that online sales will keep on growing annually with more than 10% also in the coming years. Since 2014 online sales have doubled. Smartphones are increasingly used for online shopping and so every fourth purchase by Danes is made using the phone[21]. In 2019, 75% of purchases online were made through Danish online retail sites, whereas 21 % in another EU country and 4% outside the EU.

Whereas young people have taken online shopping onboard very early, it is now a more even distribution among all age ranges. On average 85% of Danes above 18 years have made a purchase of goods or services within the last six months. Although the 60+ seniors have the lowest share, it still amounts to 75% having made such a purchase.

Electronics such as TVs and other electronic displays amount to more than 25% of goods purchased online, and is the second most bought product category online – among all age ranges. Whitegoods amount to approximately 5% of the goods purchased online, which seems to be a steady level in the past years. With the seniors we find white goods represented as the fifth most bought product type in 2017. White goods are not represented in the top five most bought products online for any other age range [22].

19 Source of all figures: https://www.retis.be/ecommerce-belgique-statistiques/

20 Source of data: https://www.czso.cz/csu/czso/vyuzivani-informacnich-a-komunikacnich-technologii-v-domacnostech-a-mezi-jednotlivci and https://www.ceska-ecommerce.cz/

21 danskerhverv.dk/siteassets/mediafolder/dokumenter/01-analyser/analysenotater-2020/e-handelsanalysen-2019.pdf

22 https://www.danskerhverv.dk/siteassets/mediafolder/dokumenter/04-politik/for-2020/politik-og-analyser/e-analyse---status-2017.pdf

FRANCE

France is one of the first e-commerce markets in Europe, with more than 200,000 active merchant sites, and annual turnover growth rates exceeding 10% in the last years. With the coronavirus crisis, the rate is expected to skyrocket in 2020. Online sales of goods accounted for just under 10% of the total retail trade in 2019.

78% of French web users made at least one online purchase in the first quarter of 2020[23]. 80% of online buyers declare that they used their smartphone to gather product information prior to their online purchases. Interestingly, the share of online buyers declaring that they take into account environmental and ethical aspects has grown to more than 50%[24].

The market share of online buying reached 20% for household appliances and 26% for high-tech appliances in 2019. Online sales in these sectors amounted to more than € 5 billion. The weight of marketplaces is growing, representing 30% of the total online sales of technical goods (appliances and electronics) in 2019[25].

GERMANY

Online shopping is an increasing market in Germany, although the growth rate has flattened over the last years and reached a level below 10%. Online shopping turnover increased by 8.5% in 2019 and 9.1% in 2018. Due to the coronavirus pandemic, projections are however that the online market will have a growth-rate above 10% again in 2020.

In 2019, 79% of the population had made at least one purchase online within the last year[26]. Young Germans are the main online shoppers as the group from 20-39 years accounted for around 45% of the annual turnover in 2019. The share of seniors (70+) making at least one online purchase during the previous 30 days was only 3%.

Electronics represents the second most bought product category, having 24% of the total turnover.[27]

SLOVAKIA

While Slovakia is a smaller online market, with the population of 5 million people and over 10 thousand online retail sites, purchasing large appliances online is considered to be common. Online sales in March and April 2020 increased by about 50% due to the pandemic situation.

About 42% of the sales take place in Bratislava, the capital city and its surrounding region, due to its economic position. Single digit growths of the online sales are observed in Slovakia for a number of years in a row.

Freezers and dryers are reported among the most popular white goods sold online in Slovakia.[28]

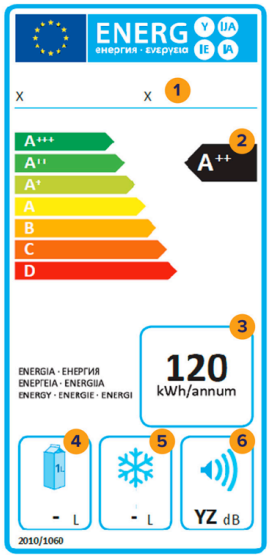
23 https://www.fevad.com/wp-content/uploads/2020/07/ChiffresCle%CC%81s_EN.pdf
24 https://www.fevad.com/usage-du-mobile-et-achats-responsables-les-nouvelles-pratiques-des-cyberacheteurs/
25 https://www.fevad.com/les-marches-des-biens-techniques-et-des-biens-culturels-sur-internet-en-2019/
26 https://ec.europa.eu/eurostat/statistics-explained/index.php?title=E-commerce_statistics_for_individuals
27 https://www.de.statista.com
28 Source and more data: https://www.retailmagazin.sk/obchodnik/internetovy-predaj/4702-top-5-trendov-v-e-commerce and http://asociaciaonline retail siteov.sk/

DOMESTIC REFRIGERATING APPLIANCES[29]

Present in virtually all dwellings, refrigerating appliances have long been the number one source of specific household electricity consumption. First product group to be energy labelled in the EU since 1994, with a revision in 2010 and a new one to come in 2021, it is also a complex product group with multiple subcategories (standalone fridges, freezers, fridge-freezers, wine coolers, etc.) and complicated energy efficiency formulas (to account for various characteristics and properties of the appliances).

Total EU sales are around 20 million units per year. According to official projections, models of standard refrigerating appliances for sale in 2019 were expected to be distributed between energy classes A+++ (23%), A++ (52%), and A+ (25%). Wine coolers have a wider distribution among the label classes, with models also in classes A and B.

In the traditional retail sector, in general the market share of large retail chains such as MediaMarkt is increasing. For built-in appliances (estimated to represent 30% of the EU sales and in steady growth), kitchen designers and installers are becoming important players influencing purchase. Energy labelling appears key for this product group, as energy efficiency remains the top main feature driving the purchase (with 'brand' in second and 'variety of compartments' as third).



1 Manufacturer and Model of Fridge / Freezer

2 Energy efficiency rating

3 Annual energy consumption in kWh

4 The capacity of fresh food it can hold in litres

5 The capacity of frozen food in litres

6 Sound level (for a fridge-freezer that's on 24/7, the lower the sound the better)

(source: Green Network Energy)

ENERGY LABEL for refrigerators and freezers

(source: Green Network Energy)

ENERGY LABEL for wine cooling appliances

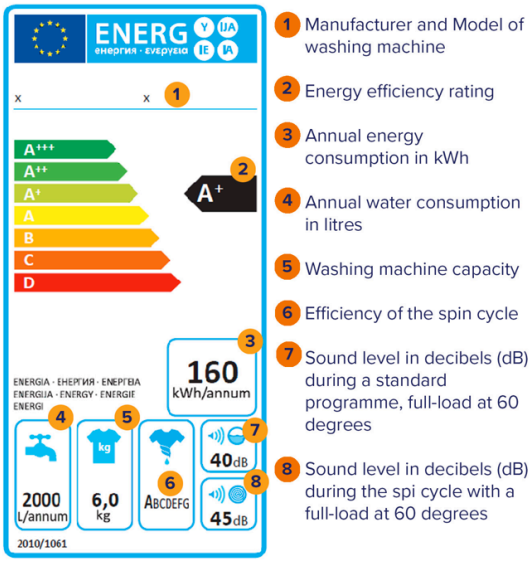
29 Sources for the data in this paragraph: VHK et al (2016), Ecodesign Review Study on Household Refrigeration Appliances, and Explanatory memorandum to Regulation (EU) 2019/2016

DOMESTIC WASHING MACHINES AND WASHER-DRYERS[30]

Also present in most dwellings, washing machines have been energy labelled in the EU since 1995, with a revision in 2010 for standard washing machines but not for washer-dryers, which still bear an old-fashioned label. Another revision will come in 2021 for both categories.

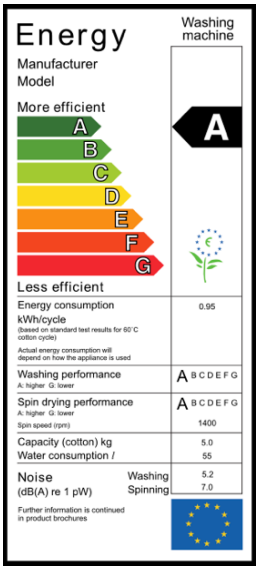
The energy consumption of these appliances is influenced by many parameters, both at product level (efficiency, capacity, types of programmes offered) and user level (number of cycles, types and temperature of programmes chosen, inserted load, etc.). Sub-categories include front load machines, top load, and washer-dryers. The latter represent a small share of the market.

Total EU sales for washing machines are relatively stable around 15 million units per year. A clear trend for larger capacities may be observed (partly encouraged by the way the energy efficiency ranking on the label is calculated), with machines of 8 kg or more having already more than 30% market share in 2015. The current energy label in place (implemented in 2011) has been insufficiently strict, as most of the washing machine market offer quickly reached the highest A+++ class. Its market share is today around 90%, with only few models for sale in the classes below. Washer-dryers are also mostly in the highest class of their label (A).



(source: Green Network Energy)

ENERGY LABEL for washing machines



ENERGY LABEL for washer-dryers

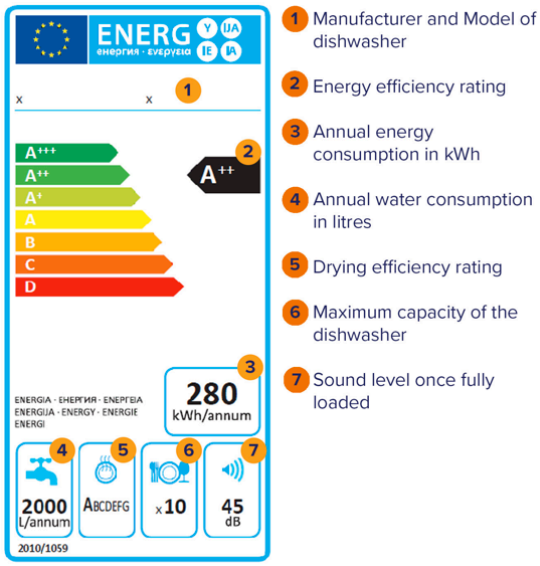
30 Source of the data: Topten (2016), Energy efficiency of White Goods in Europe: monitoring the market with sales data – Final report for ADEME

DOMESTIC DISHWASHERS[31]

Less widespread but growingly installed, dishwashers are already present in more than 40% of European dwellings. The growth is particularly strong in Eastern European countries. Dishwashers have been energy labelled in the EU since 1997, with a first revision in 2010 and a new one to come in 2021. Built-in models dominate the sales, and there are two main subcategories: standard-size models (for more than 10 place settings), and smaller models designed to fit in small kitchens (usually for 8 place settings or less). The latter has a smaller market share, but also lower average energy efficiency performance.

Total EU sales were 7 million units in 2010 and projected to reach around 10 million units in 2020. Recent statistics on sale or model distribution at EU level are not available, but the market is for sure spread between the top three energy classes A+, A++, and A+++ (as classes below have been phased out by regulation), with a distribution likely comparable to that of refrigerators (i.e. A++ dominating by a certain margin over the two others).

Sale of household appliances is also taking place through kitchen sellers, which raises additional concerns as to whether consumers are well informed and supplied with energy labelling information prior to purchase and installation as their focus is to sell kitchens and not energy labelling and efficiency.



(source: Green Network Energy)

ENERGY LABEL for dishwashers

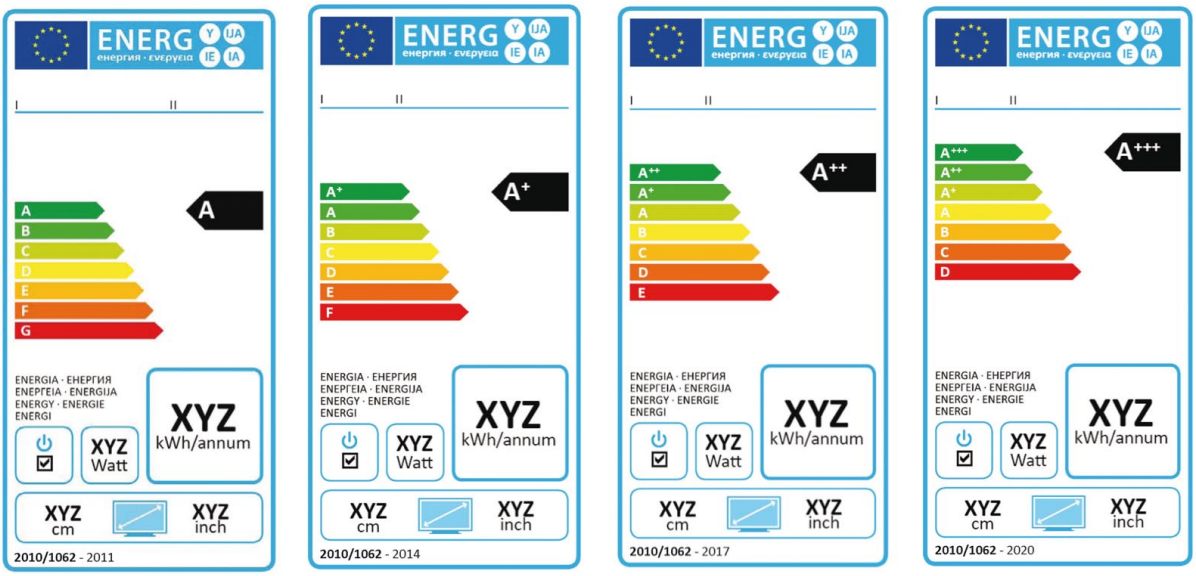
31 Source of the data: JRC (2017), Ecodesign and Energy Label for Household Dishwashers – Preparatory Study

TELEVISIONS

TVs have been more recently labelled, since 2011. This label has the specificity to have been introduced in four consecutive and close steps: a first label with a scale from A to G in 2011, a second one with an updated scale from A+ to F in 2014, a third one from A++ to E in 2017, and the final scale from A+++ to D in 2020. A revision will enter into force in 2021, with a rescalling and return to the simpler A to G grading.

Contrary to appliances, energy use had for long not been a primary concern for manufacturers and consumers. Although the introduction of the label has coincided with a substantial improvement in the efficiency of models placed on the market due to a technical shift, the role of the label on consumer choice is not yet clearly documented.

EU sales amount to around 70 million units per year. Average screen sizes have been on the rise for several years, and the trend seems unstoppable[32]. Most models for sale are in classes A+, A and B. Models having class A++ performance are still relatively niche in terms of the market share, and models having an energy class below B are rare high-end products. While energy efficiency has greatly improved since 2011, recent technological developments (such as 8K resolution and High Dynamic Range – HDR[33]) tend to degrade the energy performance.



(source: Green Network Energy)

SUCCESSIVE ENERGY LABELS for televisions
(the fourth is the one in force for products placed on the market since January 2020)

32 Source for the sales data: VHK, Viegand Maagøe (2020), ICT Impact study – Final report.

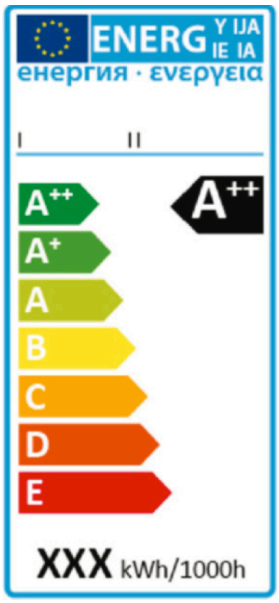
33 8K resolution refers to an image or display resolution with a width of approximately 8,000 pixels. An HDR TV is a TV with built-in support for one or more HDR formats, designed to provide brighter images with a higher level of contrast between light and dark areas on the screen to create more 'realistic' pictures.

LIGHT SOURCES[34]

Lamps are quite different from large appliances and televisions in terms of market structure (there is a much higher number of models, small brands and importers), retail channels (lamps are sold in many types of shops and much less in specialised chains), and consumer behaviour (decision-making process and cost to replace a lamp is not comparable to that of a refrigerator or TV set). In physical shops, retailers do not need to display the energy labels themselves, as they are printed directly on the packaging by manufacturers.

The EU lighting market has undergone a major revolution with a switch to close to 100% LED models, strongly driven by mandatory regulation adopted in 2009 (and a 2015 amendment which closed some loopholes)[35]. The energy label, first adopted in 1998 and revised in 2012, has become obsolete: lamps having energy classes below A previously populated by incandescent and halogen lamps are now becoming irrelevant, and a new label revision with a rescaling is due in September 2021. This supposes that retailers indeed cease selling inefficient lamps for good. This might be a challenge, as some uncaring sellers might have been tempted to stockpile some of those lamps to be able to continue offering them in the longer term.

EU light source sales have peaked in 2010 with about 2,300 million units sold, and are currently around 1,700 million units. The volume is expected to decrease further, as LED models last much longer than previous technologies. Most of the market is currently spread between energy classes A (fluorescent lamps), A+ (power LED lamps), and A++ (filament LED lamps).



ENERGY LABELS for light sources

34 Source of the data: VHK (2018), Ecodesign Impact Accounting.

35 From 1 September 2021, the rules outlined in (EC) No 244/2009, (EC) No 245/2009 and (EU) No 1194/2012 will be repealed and replaced by new requirements for light sources and separate control gears under Regulation for ecodesign requirements for light sources and separate control gears (EU) 2019/2020: https://ec.europa.eu/info/energy-climate-change-environment/standards-tools-and-labels/products-labelling-rules-and-requirements/energy-label-and-ecodesign/energy-efficient-products/lighting_en

2.2. EXISTING ONLINE ENERGY LABELLING RULES

Online sales have been subject to legal requirements coming from the EU Energy Labelling regulatory framework since January 2015. Dealers selling through the internet must supply energy labelling information for all product models offered for sale.

The exact definition of a dealer appears in the energy labelling framework regulation 2017/1369[36]:

'dealer' means a retailer or other natural or legal person who offers for sale, hire, or hire purchase, or displays products to customers or installers in the course of a commercial activity, whether or not in return for payment.

APPLICABLE ENERGY LABELLING AND ECODESIGN LEGISLATION

Energy Labelling of energy related products was introduced by the European Commission in 1996 for a number of consumer products and has grown to become a widely valued and trusted tool for consumers to make an energy efficient choice when buying an energy related product. The current revision of the energy labelling legislation appears from the labelling frame regulation and covers now more than 20 different product types.

Energy Labelling is supplemented by Ecodesign legislation setting up a framework motivating manufacturers of energy-related products to improve the energy performance of their products by setting minimum performance requirements. This through the ecodesign directive (EU) 2009/125. The effect of Ecodesign is so far invisible to consumers and hence this legislation is not known by the public in general.

ECODESIGN	ENERGY LABELLING

▪ Targeting manufacturers and importers
▪ Declared by CE marking
▪ Sets up minimum requirements for:
  ▪ Energy efficiency
  ▪ Functionality
  ▪ Extent of product information
	▪ Consumer oriented
	▪ EU Energy Label format – language neutral
	▪ Mandatory display
	▪ Classification according to energy efficiency (and other performance indicators)

Consequently, only through the **combined effect** of the two legislation schemes the full effect of projected energy savings can be obtained.

Both the energy labelling and ecodesign legislative framework sets only overall and general requirements, not related to the product types. Product specific requirements are implemented through regulations related to the specific type of product – these regulations are valid throughout the entire EU market.

Key obligations of the market actors related to internet sales appear from the frame legislation[37]:

36 Regulation 2017/1369, Article 2, point 13
37 Regulation 2017/1369, Article 2, point 13

MANUFACTURERS OBLIGATIONS	DEALERS OBLIGATIONS
▪ Prepare the energy label and a product fiche ▪ Supply an electronic version of the label and the product fiche product models ▪ Make reference to the energy efficiency class and the range of the classes available on the label in visual advertisements or technical promotional material	▪ Display of the energy label and product fiche ▪ Make reference to the energy efficiency class and the range of the classes available on the label in visual advertisements or technical promotional material

Note that manufacturers having their own online sales channel enter into the role of dealers and hence need to fulfil the obligations related to this. Also, a retailer importing a product that he sells under his own brand must conform to the manufacturer's obligations.

Further it is worth noting, that requirements related to advertisements as laid out in the energy labelling frame regulation apply also to products already using the energy label[38]. Specific details for these requirements are explained below.

LEGAL REQUIREMENTS RELATED TO ONLINE SALES

Requirements from Energy Labelling regulation towards dealers and their online sales channels arise from the regulation (EU) 518/2014. Ecodesign sets no similar obligations for online sale. This regulation amends the existing product specific regulations with an additional new text to describe the requirements related to online sales. They have been described in general terms and apply equally to all energy related products and online sale channels. Some special and supplemental requirements towards a few product types exist. More on these specific requirements is available in the section "Special rules and requirements".

WHERE DO THE REQUIREMENTS APPLY? DEFINITION OF ONLINE SALES

Overall, the requirements apply to all websites making an offer for sale through the internet, based on the title of the annex implementing the requirements:

> *Annex (X): Information to be provided in the case of sale, hire or hire-purchase through the internet*

Hence all online retail sites offering sales of product types regulated by energy labelling directly to end-users are obliged to comply with these requirements, even those that may not look and function like 'regular' online retail sites (with a basket page where the purchase is finalised).

38 Frequently asked questions on energy labelling measures, November 2020 https://ec.europa.eu/info/energy-climate-change-environment/standards-tools-and-labels/products-labelling-rules-and-requirements/energy-label-and-ecodesign/rules-and-requirements_en

The Blue Guide[39] from the EU Commission explains in more detail how to interpret the EU product rules to assist industry and authorities:

> *A product intended to be placed on the Union market, offered in a catalogue or by means of electronic commerce, has to comply with Union harmonisation legislation when the catalogue or website directs its offer to the Union market and includes an ordering and shipping system.*

This means that if end-users can locate the model price and terms and conditions for sales and delivery somewhere on the webpage and are able to order a product directly from the webpage – either by sending an email or by calling the company to place an order, then such website is subject to online energy labelling requirements.

EXTENT OF DISPLAYING THE LEGAL REQUIREMENTS

The set-up of an online retail site typically has several webpages showing products, i.e. the entry page is often showing special offers and campaigns with a variety of products. In addition, most online retail sites offer a search function, resulting in a list of relevant products, or a comparison feature.

As regulation 518/2014 does not give any specifics on the extent of implementing the requirement in online retail sites the European Commission has been asked to clarify this. Questions from Market Surveillance Authorities (MSAs) and the interpretation answer from the European Commission are published in the "Frequently Asked Questions on the Energy Labelling Regulation and its delegated acts"[40], colloquially called the FAQ. Related to regulation 518/2014 the Commission prepared a full A4-page of interpretation text. In this – among others – it says

> *...This is also the case when multiple products are displayed, e.g. for comparison purposes.*

This means that the presence of a function to allow end-users to buy or an "add to basket" button is not a precondition to be subject to the regulation requirements. Hence, every time a product model is displayed with its price information on an online retail site the full requirement to show the label and product fiche applies, no matter the design of the webpage where sales can take place.

WEB PAGES NOT CLASSIFIED AS ONLINE RETAIL SITES

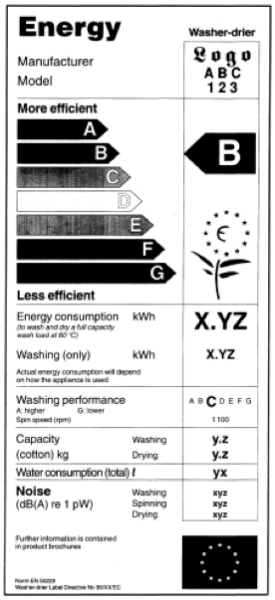
Manufacturers and supplier webpages only giving technical information about products are not in the scope of online labelling requirements unless they also offer sales directly to end-users. Most manufacturer websites however do not offer products for sale to end-users and hence are subject to other requirements, related to technical and promotion materials.

Some dealers prepare regularly catalogues and brochures for advertisement purposes and supplying special offers etc. Traditionally

39 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0726(02)&from=BG, point 2.1
40 https://ec.europa.eu/info/sites/info/files/energy_climate_change_environment/ec_faq_el_2019-1.pdf

these have been physical catalogue or brochures distributed by regular mail. In recent years, such brochures are also made available online to reduce cost and for environmental aspects.

A new trend for these online brochures is that they are designed to be interactive, making it possible to buy a product directly from the brochure or catalogue as illustrated, hence **such interactive catalogues become subject to the legal requirements related to online sales**.



SPECIAL NOTE ON WASHER-DRYERS

Updating the regulation for washer-dryers has been neglected for a long period of time and so this is the only product category using even an older version of the energy label – still containing text in local languages. The current legislation origins from Directive 96/60/EC. Member States have transposed this directive into their national legislation, as directives have no direct effect in the Member States.

Before 2011, the energy label consisted of two elements:

1) product specific template label and

2) a strip stating the relevant energy class and the product data.

The suppliers were obliged to forward only the strip with the product units, whereas the dealers are obliged to obtain and use the product specific template on which the strip must be mounted.

The washer-dryers are not covered by regulation (EU) 518/2014 related to online sales. There exists no legal requirement to provide an electronic version of this label either.

Washer dryers are included in the new revisions of the regulations for washing machines introducing the re-scaled label.

(Note that the display of energy labels on washer-dryers has also been checked when available in the monitored online retail sites).

WHAT ARE THE DEALER RESPONSIBILITIES?

The requirements related to online sales are stated as follows.

> *Example[41] / Televisions offered for sale...*
>
> *Where the offer is made through the internet and an electronic label and an electronic product fiche have been made available in accordance with Article 3(1)(f) and 3(1)(g) the provisions in Annex IX shall apply instead;*

The wording used is the same for all product types bearing the energy label, stating the overall obligation to make the energy label and the product fiche available when making an offer for sale on the internet.

41 Regulation (EU) 1062/2010, Article 4b)

It should be noted that the manufacturers bear the responsibility to prepare a correct and accurate energy label and product fiche for each product model they place on the EU-market. Manufacturers are further obliged to prepare an electronic version of both label and product fiche and make these available to the dealers, and so the dealers´ responsibility is limited to their obligation to display the label and the product fiche clearly as information to consumers.

The details on when and how to make these elements available is also a general text about the specific requirements and formulated identically in the specific regulation for each of the respective product types.

> *Information to be provided in the case of sale, hire or hire-purchase through the internet*
>
> *The appropriate label made available by suppliers ... shall be shown on the display mechanism in proximity to the price of the product.*
>
> *Where display mechanism is defined as such:*
>
> *"display mechanism" means any screen, including tactile screen, or other visual technology used for displaying internet content to users*

Interpretation is already needed as use of the wording "proximity" is not an exact definition of placement or distance.

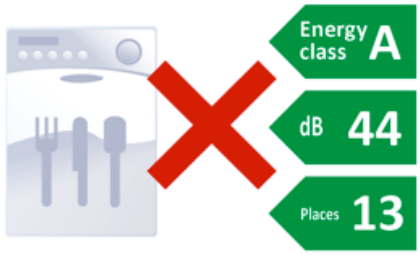
However, as the overall purpose from the European Commission to implement these requirements is to ensure "the ability of end-users to make better informed decisions about their purchases...", the required elements must be clearly visible, directly on the screen where end-users can see the product price. Hence, end-users should not be forced to scroll or enter another webpage to see these elements but should see the energy label and the product fiche directly when also the price is visible. This should be the case no matter which screen and size is used by the end-user.

USING A NESTED DISPLAY

In practice, the layout of most webshops does not accommodate implementation of the overall demand to show the label and product fiche in full. Therefore, for the website to be able to show the full label as requested, all the product specific regulation provides the opportunity to use a nested display, defined as follows :

> *"nested display" means visual interface where an image or data set is accessed by a mouse click, mouse roll-over or tactile screen expansion of another image or data set;*

Formulation of the definition means that only one nested display image is to be used for one label and indicating one energy class. Some energy labels contain additional classification, i.e. the spinning efficiency of a washing machine or drying efficiency of dishwashers as the illustration shows. Such efficiencies cannot be shown with an arrow similar to the energy efficiency class.



ENERGY CLASS arrow not to be mixed with other performance indications

About the image to use on the display mechanism for the energy efficiency all the product specific regulations state:

> *The image used for accessing the label in the case of nested display shall be an arrow in the colour corresponding to the energy efficiency class of the product on the label*

This means that a refrigerator having energy class A+++ will be shown with an arrow like illustrated, having the exact same colour as the respective colour of the energy efficiency class on the specific label.

The arrow can point either to the right or to the left; both options fulfil the requirement.

About the size of the text in arrow all the product specific regulations specify the following requirement:

> *The image used for accessing the label in the case of nested display shall indicate on the arrow the energy efficiency class of the product in white in a font size equivalent to that of the price*

In other terms, the energy class indication inside of the arrow must have the same font size as the one used to show the product price – and only include the energy class information.

TEXT in the arrow too small

THE ARROW shall only contain the energy class

Having illustrated various examples of non-compliance with the legal requirements, here to the right is an example showing how compliance with the requirements related to online sales can be designed to be in compliance when using a nested display for both the energy label and the product fiche.

Both nested display-elements are placed near to the price. The text in the arrow has minimum the same size as the price and the right term has been used for the "product fiche".

THE TEXT in the arrow has minimum the same size as the price

PRODUCT FICHE

Regulation (EU) 518/2014 requires in addition the display of the full product fiche. The product fiche is a sheet of specific product information related to each model. The purpose of the product fiche is to make it easy for consumers to compare data for different product models.

The regulation references "the product fiche", which means that only the original product fiche as prepared by the manufacturer can be used by the dealers in this respect.

Again, the typical layout of online retail sites does not allow sufficient space to do so. Hence, using a nested display is also the common solution for the product fiche.

The regulation states:

> *"...the link used for accessing the fiche shall clearly and legibly indicate "Product fiche".*

Consequently, it is mandatory to use the word “Product fiche” – or the corresponding national term used in the EU Member States – for the nested display. The figure used as the display mechanism can be designed to have various forms, having the text in a figure or using text only. Essential is the right wording of this link.

In addition, the regulation requires that the product fiche appears clearly visible and legible.

Note also, that using a nested display further requires that, the label or product fiche shall appear on the first mouse click, mouse roll-over or tactile screen expansion on the link.

OBTAINING THE LABEL AND PRODUCT FICHE AS A DEALER

Manufacturers are obliged to prepare the energy label and the product fiche for each product model. The regulations use however the generic term “supplier” for the legal responsible market actor being the manufacturer, their legal representative or importers.

Both elements must be made available, free of charge to dealers in electronic form.

> *I.e. 1062/2010, Article 3, 1)*
>
> *‘(f) an electronic label in the format and containing the information set out in Annex V is made available to dealers for each television model placed on the market ...*
>
> *‘(g) an electronic product fiche as set out in Annex III is made available to dealers for each television model placed on the market ...*
>
> *Further, the energy labelling regulation, (EU) 2017/1369 states in Article 3 that:*
> *2. The supplier shall deliver printed labels, including rescaled labels in accordance with Article 11(13), and product information sheets, to the dealer free of charge, promptly and in any event within five working days upon the dealer’s request.*

CHANGES DUE TO THE NEW ENERGY LABELS (EU) 2017/1369

The energy labelling legal frame has changed by adoption of regulation 2017/1369 repealing directive 2010/30. This regulation came into effect 1. august 2017 and the new labels are scheduled to be displayed in shops from March 2021.

Related to online sales, this regulation does not change the overall requirements as already described: dealers are obliged to show the label and the product fiche for all product models covered by energy labelling regulation.

Regulation 2017/1369, Article 5 describes the obligations of dealers as such.

1. The dealer shall:

(a) display, in a visible manner, including for online distance selling, the label provided by the supplier or made available in accordance with paragraph 2 for units of a model covered by the relevant delegated act; and

(b) make available to customers the product information sheet, including, upon request, in physical form at the point of sale.

As it appears, the regulation changes the name to be used for the display mechanism from "Product fiche" into "Product information sheet". This change of terminology causes some uncertainty about which term to use in general.

The implementing measures prepared under the directive (EU)2010/30 as mentioned before state implicitly that the word "Product fiche" must be used in this respect.

The implementing measures coming into effect 1st March 2021 covering the product groups covered by this study however clearly specify to use the new term as the relevant annex, point 4 states the following:

*The product information sheet may be displayed using a nested display or by referring to the product database, in which case the link used for accessing the product information sheet shall clearly and legibly indicate '**Product information sheet**'. If a nested display is used, the product information sheet shall appear on the first mouse click, mouse roll-over or tactile screen expansion on the link.*

Strictly speaking, this would mean that dealers will have to distinguish between re-scaled product types and product types still regulated by regulations using the A+-regime, using different terms in the link for the two types of products.

This presents an undesirable burden to the dealers and for a period of more than 10 years, until all energy regulated product types have been re-scaled.

VISUALISING THE RANGE OF AVAILABLE ENERGY CLASSES

Until now, the effect of Ecodesign minimum requirements has been mostly unknown to the general public, with few exceptions, as the gradual elimination of the poorest performing products is not visible in any way.

Consequently, most consumers probably do not know that a refrigerator having energy class A+ actually is the poorest energy class allowed to be marketed in the EU, even thinking that A+ would be an excellent choice[42].

This will change when the re-scaled energy label come into effect from 1st March 2021:

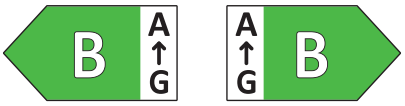
> *Regulation 2017/1369, Article 11*
>
> *10. Where, for a given product group, models belonging to energy class E, F or G are no longer allowed to be placed on the market or put into service because of an Ecodesign implementing measure adopted pursuant to Directive 2009/125/EC, the class or classes in question shall be shown on the label in grey as specified in the relevant delegated act. The label with the grey classes shall apply only to new product units placed on the market or put into service.*

In other words, energy classes no longer allowed to place on the EU/EEA market due to Ecodesign minimum requirements must be visualised on the energy label as illustrated here below.

The text refers to the delegated acts (the implementing measures) for specification on how to prepare this version of the energy label, however as it appears no information or guidance on how to do this has been implemented in the regulations introducing the re-scaled labels. This has been communicated to the Danish Energy Agency who should take this question along to the European Commission for them to clarify.

For online sales, this requirement to visualise the range of available energy classes entails the use of a new arrow to be used as the display mechanism. The available range must appear as well. The relevant annex of the regulations implementing the re-scaled label show this illustration:

42 https://clasp.ngo/publications/assessing-consumer-comprehension-of-the-eu-energy-label



This means that dealers will have to prepare a new set of arrows to be used with the re-scaled product models as the display mechanism for nested display.

LEGAL ASPECTS FOR MARKETPLACES AND PRICE COMPARISON SITES

So far, the legal status of marketplaces and price comparison sites has been an area of uncertainty and interpretation.

Marketplaces are websites facilitating sales from other market actors, typically other dealers. Consumers can buy products directly through the marketplace.

For price comparison websites there is no possibility to buy products directly. Such websites present to the consumer a selection of shops, which are offering the specific product model for sale and giving information of the product's price for each dealer. The price comparison sites provide consumers with a link, giving easy access to the dealers´ webpage from where they can choose to buy the product.

The existing regulatory frame for energy labelling does not specify the role of marketplaces and price comparison sites. However, based on a court ruling from Sweden[43], marketplaces cannot be seen as responsible to display the required labelling information for products which they offer for sale on behalf of another market actor. The grounds for this conclusion lies in the definition of a dealer in the energy labelling regulation:

> *2017/1369, Article 2, point 13*
>
> *'dealer' means a retailer or other natural or legal person who offers for sale, hire, or hire purchase, or displays products to customers or installers in the course of a commercial activity, whether or not in return for payment;*

However, there should be no doubt that marketplaces acting themselves as the responsible seller, supplying also the terms and conditions for the sale should also be the responsible market actor to fulfil the requirement to display the label and product fiche. In this situation the marketplace will fall into the scope of the dealer.

EU Commission and Member States have been aware that marketplaces become more and more frequent, taking over large parts of the online market, and so although not addressed in the energy labelling frame regulation, their role has been addressed in the new product specific energy labelling regulations, as exemplified here below with the text from the regulation on household refrigerating appliances[44]:

43 https://www.vivida.se/download/18.322fd85d16e3a766de5c1e07/1573803821327/J%C3%B6nk%C3%B6ping%20KR%202231-16%20Dom%202017-11-01.pdf
44 Article 5 – https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2016&from=EN

OBLIGATIONS OF INTERNET HOSTING PLATFORMS

Where a hosting service provider ... allows the direct selling of refrigerating appliances through its internet site, the service provider shall enable the showing of the electronic label and electronic product information sheet provided by the dealer on the display mechanism ... and shall inform the dealer of the obligation to display them.

This article has been integrated to the product groups implementing the re-scaled energy label as of 1st March 2021.

The formulation in this article means that the marketplace as such still is not the responsible party being obliged to supply the mandatory labelling information for products they sell on behalf of other dealers, however they are obliged to facilitate, that it will be possible to display both the label and the product fiche on their platform. And so, the dealers themselves will need to forward the correct energy label and product fiche to the relevant marketplace, asking them to show these elements on their platform.

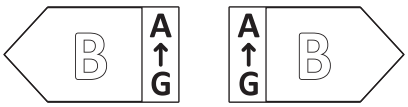
Based on the above, price comparison sites still do not have to fulfil the energy labelling requirements as they are not dealers according to the definitions in the regulations.

REQUIREMENTS FOR VISUAL ADVERTISEMENTS

Visual advertisements are also subject to regulation demands. This includes catalogues, brochures, leaflets typically distributed by mail or available at the shop entrance. Also web-banners and paper-based distance selling materials are subject to these requirements.

According to regulation (EU) 2017/1369, Article 6 dealers are obliged to show the energy efficiency class and the available range of energy classes for each model advertised or otherwise promoted together with a price in a printed manner. This is further detailed in a separate annex in the implementing measures for the re-scaled product groups in the scope of this study. The title of this annex is: "*Information to be provided in visual advertisements, in technical promotional material in distance selling and in telemarketing, except distance selling on the internet*"

This must be visualised by using the arrow shown on the previous page. If the advertisement material is prepared in monochrome (black and white only) the arrow to use is shown here below:



It is important to note that this means a change to the corresponding requirement for the existing product specific regulations. It is no longer a possibility to state the energy class (and available range of classes) as text – and the requirement is no longer conditioned by stating energy related information or a price.

Consequently, for the re-scaled product groups, this means that all printed materials showing a specific product model must show the arrow containing also the available range of energy classes.

MARKET SURVEILLANCE

The EU Member States are obliged to monitor and ensure compliance of products and fulfilment of requirements in general on their respective markets.

Overall principles and provisions for market surveillance authorities appear from the general market surveillance regulation (EU) 765/2008 specifying methods and means for authorities to have the necessary means to obtain a compliant and fair market place.

Provisions have recently been broadened, by adopting regulation (EU) 2019/1020, which amends regulation (EU) 765/2008 i.e. with new provisions to improve market surveillance authorities' ability to properly surveil and act towards a market with steadily increasing online trade:

- Definitions and responsibilities of economic operators[45] in the supply chain for online or distance selling have been defined
- Manufacturers obligations will also apply to "fulfilment-houses" – when there is no legal representative of the manufacturer located in the EU. Fulfilment-houses are obliged to collaborate with market surveillance authorities and assist them in enforcement actions.

The product specific regulations having effect from March 2021 state the following obligation to fulfilment houses:

> *Article 4 (d):*
>
> *If no other economic operator such as manufacturer, importer, authorised representative are established in the EU, the fulfilment service provider is responsible for handling products.*

This means that any product offered for sale in the EU must – and will have – a legal representative responsible for compliance with the Union legislation. This will indeed be beneficial to market surveillance authorities, also being able to surveil and act in relation to product models offered directly to the EU market from countries outside the EU.

In relation to energy related products, so far at least, these new provisions do not seem to make a big difference as these types of products are not typically offered for sale directly from market actors located outside the EU. These new provisions are mainly targeting smaller electronics sold directly from online retail sites from outside the EU and having a history of having non-compliances related to health and safety issues[46].

SPECIAL REQUIREMENTS

Although the formulation of the requirements has been laid down identical in the implementing measures, MSAs found areas where the regulation text does not give all the answers. Market surveillance authorities therefore need to ask the EU Commission to clarify the situations where the legal text does not supply the necessary answer. Questions and answers are published in a FAQ.[47]

45 Regulation 2019/1020, Article 3, point 13: 'economic operator' means the manufacturer, the authorised representative, the importer, the distributor, the fulfilment service provider or any other natural or legal person who is subject to obligations in relation to the manufacture of products, making them available on the market or putting them into service in accordance with the relevant Union harmonisation legislation;

46 https://www.elsakerhetsverket.se/privatpersoner/dina-elprodukter/kopa-elprodukter/handla-elprodukter-pa-natet/elprodukter-pa-natet-test-2020/

47 https://ec.europa.eu/info/sites/info/files/energy_climate_change_environment/frequently_asked_questions_on_the_energy_labelling_measures.pdf

NOTE ON COMBINED PRODUCTS

Innovation within whitegoods hasled to combinations of product types, i.e. a combined hob, oven and dishwasher. MSAs questioned the requirements online for such products.

Commissions answer is:
Since the product is both a dishwasher and an oven, two labels and two product fiches have to be shown in the online retail site, one for the dishwasher part and one for the oven part (there is no energy label for hobs). If however there is a single product with two functions, such as washer/dryer, covered by one regulation, then only one label needs to be displayed.

This would also apply for the revised regulation (EU) 2019/2014 coming into effect from 1st March 2021 as there will be only one label and one product information sheet covering both functions.

NOTE ON THE LABEL TO USE FOR LAMPS

Regulation (EU) 874/2012 gives multiple choices for the layout of the energy label depending on the purpose. However only the label shown in Annex 1, point 1, 1) can be used to fulfil the online labelling requirements. This means that the labels with fewer information and monochrome labels shown in Annex 1, point 1, 3) shall not be used in this relation.

When asking the European Commission to clarify interpretation of special cases, not corresponding to the descriptions in the legal text, the Commission always takes departure in an approach that dealers will show the full label. As mentioned before, this practice is however hardly used, as online retail site layouts do not support this. The commonly used solution is to use the nested display and most interpretation questions from MSAs relate to this practice used.

NOTE ON LUMINAIRES

Regulation 874/2012 covers also luminaires, however the revision of this regulation, (EU) 2019/2015 ends the labelling requirements as of 25th December 2019. Experience showed that this label showed only very little, if any benefits to the consumers and posed a heavy administrative burden on industry.

NOTE ON A FEW PRODUCT GROUPS NOT COVERED BY THIS PROJECT

These product groups are not within the scope of this study, but are worth further explanation as they also relate to online sales of products with an energy label.

- Special rule for air conditioners (regulation (EU) 626/2011)

Several air conditioners and heat pumps use a label containing two energy classes, one for the energy efficiency of cooling performance and respectively one for heating performance.

When implementing the requirements by using a nested display only one arrow indicating the energy class can be shown and so the question is whether to use an arrow displaying the energy class for heating or for cooling performance.

MSAs raised this question to the European Commission, who provided the following answer in the FAQ:

... Given that the energy class of the most common purpose (heating or cooling) of the heat pump is the most useful for the consumer, the nested display image should correspond to that class.

In other words, which energy class to display depends on the marketing and intended use of the air conditioner. If the product is marketed for cooling, then the energy class for cooling performance is to be displayed on the arrow, and vice versa for heating performance.

- Special rule for heat pump space heaters (regulation (EU) 811/2013

Like air conditioners, heat pump space heaters show more than one energy class: the seasonal space heating energy efficiency class of the heat pump space heater for medium application (55 °C) and the corresponding energy efficiency class for low-temperature application (35 °C)

… Considering that the medium temperature application is the most common one, the nested display image should indicate the medium temperature (55 °C) application class.

Typically, the energy efficiency class at 35 °C is better than the corresponding class at 55 °C and so dealers would be tempted to show the energy class for 35 °C – giving the best classification of the heat pump. With this answer the European Commission very clearly states that this practice is not correct.

- Special rule for combination space heaters (regulation (EU) 811/2013)

Some space heaters are designed as combination heaters both delivering space heating and hot water production. Hence, for such space heaters there are two energy classes: one for space heating efficiency and one for hot water production efficiency.

MSAs asked whether both energy classes must be shown in case of nested display or only one of them.

Considering that Regulation 811/2013 defines a combination heater as a space heater with the function of providing heat to deliver hot drinking or sanitary water as well, the nested display image should indicate the seasonal space heating energy efficiency class.

Hence, only the space heating energy efficiency can be shown for combination space heaters.

3. Methodology

3.1. OBJECTIVES OF THE MONITORING

The main goal has been to assess the compliance of the websites selected in the scope with respect to the online energy labelling rules described in the previous section, as well as gather other potential useful observations to discuss recommendations about access to product energy performance information on websites.

Compliance obviously cannot be checked on every and all of the hundreds or thousands of product models offered for sale on websites. This means that no verification activity on a website can pretend to achieve a 100% representative compliance conclusion, and may miss some issues.

However, a selling website typically uses a generic template that displays in the same way product model information within a product group, and most often across all product groups. This means that some aspects of energy labelling compliance may be verified quite easily and with a certain degree of certainty by looking only at a small sample of product pages.

Such aspects are:

- Whether energy labels and product fiches are systematically or often missing;
- How the energy labels and nested displays are shown, and how/where the product fiches appear within the website general layout;
- How the various interactive elements work to provide the information (pop-ups, etc.);
- If other issues or aspects in relation to the energy information provided are available (e.g. misleading energy saving information, additional consumer advice, etc.).

These aspects are the core of the **first step** of our monitoring activities, which has been applied to **all 72 websites** and to the following categories of products with the 5 product groups in our scope:

1. Fridge-freezers;
2. Standard washing machines;
3. Dishwashers of standard size (> 45 cm);
4. TVs;
5. Light sources.

For light sources, the monitoring included an extra investigation on the potential availability of inefficient incandescent and halogen E14 and E27 lamps (which have not been allowed to enter the EU-market since 2015).

On top of those aspects, there are other critical compliance issues less easily verifiable through quick visual scanning of a sample of model pages, but which are important nevertheless. These are:

- The consistency between the energy label and product fiche supplied on the website, and that of the manufacturer (as downloadable on the manufacturer's own website);
- The accuracy of the textual information that may be provided on the website model pages outside the label and fiche (e.g. list of product characteristics);
- The compliance of other specific pages of the website, such as model comparison pages or basket pages;
- The compliance of advertisements and online promotional material from the website owner (that can be found on the website itself or elsewhere on the internet).

As the verification of these aspects is more time consuming, they have been monitored in a **second step** on a smaller selection of **30 of the websites** (5 per country), and on the following product groups:

- Fridge-freezers;
- Standard washing machines;
- TVs.

The representativity of these step 2 activities is more limited than for step1, as the sample is smaller and the reasons for non-compliance might be diverse. Theoretically, a difference between the information/label found on the manufacturer's website and on an online retail site might be due to a potential deliberate fraud from the shop, a simple technical mistake or confusion, or a change that has been made by the manufacturer itself (e.g. upload of a new modified version of the label after the model has been placed on the market). It is not always possible to understand the exact reason, and no general conclusions might be derived from our investigations. Yet this activity is likely to provide many examples and illustrations of what can go wrong, and help fuel the recommendations.

Additionally, a **superficial check** (on a very limited sample of 3 models per website) has also been made during this second step on three non-major sub-categories in our scope, with the objective to get a rough indication of potential compliance issues for these specific categories:

- Wine coolers;
- Professional refrigerators (where this category was available);
- Washer-dryers.

3.2. DETAILS OF THE MONITORING PROCEDURE

The way to design and conduct our methodology has been inspired by previous verification activities carried out by Market Surveillance Authorities in the EU, as well as EU projects on energy labelling compliance.

FIRST STEP

The monitoring activities in the first step, applied to all 72 websites, have been carried out in the same way in each country, on PCs using Chrome as navigator.

For each of the five product groups mentioned above, **10 models** have been selected on the website product group main page (by choosing the appropriate product group in the website menu, and then potentially applying a relevant filter, e.g. “fridge-freezers” in the group “refrigerating appliances”).

The procedure to select the 10 models has been:

- The first two models offered on the shop main page (as promotions or suggestions);
- The first two models displayed when accessing the product group main page from the menu;
- The first two models when filtering by highest available energy class;
- The first two models when sorting the product group main page by lowest price;
- Two additional models chosen randomly from brands not already selected (or more if the previous steps were not applicable).

This “semi-random” approach ensures a variety of models and brands, as well as catching models that visitors are likely to see first on the website.

Inevitably, the procedure had sometimes to be adjusted due to specificities of each website (e.g. shop main page devoid of model offers, filter by energy class missing, insufficient variety of models or brands, etc.). The aim has been to remain as faithful as possible to the spirit of the procedure in terms of the variety of models/brands.

The verification has then been conducted through manual and visual checking of the 10 models, according to the monitoring instructions designed for the project.

The results have been reported in harmonised Excel sheets (see template in annex). The sheets are self-explanatory to a high degree, containing detailed instructions and all the requirements to consider. The template contains two sheets per product category; one to be used for selection of models to be inspected and one to register the findings from the monitoring.

Observations of non-compliance to energy labelling rules have been systematically backed by screenshots of the relevant pages, to keep track and evidence of the monitoring. These screenshots have been made first of all to have a comprehensive picture of non-compliances to be used in communication with the relevant market actors, and possibly national authorities and decision-makers in relation to potential grey areas detected during monitoring.

SECOND STEP

The monitoring activities in the second step, applied to 30 websites (5 in each country), have been carried out in the same way in each country, on PCs using Chrome as navigator.

The procedure to select the 5 websites out of 12 in each country has been as such:

- Online retail sites which are clearly identified to have major non-compliance issues in the Step 1-monitoring (energy labels missing for more than 80% of the models checked) have been left aside, as they were not interesting for the step 2 monitoring activities;
- In the remaining list, the first available website in the category “larger sellers”, the first in the category “low-price segment”, the specialised online retail site, the DIY shop, and the first in the category of randomly selected shops have been picked up;
- In case there were no more websites available in some of these categories, they were replaced by the next available in the “larger sellers”, and if needed in the randomly selected category.

For each of the three product groups covered in step 2, the **same 10 models** as in step 1 have been more thoroughly monitored with respect to the accuracy and consistency of the energy labelling information provided. In case some of these models were not available anymore on the website, they were replaced by others picked up using as far as possible the same approach as for the models they replaced.

For the more superficial checks on the three additional categories mentioned above, **3 models** have been chosen randomly and checked for compliance with the aspects of step 1, as well as comparison and basket pages. Only general or anecdotal observations could be made.

For the verification of **advertisements and promotion materials**, a non-exhaustive number of promotion pages and product leaflets have been checked on the website itself (if available), as well as potential promotions and ads available on other sites.

All these verifications have been reported as well in the Excel documents, as well as backed by screenshots.

ADDITIONAL MONITORING ON ALTERNATIVE BROWSERS AND DEVICES

In addition to the previous activities, it seemed useful to make a few verifications about online compliance on other web browsers and devices.

In two online shops by country chosen randomly from the scope, the similarity of product page display and compliance was checked on a few model pages when using another browser than Chrome.

The same was also checked when using a tablet or smartphone instead of a PC to check the display of monitored documents and information on screens with different sizes.

3.3. OVERVIEW OF THE PARAMETERS MONITORED

STEP 1
(FOR ALL 12 ONLINE RETAIL SITES, ALL PRODUCT GROUPS, TEN MODELS PER CATEGORY)

ENERGY LABEL (on website main page, product group main pages, and product model pages)

- Presence of energy label
- Label layout
- Location of the energy label
- Nested display:
  - Appearance at first click or mouse-over
  - Correct colour of the arrow
  - Correct size of the text in the arrow

PRODUCT FICHE (on website main page, product group main pages, and product model pages)

- Presence of the product fiche
- Location of the product fiche

- Accuracy of the term used for the link
- Appearance at first click or mouse over
- Visibility and accuracy of the fiche

OTHER salient energy information

- Presence of additional energy performance information worth noting

LIGHT-SOURCES

- Potential availability of E14/E27 incandescent or halogen lamps for sale

STEP 2
(FOR 5 ONLINE RETAIL SITES PER COUNTRY, THREE PRODUCT GROUPS)

- Consistency between the label displayed and the manufacturer label
- Accuracy of the energy class mentioned in the nested display
- Accuracy of the energy class mentioned elsewhere in text format
- Accuracy of the product fiche (right fiche for the model)

PRODUCT COMPARATOR and basket pages

- Presence of the label and fiche
- Advertising and promotional material
- Presence of the energy class
- Presence of the range of energy classes available on the label

WINE STORAGE appliances, professional storage refrigeration products, washer-dryers

- Anecdotal evidence of potential specific compliance issues with labels and fiches

IMPACT of web browser, devices, and apps

- Anecdotal comparison of compliance issues when using different browsers and online retail site apps instead of Chrome
- Anecdotal evaluation of the impact of screen sizes and mobile layout

3.4. METHOD TO EVALUATE AND PRESENT THE RESULTS

The outcome of our analysis (based on the activities described previously) is presented in the next chapter and focuses on two main results:

- Providing a general evaluation of the level of compliance of the 72 websites monitored, and the potential variations of compliance between countries, shop types, and product groups;
- Identifying and categorising the various and numerous cases of non-compliance found and their origin, in order to be able to discuss potential remedies.

For the general evaluation, we considered it useful to design a "compliance scale" to facilitate the understanding and visualisation of the results. The scale classifies the seriousness of the lack of compliance to the EU online energy labelling requirements, in 4 grades from green to red.

As we wanted to be able to compare the entirety of the 72 websites and product groups monitored, the scale only refers to the results of the step 1 monitoring.

GREEN GRADE	**GREEN GRADE:** perfect or nearly perfect compliance for both the energy label and product fiche; for the whole model sample monitored, the label or nested display is properly provided (in terms of format and place), and the product fiche is available with a correct link name and place on the page.
YELLOW GRADE	**YELLOW GRADE:** labels are for nearly all of the sample models available in a correct format or nested display, maybe not very close to the price information but still easy to find; compliance to product fiche rules might be not 100% perfect in terms of link name or place, but efforts have been made to supply the fiches.
ORANGE GRADE	**ORANGE GRADE:** approximate and non-systematic compliance; for a significant part of the model sample monitored, energy labels, nested displays, or fiches are either missing or provided in a non-compliant way (e.g. just placed in a picture gallery requiring more than one click to display).
RED GRADE	**RED GRADE:** systemic non-compliance; labels are fully or largely missing or hardly accessible (e.g. no nested display, and labels not visible even as thumbnails when page loads).

This grading process mixes qualitative and quantitative aspects, and **contains an inevitable part of subjectivity as certain labelling rules require interpretation** (e.g. "closeness" of the label/nested display to the price tag), and certain specific cases may be difficult to assess (e.g. "legibility" of the information, depending on the size of the screen where it is read).

The classification has been applied to each product group of each website monitored. Then, by way of averages it was possible to derive an overall grade for each website, each website type, each product group across websites, and each country.

4. Results and analysis

This chapter presents the results of the monitoring activities. It starts with a general overview of energy labelling compliance for the 72 websites monitored, followed by a more detailed analysis of compliance levels per country and product group.

A comprehensive and illustrated typology of all the non-compliance cases identified is then provided, with a description of the responsibilities and potential causes for each case.

The barriers and difficulties to comply are further discussed in a subsequent part which also builds on a stakeholder consultation carried out during the study.

Last, the results of this study are compared to previous studies and online labelling monitoring activities, and the added value of our analysis is discussed.

4.1. OVERALL COMPLIANCE LEVELS

Using the "compliance scale" described at the end of the previous chapter (assessing the seriousness of non-compliance based on the step 1 monitoring), our monitoring activities reveal that on average, the level of compliance to EU online energy labelling rules is relatively low.

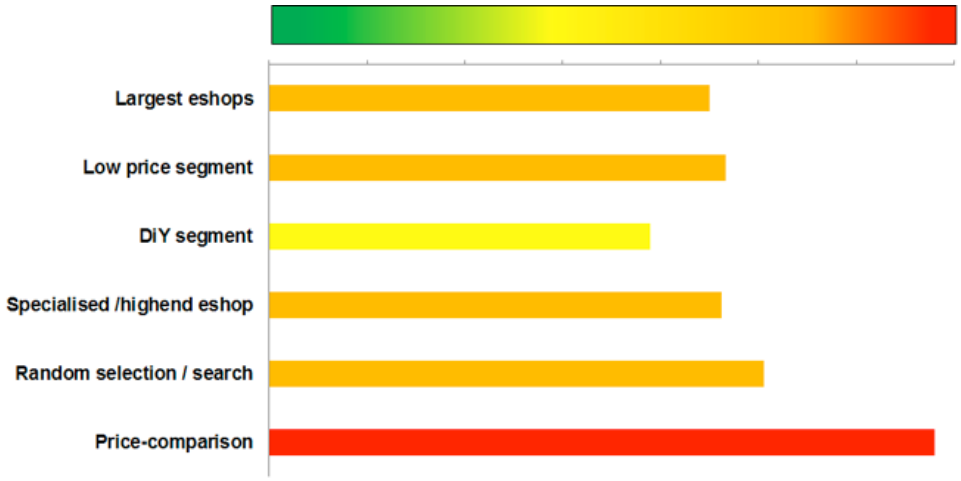
The overall grade for the 72 websites monitored is **ORANGE**, meaning that most sites show conformity issues with the online labelling rules.

Among all the online retail sites monitored (leaving price comparison websites aside), we found 23% showing very poor compliance with displaying the energy labels (i.e. having no labels at all or labels frequently missing), and 58% displaying no or very few product fiches.

In strict legal terms, we only found 4 websites that would fully pass the bar of compliance for all the monitored product groups, i.e. 5% of our sample. When adding the sites scoring yellow (i.e. not 100% compliant but close to it and showing efforts to comply), the number rises to 27%. This is encouraging, but still far from the majority.

RESULTS BY WEBSITE TYPES

The chart below provides aggregated results for all product groups and all countries, by website types (see the explanation of the colour grades above).



COMPLIANCE SCORES by website types

The best results are observed for the Do-it-Yourself segment, followed by the main online retail site sectors (largest, low price, and specialised).

Price comparison sites, which are popular among consumers, showed the worst compliance rates, many not displaying energy labels and product fiches at all. This may be explained by the fact that if they do not directly sell products, they are not strictly speaking legally covered by the EU online labelling regulations. However, this does not prevent them from providing the information if they want. There are a few rare examples of such websites making this effort.

The leading position of **DIY shops** in our sample may be explained by the fact that they usually don't cover all product groups, especially TVs (that are prone to compliance issues), and also by the fact they offer smaller numbers of appliances, which simplifies the control and maintenance of the content. This is however good news that they make efforts to comply with rules that only affect a small share of the products they offer for sale.

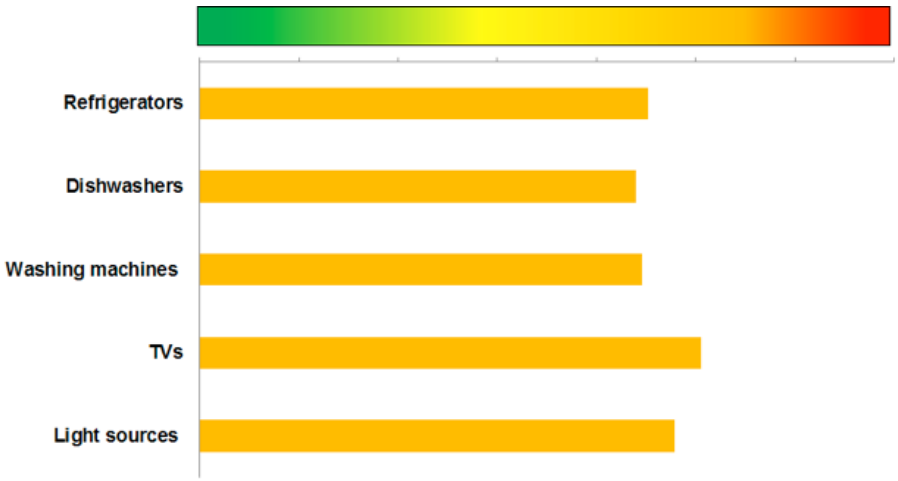
Within each country, we didn't identify significant compliance differences between **well-established market leaders and low-price and specialised online retail sites**. It shows that, on average, all shops are capable of the best or the worst irrespective of their market segment or target. The fact that these shops are frequently in the orange grade also reveals that there is significant room for improvement in all market segments.

IMPORTANT NOTE: *in the rest of the evaluation below, the price comparison websites have been removed from the average calculations. As they are not formally subject to the labelling regulations and have nearly all scored badly, we considered it fairer to exclude them from the other assessments.*

RESULTS BY PRODUCT GROUPS

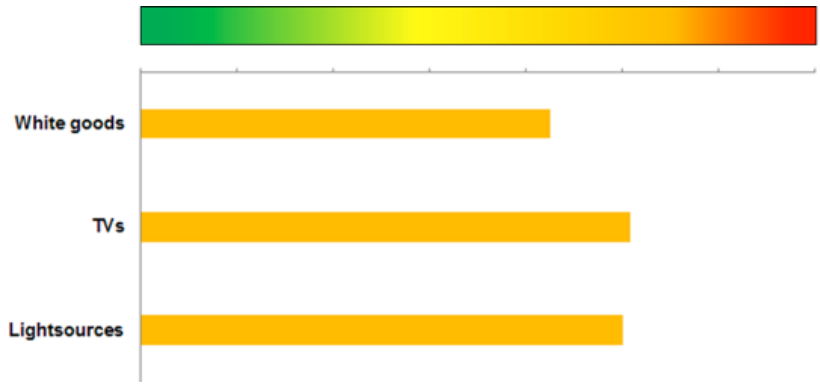
The monitoring included product groups of various energy labelling histories. While appliances such as refrigerators or washing machines have a long record of EU labelling and markets strongly framed by the labels, televisions are in a different position. Lamps are also quite specific products compared to appliances (in terms of prices, consumer behaviour, market channels, etc.).

On average, our monitoring did not find very substantial differences between product groups though, which came as a surprise. **Televisions and light sources** fared worst (as was expected), but only slightly. As far as light sources are concerned, it is however important to keep in mind that the labelling rules only cover energy labels and not product fiches, which eases obtaining compliance. For the other product groups, fiches were often the weakness that prevented obtaining the yellow grade.



COMPLIANCE SCORES by product groups

When restricting the calculations to the large online retail sites only (first site category in our samples), the difference between white goods on the one hand and TVs and lamps on the other hand is a bit more striking:



COMPLIANCE SCORES by product groups only in the largest online retail sites segment

The monitoring confirmed some product group specific compliance issues that we suspected (see point 2.1.):

- For washing machines, in most countries, many instances of incorrect textual or graphical marketing claims in the form of "A+++ -X%" were observed on the websites. This is an unfortunate result of the saturation of the label top class A+++.
- For washer-dryers, the prolonged use of the very old two-piece label version is a source of potential difficulties. Although our sample was small, we spotted numerous cases of language issues (strips prepared in a wrong language), as well as incorrect colours of the nested display arrows.
- For TVs, the implementation of the label in several steps with an evolving energy scale has been clearly challenging for retailers. Several cases of inconsistencies between the website and manufacturer label format were spotted, as well as obsolete nested display arrow colours being used.
- For light sources, in some of the countries, the common availability of "marketplace" models (i.e. models sold by a partner seller which is not the owner of the website) increased the frequency of missing labels.

These findings show in short that the average and most common situation is by far the one corresponding to the orange grade, that is an approximate supply of energy labelling information, in quantitative (amount of labels and fiches available) and qualitative terms (conformity of displays). The full scope of compliance to the rules is rarely observed.

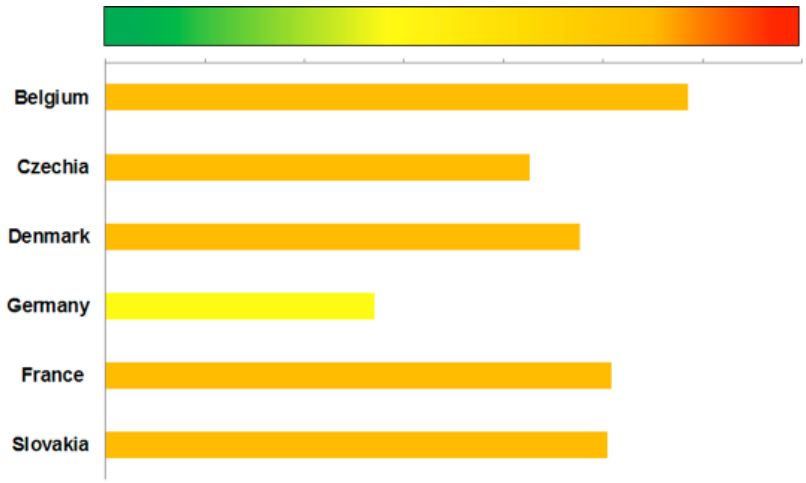
Whereas average results by online retail site types and product groups did not reveal very large variations, it is quite different when it comes to a country-by-country analysis.

4.2. NATIONAL ANALYSIS

Six EU Member States have been covered in the monitoring with an equal number of websites in each. These countries have been selected to represent a good range of country sizes, locations, culture, and participation in wide energy labelling compliance projects.

After excluding price comparison websites, the overall colour grades by country (averaging the 11 national online retail sites monitored) are presented in the graph below.

IMPORTANT NOTE: *these results are only related to the samples of websites covered in the monitoring. While the selected websites were of various nature and targeted some of the best sellers, there is no guarantee that these results are fully representative of the overall national situation. Therefore, they should be considered and compared with precaution.*



NATIONAL COMPLIANCE scores (for the online retail site samples covered)

The German score stands out. This country obtained the best results not only on average but also in all website categories, as well as for all product groups. All four shops in the largest national seller segment fare well, and out of the 19 websites that have mostly reached green or yellow grades in all six countries, eight are German.

The rest of the countries are in a much worse situation. A bulk of four countries (Czech Republic, Denmark, France and Slovakia) fall on average in the orange grade. Most websites in those countries show unconvincing compliance levels, with insufficient efforts to provide the labels and fiches properly. Belgium scores last, with four online retail sites fully red and the rest in orange.

Product group per country	Refrigerators	Dishwashers	Washing machines	TVs	Light sources
Belgium					
Czechia					
Denmark					
Germany					
France					
Slovakia					

COUNTRY SCORES per product group

Shop type per country	Largest eshops	Low price segment	DiY segment	Specialised /high-end eshop	Random selection / search engines	Price-comparison
Belgium						
Czechia						
Denmark						
Germany						
France						
Slovakia						

COUNTRY SCORES per website type

For each of the six countries, a more detailed national assessment is provided below.

BELGIUM

The overall compliance level is low on the website sample monitored. Most online retail sites scored orange or even red. Compliance with product fiche availability is notably extremely limited throughout all the monitored sites, explaining why they fared no better than orange.

Compliance levels appear different between online retail sites that are Belgium branches of international shops (German-based or Dutch-based) and more national and smaller websites. The former seems to be making greater efforts at conformity with the label presence and correctness of the nested display. The latter display either no labels or display them poorly (e.g. far away in **product picture galleries**). Some online retail sites also show very approximate compliance efforts, for instance displaying nested display arrows which are non-clickable and not opening any label picture.

The **price comparison** website only showed energy labels after several necessary clicks on the model picture, without any hint that it is hidden there.

Additional points

- Except for one online retail site, nested displays and labels are **never available** on the retailer's main page, product group main pages, comparator pages or basket pages.
- One online retail site was in a strange situation that for two product groups all the nested display arrows were colourless (whereas compliance was fine for the other product groups); this reveals a lack of maintenance and verification of such technical problems.
- **Light sources** were particularly prone to mistakes and incorrect labelling, despite no obligation to show the product fiche; a peculiar issue being that all the lamp models from one brand display a "home-made" label displaying a luminaire on the label; this format mistake originates from the supplier, but such systematic issue has unfortunately not been detected nor solved by the online retail site.
- For **televisions**, a misalignment between the nested display arrow colours and latest applicable version of the TV label has been frequently observed.
- Compliance of **wine coolers** seems at a similar level than for other refrigerating appliances.
- Efforts for labelling **washer-dryers** can be noted, although frequent language issues were found on the limited sample monitored (textual part of the labels displayed in English, Italian, German instead of the national languages).
- Discrepancies between online retail site and supplier labels remain very rare, showing a good level of compliance on that front.

- Textual claims such as "**A+++ -X%**" for washing machines are common in several online retail sites.

- Compliance on the few **advertisements** and promotional offers checked was very low, with energy class information absent from most online special offers, and energy classes mentioned in very tiny font in electronic catalogues.

FRANCE

In France, most of the checked websites provide labels in a certain way on product pages, although not in a fully compliant manner. Worst exceptions were a marketplace website (which had frequent missing labels), one online retail site (where labels were also frequently missing) and the price comparison website which was fully non-compliant.

Energy labels are most of the time available somewhere in the **picture galleries** of product pages (with scrolling sometimes necessary to access them). Labels or coloured arrows are never present on **product group main pages**.

Fiches are seldom available, and when it is the case they are often in the form of (hardly legible) visual images in the picture galleries, or in far away parts of the product pages.

Overall, **technical errors** (arrows opening empty pop-ups, label pictures very large or small, non-clickable arrows, etc.) were recurrent on some websites.

The two best in class, although far from full compliance, are an online retail site in the low-price segment, and the online retail site from a major appliance retail chain which nicely provides guidance on how to read the labels as well as a warning information about the revised labels coming to the market in 2021.

Additional points

- On several online retail sites, the product model pages of most established brands contain **a specific module created and directly fed by the supplier**, sometimes providing links to the label and fiche. But it is always (very) far away from the top of the page and price information.

- On some online retail sites, there seems to be a confusion about what the **product fiche** exactly is. Sometimes the fiche link opens a one-page technical fiche, sometimes a longer product description leaflet from the supplier, and sometimes a certificate of conformity. One online retail site systematically displays two links called "Product fiche" and "European product fiche" opening two different documents.

- Compliance on **website´s main pages, basket pages and product comparator pages** is extremely low. Sometimes a textual mention of the energy class is present, but not more.

- **Light sources** are a particularly low performing product group with respect to labelling, especially for marketplace models (which often miss the labels).

- Compliance of **wine coolers** and labelling of **washer-dryers** seem comparable to that of other appliance groups, although sometimes issues with the colours of the nested display arrows have been observed on our limited samples.

- **Discrepancies** between website and retailer labels were rarely found, and often minor.

- Some websites do not offer the possibility to **filter** models by energy class, especially for TVs and light sources, which is unfortunate.

- Several types of **advertisements** and promotional offers could be found (Black Friday special deals, electronic catalogues, ads on social media, etc.), but nearly all of them had not a single reference to energy performance information (no energy class mention, no label).

DENMARK

In Denmark all the monitored shops seem aware of their obligations to display the label and the product fiche. However, none of them can be categorised as in full compliance. Only for light sources two online retail sites show full compliance. The random selected shops generally show the poorest compliance whereas one low-price segment shop and the DIY-shop scores the highest compliance rating.

Making the **product fiche** available is in general an issue for all shop types. Although most shops use a link, having also the right term, it does not provide access to the original product fiche from the manufacturer. Typically, the link leads to another place on the website or another document. One of the large shops consequently use the link to the product fiche to direct the consumers into an area of "technical specifications". If the link had provided access to the product fiche they would have been in full compliance. By searching for the original product fiche it can often be found in or among other product information materials, i.e. in the user manual. Other common issues related to the fiche is that the link is dead and leads nowhere or that two mouse clicks are necessary to obtain access.

There is a high degree of compliance related to the **colour of the nested display arrow**, except for TVs, where. non-compliance occurs because the arrow color used is corresponding to a previous version of the energy label using a different colour scheme for the energy classes.

Another frequent error is the **font size** in the energy arrow. Most common mistake is that the text font is too small compared to the size of the price font. In some cases, the energy arrow appears to be homemade and not using the European Commission's label generator.

The highest variation in compliance is seen within light sources. Two online shops are in full compliance whereas the remaining shops are far from compliance as there were missing both energy labels, energy arrows, and having the wrong colour on the available labels.

The **price comparison site** is not showing labels or product fiches. The energy class is however stated as text and can be used by consumers as a search filter.

Additional points

- Overall, there is **agreement between the label shown by the dealer and the label from the manufacturer.** The typical mistakes are differences in e.g. dB levels or watt usage. In addition a few incidents with disagreement between the model name on the supplier label and the label used by the online retail site. In general it is not easy to locate the label and the product fiche on the supplier websites, especially for older product models.
- None of the Danish dealers were compliant on the **basket pages**.
- Three out of five shops provide a **comparison option** to consumers. One shop uses the correct energy arrow and the product fiche term on the comparison page, but only the arrow correctly links to the energy label. The product fiche term only links to the specifications area of the website. The two remaining shops show neither the label nor the product fiche in the comparison option.
- **The shop main pages** in five shops including all four of the "large online retail sites" had the energy arrows and product fiche links. The energy arrow links correctly to the energy label, whereas the product fiche term in most cases only links to the specifications area of the website. If the link is leading to the product fiche, then only by using two mouse clicks.
- **Product group main pages** had the arrows and fiche links in most shops. The link to the energy label and product fiche however does not work correctly in all the shops and for some of them, the link to the product fiche requires two mouse clicks.
- **Washer-dryers** are offered for sale in all five shops covered, showing more or less the same picture as observed in the main product group. Only the energy arrow and label is available in all five online retail sites, whereas the product fiche was only provided by one shop. For the remaining shops, the links are directing

consumers to the specifications area. This result is rather surprising as there is no legal obligation for manufacturers to provide an electronic version of the very old "two elements"-label, and dealers not obliged to comply with online labelling rules for washer-dryers. This means both manufacturer and dealer made an extraordinary effort.

- All five shops also offer **wine storage appliances**. The energy label arrow and energy label itself is made available at four online retail sites, but the product fiche is only provided by one of them. Three shops, linking users directly to the specifications area. One dealer did not provide either the nested display arrow, the label or the product fiche.

- Only one shop offers a single **professional storage refrigerator**. The refrigerator had only an energy arrow displayed, however not being a nested display leading to the label. The product fiche was not available.

- **Advertisements** have been found from six of the 12 Danish online retail sites. Most of them use interactive electronic advertisements. This means that consumers can add the product of interest directly to the basket page of the online retail site. Hence consumers are not having any possibility to study the energy label or product fiche as part of the purchasing decision, especially as compliance on the basket pages is very low. One online retail site uses a traditional catalogue layout, simply made available online. They use in general a black arrow showing the energy class, which is deemed non-compliant both with the existing and future regulation requirements. Pure text or the correctly displayed arrow, using the right colour is to be used at present.

- For two Danish shops, proper display of label and product fiche has been studied for three additional **internet browsers**. One shop does not provide a proper display when using the "Internet Explorer"- browser, but functions well on the other browsers. In this same shop, the mandatory information is not displayed properly when opened on **mobile phones**, neither when using Android or iOS operating systems, whereas the other shop facilitates using the mobile phone. The two Danish shops do not provide their own **App**.

GERMANY

In Germany, the monitored online retail sites show a relatively high level of compliance. Most shops have implemented the regulation requirements to a high degree. The most widespread non-compliance issue is that the font size used to indicate the energy class inside the arrow is too small compared to the **font size** of the price.

The obligation to make the **product fiche** available is another frequent issue. Either a link to the fiche has not been integrated on the web page at all – or the link has been provided, but the link does not open the original product fiche. A number of shops use this link to send the consumers on to a comprehensive brochure from the manufacturer.

There is a high level of compliance related to the **colour to be used in the arrow** to display the energy class, except for TVs.

Additional points

- A few issues with mismatch **between the label shown by the dealer and the label from the manufacturer** showing different values for label data (dB, kWh etc.), however no pattern related to product type or manufacturer has been identified.

- More than half of the monitored online retail sites do not show the label or fiche on the **basket page**. However one shop provides both nested display elements, but with other non-compliance issues.

- Almost all are compliant on **product comparison pages**.

- Only a few **shop main pages** show products included in this study and where they are displayed both compliance and non-compliance are observed, whereas the compliance level on the **product group main**

pages is similar to the product pages having overall a high level of compliance, showing though some of the non-compliance issues mentioned previously (i.e. "home-made" fiches).

- More than half of the online retail sites offer **washer-dryers** and **wine storage appliances**. Compliance level seems high and comparable with that of other product groups.
- None of the online retail sites offer **professional storage refrigeration** appliances.
- Traditional **advertisement** catalogues have not been identified for any of the online retail sites. Various ads and campaigns appear directly on the shop main pages, typically linking consumers into the product pages. One shop using a "rolling ad-banner" shows energy-related products but no indication of energy class or fiche is provided. Two mouse clicks are needed to enter the product page, where the mandatory information is found in full compliance.
- For two German online retail sites the proper display of the mandatory information has been monitored using three additional **internet browsers**. And shows no issues with proper display of the label and fiche. Also on **mobile phones** with two different operating systems, the display works well.
- The two shops provide an **App**, however, this could not be tested as the app can be installed only by Germans.

CZECH REPUBLIC

In the Czech Republic, most online retail sites appeared as partly compliant – all of them providing some sort of requested information, but in most cases some of the requirements were not fully met.

Shops fully or frequently **missing** energy labels are rare, but the location of the labels and fiches was often problematic, sometimes placed down in product description or in documents for download.

Energy labels are **never seen as fully displayed next to the price**, but often displayed in the product page **picture galleries**. Some of the online retail sites only display it as the last picture in the picture gallery, therefore it is not directly visible from the main product page. The nested display **arrow**, if implemented, is often placed on the left side of the product page, opposite to price, but well visible.

Product **fiches** are never available on the online retail site main pages or product group main pages nor have they been found in proper format on product comparison and basket pages.

Additional points

- The **DIY** shop has lowest compliance: most labels were missing and even if the arrow was provided, it was sometimes shown with wrong colour and not linked to the energy label (The same situation was observed for this DIY online retail site in both the Czech republic and in Slovakia – which belongs to one company).
- The **price comparison website** had low quality level: it did not show a homogenous situation per product, high number of energy labels were missing at all or only provided as a document for download in product description at the bottom of page.
- One low price segment online retail site had all features properly displayed. Therefore, no straightforward correlation in compliance has been found for high end (or large) or low end/low price online retail sites or brands.
- **Washer-dryers and wine coolers** seemed usually with the same level of information displayed (label, fiche) as for their main product groups, with the following possible explanations:
  - Washer-dryers are an established product category on the Czech market
  - For many models the same suppliers provide these products
  - The websites are designed for the display of such documents

- Regarding **advertisements**, most commonly the online retail sites prepare regular, e.g. monthly, catalogues, where specific models are highlighted. Standalone leaflets are sometimes also available for specific opportunities, such as for the Black Friday or similar. In most cases, the energy class was properly displayed, but in no case the range of energy classes was provided.

- **Mobile view:** energy arrow is typically on the same place as on a PC screen, but in some cases, it was not opening the energy label (not possible to click on it with finger on mobile). In those situations, the picture of the energy label that is in the product gallery is not seen from the main page (moving pictures within the gallery is needed) – only an energy class is therefore visible, but not as a "nested display" which would directly lead to an energy label.

SLOVAKIA

In Slovakia, a similar level of labelling has been identified as e.g. in the Czech Republic, with one important exception: except in very few cases, the product fiches are never provided. In addition, one online retail site that provides the fiche only makes them available in foreign languages (English and German) – it is a small online retail site only featuring a limited number of brands.

The distribution of the energy labels in online sales has been viewed as similar to the level of Czech Republic, which is in part expected as some retailers and suppliers act in both countries.

The **overall level of compliance** is however lower than for the Czech Republic. One indirect explanation for this observation might be that Slovakia never participated actively in any of the EU-level projects related to energy labelling compliance.

Additional points

- The **comparison and basket pages** never display energy labels (and product fiches) in full format. Typically, some information is made available (energy class, annual consumption), but it is not uniform among the online retail sites, and among the product groups, sometimes even among various models of the same product group.

- Sometimes the energy labels and fiches are only available in a **product page module designed by the product supplier itself**. The label and fiche presence thus depends on the brand.

- On one online retail site, labels and fiches were generally available except from one particular brand / **supplier**. This could be a technical problem (software "communication" between the dealer and supplier).

- Several instances of textual claims "**A+++-X%**" were spotted.

- Often, the shop main page indicated the energy class of the respective product with a correct **arrow** with the correct letter (energy class) and colour, but it was never provided with a link to the full label.

- One general note on **A+ models in white goods**: the product marketing descriptions (displayed by online retail sites but probably originating from suppliers) still commonly state that A+ models are energy efficient and help save energy, whereas they are the least efficient on the market.

- The **price comparison** website is not providing any energy label nor fiche, only mentioning energy class in the text description of models.

4.3. COMPARISON TO PREVIOUS RESULTS AND STUDIES

As an additional type of research, the experience brought by previous relevant projects and market surveillance activities has been examined, to bring further historical perspective on the proper display of energy labels in online sales.

This chapter summarises the experience of several European projects, organised mainly under the EU Horizon 2020 programme. Furthermore, specific issues and Q&As discussed among European market surveillance authorities were also reviewed (as available from the European Commission´s specific FAQ document on the labelling regulation and delegated acts).

A common conclusion of various international and EU level projects and studies is that there is a **low level of compliance with proper display of energy labels online**. In 2013, the study Evaluation of the Energy Labelling Directive and specific aspects of the Ecodesign Directive concluded that "internet shops, whose market shares are increasing, often do not display some of the required information and not in the right order."[48] Some of the report recommendations have been already implemented: organisation of more European projects to tackle market surveillance on a joint basis, or an introduction of a registration database, where energy labels and other information would be made available also to retailers and to consumers.

The Special Report "EU action on Ecodesign and Energy Labelling: important contribution to greater energy efficiency reduced by significant delays and non-compliance" prepared by the European Court of auditors in 2020[49], has also summarised the level of compliance for online sales, by collecting data from various EU-level projects – confirming that over half of products sold online were not labelled properly or at all:

COMPLIANTV

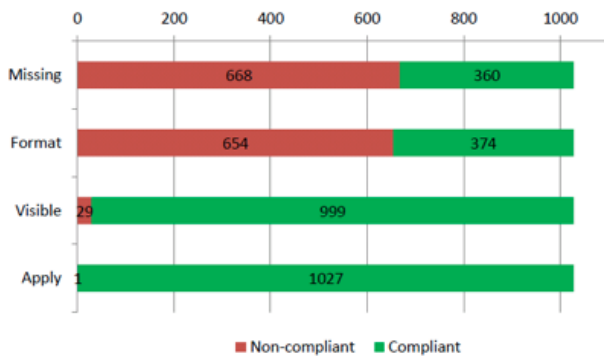
The ComplianTV project was organised between 2013 and 2015, led by BIO IS France and supported by partners from nine countries, and focused specifically on televisions, including the monitoring of the label display for TVs in shops – 20 'physical' stores and 20 online retailers over 2 rounds for Energy Label display, covering around 10,000 TVs in-store and 4,000 online in five EU member states (Austria, Belgium, Czech Republic, France, Germany).

The project revealed – based on monitoring 100 online retail sites in total – an online non-compliance of 74% in the project´s first round of shop visits, out of two thousand models monitored, and a 52% level of non-compliance in the second round of shop visits (both rounds took place in 2015 and focused only on television labels, online retail sites were informed about the results and provided a guidance manual).

THE TYPES of non-compliances

Failure categories

Missing	Format	Visibility	Apply
668	654	29	1



48 http://www.energylabelevaluation.eu/tmce/Final_technical_report-Evaluation_ELD_ED_June_2014.pdf
49 https://www.eca.europa.eu/Lists/ECADocuments/SR20_01/SR_Ecodesign_and_energy_labels_EN.pdf

The types of non-compliances included:

- In many cases, a listing was non-compliant for more than one reason
- 'Missing' was defined as where the label, fiche or some information was not present according to the appropriate requirement
- 'Format' errors were those where there was an issue with the order of data in the fiche or the format of the label
- 'Visibility' was where the means of accessing the label (e.g. arrow, nested display) was not compliant
- 'Apply', meaning where the label and TV model did not match

In addition, discrepancies between information on retailer and manufacturer websites seemed to be a concern; only 27% of document sets were accessible and fully consistent between both websites.

Results have been communicated to the retailers, industry associations, and the authorities, and the project has also elaborated specific guidelines for proper energy label display in shops and online. In some countries, organisers claimed that establishing contact with the retailers was difficult; with most of the undertaken retailer discussions being positive and with improved compliance – but still concluding that "However, compliance of energy label or information online remains at a much lower level than in-store."

Guidelines have been elaborated on how the labels should be made available by retailers, and also how the label compliance monitoring could be organised: http://www.compliantv.eu/eu/energy-label-display/guidelines

MORE DETAILS about the project´s full findings: http://www.compliantv.eu/eu/energy-label-display/online-survey/

COMEON LABELS

ComeOn Labels was one of the early EU projects that included the monitoring of compliance of online labels – back in 2013. The project was organised in 13 EU member states, including the Czech republic, Belgium and Germany, and included more than 900 points of sales in total, 8% of them being internet stores.

Shop type	N. of shops	%	Labelled correctly	Partly / Incorrectly labelled	Not labelled
Electronic superstore	67	24%	70%	9%	21%
Electric specialist	85	30%	56%	12%	31%
Kitchen studio / Furniture stores	66	24%	26%	15%	59%
General hypermarkets / Cash and Carry	40	14%	54%	10%	37%
Mail order and internet stores	22	8%	52%	38%	10%
Total Visits 3*	280	100%	52%	14%	34%
Total Visits 2	331	100%	52%	11%	38%
Total Visits 1	290	100%	54%	13%	33%

The project concluded that "In terms of displaying energy labels only partially and/or incorrectly, internet shops are the most problematic type of shop when comparing all three rounds of shop visits". It has to be noted that the EU energy labelling legislation valid at that time did not demand the display of the full label and fiche, but required a specific set of information to be displayed when the products were offered for distance selling, where consumers were not able to see the product before they chose to buy.

The project has communicated final results of its survey to the dealers and respective authorities, and also elaborated guidelines (mainly focusing on brick and mortar shops) of proper label display.

FULL DETAILS: http://www.come-on-labels.eu/displaying-energy-labels/appliance-labelling-in-shops

MARKETWATCH

The MarketWatch project was organised between 2014–2016, solely by civic organisations, and independent experts. One of its core activities included the monitoring of energy label display in stores: 737 physical and online shops (10 online shops on average, three times during the project) and more than 100,000 products. The action took place in 11 EU countries, including Belgium, Czech Republic, Germany and France. The review was organised in 3 stages and analysed the results per product category, type of common mistake, and in time. Its results have been communicated with the national authorities as well as thel retailers.

MarketWatch

The label display monitoring activities were summarised with a 77% compliance for in-store labelling, but only a 38% compliance for online labelling.

What we found: In online shops

Category:	Labelled correctly	Wrong format	Wrong placement	Label does not match model	Not labelled / missing
1st round:	38%	54%	1%	0.1%	7%
2nd round:	33%	39%	4%	6%	18%
3rd round: share	43%	34%	3%	1%	20%

MarketWatch

Among the product groups, the organisers have named air conditioners, TVs, wine storage appliances and ovens among the ones with the highest level of online non-compliance.

The project monitoring activities also included identification of models under the ecodesign thresholds to enter the market, advertisements with energy class indication, availability of product fiche documents, "super declarations" of A+++-X%, and other related specific issues.

The MarketWatch project team has informed local authorities and the respective retailers about the results, and has also prepared a guide for NGOs and for retailers, informing them about the proper display of energy labels – in 2016.

The project website is not available anymore.

EEPLIANT2

The EEPLIANT2 project was organised between September 2017 and February 2020 and involved 17 Market Surveillance Authorities across the EU – including Denmark, France and Germany. One of the focus product groups included domestic refrigerators and it also included a monitoring of the proper display of energy labels by online retailers. The purpose of the activity was to monitor the proper display, and coordinate approach among the authorities. Specific details about the results of the monitoring have not been made available.

The project has elaborated its e-learning and best practice guidelines for the MSAs, which also include guidance for conducting online label monitoring. The project´s recommendations include Good Practices for Coordinated and Effective Ecodesign and Energy Labelling Market Surveillance[50].

The project consortium has monitored 89 online shops and concluded with a 80% level of non-compliance of the proper display of energy labels and product fiche documents: A total of 275 web pages from 89 on-line retail shops were inspected to check whether they provided the energy label and product information for internet sales as required by the applicable regulations. Participating MSAs applied a multi-criteria approach for online retail site selection that varied between them. The two most often quoted reasons were aiming at covering wide retail market shares and targeting economic operators based on their territory. 71 online retail sites were assessed as non-compliant and 18 online retail sites as compliant. When not compliant, most of the time the online retail site failed to correctly display both the energy label and the product fiche. In 34% of non-compliant cases the information was not displayed at all.

Note that the EEPLIANT Action currently continues with its third action in a row, engaging by far most of the EU member states in the energy label and ecodesign related market surveillance activities.

MORE INFORMATION: https://eepliant.eu/index.php/new-products/wp4-refrigerating-appliances/61-new-products/new-eepliant-2-wp4-5-6/63-wp4-household-refrigerating-appliances-2

PROJECT FINAL REPORT: https://eepliant.eu/index.php/news/34-news/news-items/148-eepliant2-layman-s-report

50 https://eepliant.eu/images/Documents/EEPLIANT2/WP2/Best_Practice_Guidelines_EEPLIANT_v41_2.pdf

LABEL 2020

The project started in June 2019 and will run until January 2023, covering 16 EU member states, including Czech Republic, Denmark, France, and Germany. The key purpose of the project is to promote the usage of new energy labels, entering shops in March 2021 – the range of promotion and communication materials include a TV spot, range of online and printed communication materials, dedicated website and social media promotions, e-learning, webinar and other targeted materials for retailers, individual advice to stakeholders, media and public relations outcomes for the general consumers, mobile application introducing new labels etc.

One of the project activities will include the monitoring of the display of (new) energy labels in both physical stores and online around Autumn 2021. Results will be shared and discussed also among the market surveillance professionals. It was agreed with the project consortium that the key results of this project would be shared so that the LABEL2020 monitoring would build on and follow up on the findings of this monitoring.

While the methodologies of shop selections may differ, the results will be interesting to compare – level of usage of new labels, most common mistakes, issues sorted by product category or shop type.

The project has prepared detailed information about the new energy labels, including their new content and the specific dates for transformation, and is also planning to prepare a guide for the label display.

MORE INFORMATION: www.label2020.eu

FAQS ON THE ENERGY LABELLING REGULATION AND DELEGATED ACTS

This European Commission´s Frequently Asked Questions (FAQ) document summarises questions and answers of general interest regarding the Energy Labelling Regulation EU 2017/1369 and its delegated acts, including those adopted under the former Energy Labelling Directive 2010/30/EU.

The answers provided by the EC reflect a common understanding between the Commission services and the Market Surveillance Authorities of Member States. The answers as such are not legally binding. A binding interpretation of Union law is the sole competence of the European Court of Justice. The authors stress that the FAQ cannot go beyond or substitute the requirements of the Energy Labelling Regulation or its delegated acts. The general obligations set out in Regulation (EU) 2017/1369 as well as the product-specific rules set out in the delegated acts are binding in their entirety and directly applicable in all Member States.

The document is regularly updated, the latest version currently available is from November 2020.

The topics covered also include answers on the correct display of energy labels, catalogues, use of labels in business-to-business transactions, use of labels for combined products, packaged products, advertisements, etc.

One example of a question posted includes the need to provide the electronic label and an electronic product fiche in online sales also in a “buy” or “add to basket” sections.

FULL DOCUMENT: https://ec.europa.eu/info/sites/info/files/energy_climate_change_environment/ec_faq_el_2019-1.pdf

ENERGY LABELLING ADCO

The Administrative Cooperation for Market Surveillance Group for the Energy Labelling Directive 2010/30/EU is a group for market surveillance authorities to exchange experiences, co-operate in testing of products, publish test results and discuss any matter related to market surveillance practices for a better implementation of the Directive. Another important aspect of the ADCO-meeting is the possibility for market surveillance authorities to address grey area questions to the European Commission, who facilitate and support these meetings.

The meetings serve the purpose for the MSAs to share feedback from national activities, discuss labelling requirements, share experience and agree on common positions concerning specific market surveillance issues.

Issues discussed include the experience of label display surveillance, including the methods used (including the experience with web crawling), national updates on the label survey programmes, etc.

MORE INFORMATION ABOUT THE ADCO GROUP: https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=2647

4.4. A TYPOLOGY OF NON-COMPLIANCE CASES

During the monitoring phase, a large variety of non-compliance issues have been detected. Creating a comprehensive collection of such cases seemed useful, as this has never been done in the EU before (previous market verification studies had mentioned some examples of issues, but not made a systematic compilation).

There are various possible ways of classifying and describing the issues. In our typology, four main categories of non-compliance have been defined according to the nature of the issues:

- **Availability:** issues related to the absence of and difficult access to the mandatory elements (labels, nested displays, fiches…)
- **Readability:** issues related to the insufficient clarity, legibility, and wrong formatting of the mandatory information
- **Accuracy:** issues relating to the lack of consistency in the information provided, and discrepancies with the information stemming from suppliers
- **Additional mentions:** other information on websites that may not be covered by energy labelling regulations *per se* but may also influence consumers and in some cases hinder the impact of energy labelling

For each case, a number of key questions are relevant to analyse:

- Which legal requirement is not fulfilled
- How severe the non-compliance is in respect to the energy labelling overall objectives (making sure that consumers can make an informed purchasing decision)
- What impact it may have on the possibility for consumers to identify the most energy efficient models
- How frequently this case has been observed in our monitoring, however *with the **important disclaimer** that we cannot guarantee a statistical representativity of the samples we monitored, so it is only an indicative information (see chapter 3 for details on the methodology)*
- Who or what is the most probable source of the problem: retailers themselves, specific online retail site staff, website design, website managers, specific technical difficulties, partner sellers…
- How likely are the new EU energy labels entering into force in 2021 to change and improve the non-compliance situation

In addition to answering these systematic questions for each issue, the typology also provides a short description of the case and graphical (anonymised) illustrations where relevant.

MAIN TYPE	NON-COMPLIANCE CASE	NON-COMPLIANCE SEVERITY	FREQUENCY
A / AVAILABILITY	A1 / Full absence of energy labels	VERY HIGH	RARE, EXCEPT FOR PRICE COMPARISON WEBSITES
	A2 / Recurrent absence of energy labels	VERY HIGH	RATHER RARE
	A3 / Absence of product fiches	HIGH	FREQUENT
	A4 / Uneasy access to the energy labelling and fiche information	HIGH	VERY FREQUENT
	A5 / Absence of energy labelling information on certain pages	MEDIUM TO HIGH	VERY FREQUENT
B / READABILITY	B1 / Corrupt labels	HIGH	RARE
	B2 / Incorrect label formats	MEDIUM	RATHER RARE
	B3 / Label display size problems	MEDIUM TO HIGH	RARE
	B4 / Incorrect nested display arrow formats and sizes	LOW TO MEDIUM	VERY FREQUENT
	B5 / Illegible product fiches	HIGH	RATHER RARE
C / ACCURACY	C1 / Misalignment between data displayed by online retail site and supplier data	MEDIUM TO HIGH	RATHER RARE
	C2 / Discrepancies between nested display arrow and label information	HIGH	RARE, EXCEPT FOR TVS
D / ADDITIONAL MENTIONS	D1 / Discrepancies between textual and label/fiche information	MEDIUM TO HIGH	RARE, EXCEPT FOR WASHING MACHINES
	D / Misleading advice and claims	–	RARE
	D3 / Insufficient support to energy conscious purchase	–	RARE, EXCEPT FOR LIGHT SOURCES & TVS

OVERVIEW of the typology

AVAILABILITY

A1 / FULL ABSENCE OF ENERGY LABELS

- **Legal reference:** obligation to provide energy labelling information for products sold online
- **Severity:** very high
- **Impact:** prevents consumers from identifying the energy efficient models
- **Frequency:** except for price comparison websites (not obliged and often not providing labels), only few of the online retail sites monitored falls into this category, i.e. 8% of our sample
- **Source:** online retail site management
- **Possible change with re-scaled 2021 labels:** not automatically

The primary issue with online labelling compliance is obviously the full absence of energy labels on a website.

Sometimes, the websites in this situation provide at least some sort of energy labelling information, e.g. the energy class in textual form somewhere in the product description. But this is non-compliant with the regulation requirements.

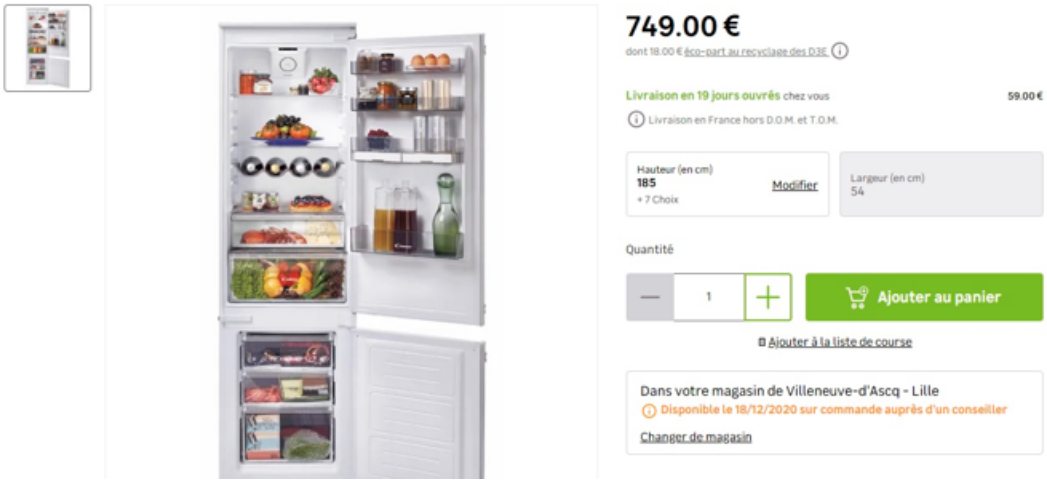
EXAMPLE of a website with systematic absence of labels

Also interesting to note is that suppliers themselves do not always provide energy labels on their official websites (some have product fiches available, others only textual technical information). They are not obliged to do so (if they do not sell the products from their websites), making it even more difficult for consumers to find relevant energy labelling information, if not found in the online retail site and instead looking for it at the manufacturer's source.

A2 / RECURRENT ABSENCE OF ENERGY LABELS

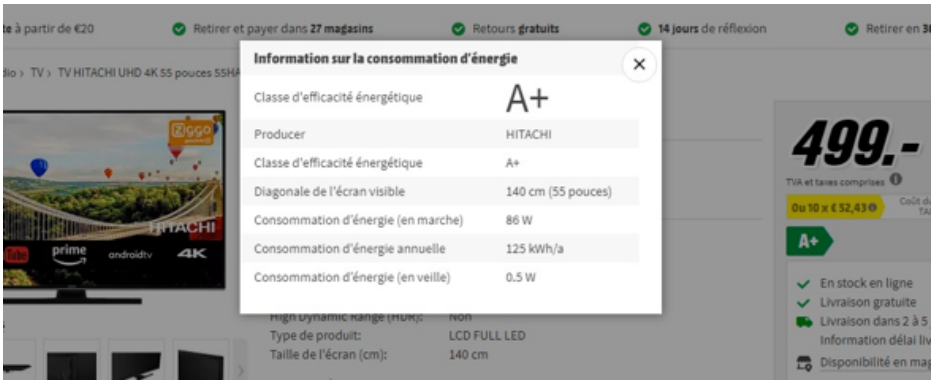
- **Legal reference:** obligation to provide energy labelling information for products sold online
- **Severity:** very high
- **Impact:** prevents consumers from fairly identifying and comparing models
- **Frequency:** 15% of the online retail sites in our sample (price comparison websites excluded) had labels missing for a majority of the models checked in our monitoring
- **Source:** website back-office system, lack of verification procedures, online retail site staff and partner sellers (in marketplaces)
- **Possible change with re-scaled 2021 labels:** none

Most online retail sites have all the necessary technical features to display the labels, and do so for some models, but also have frequent labels missing (e.g. half or more on the samples monitored). Although our samples may not be statistically representative, it is likely though, that poor label availability for the 50 models monitored in an online retail site will be similar for the overall website compliance efforts.



EXAMPLE of a refrigerator product page without any label or arrow

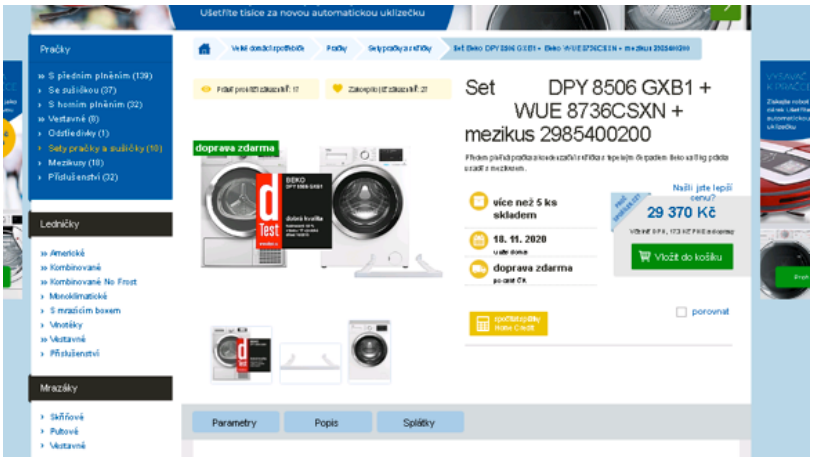
We have observed that frequent missing labels occurred more often for certain product groups: TVs to a certain extent, and light sources to a larger extent.



EXAMPLE where the TV label has been "replaced" in the nested display by textual information

Although we did not have many online retail sites widely using marketplace principles (i.e. offering space for partner sellers) in our sample, it seems that the frequency of missing labels is higher for models offered through marketplaces. This has been particularly spotted for light sources, which are more often offered by partner sellers than the other product groups in our scope.

Other specific situations may also lead to missing labelling information, such as one example of a set of two products sold in package, where the energy labels and fiches were fully absent.



EXAMPLE of a product package, with both products offered without energy labelling information

A3 / ABSENCE OF PRODUCT FICHES

- **Legal reference:** obligation to provide electronic product fiches for products sold online
- **Severity:** high
- **Impact:** difficult to assess, as there is no evidence about the use of product fiches by consumers (vs the same information supplied elsewhere on the product pages)
- **Frequency:** a majority of the websites in our sample, i.e. 58%, provide no fiches or only few fiches
- **Source:** website designs
- **Possible change with re-scaled 2021 labels:** none

EU regulation makes it clear that in addition to the energy label, an electronic product fiche should be made available for each model sold online – with a predefined name (in local language) and place (close to price). The fiche must supply specific data in a mandatory order.

It appears that many websites do not make systematic efforts to comply. Online retail sites frequently do not offer any link to the fiche. Sometimes the documents are only available for some models. Many online retail sites have an area of the website with "technical specifications", and the link sends consumers into this area, although it might now contain the mandatory product information. By searching the website in locations far from the price, the fiche is sometimes identified with different names, or occasional visual versions of the fiches occur in the product picture galleries.

It is likely that online retail site owners consider that if the requested information is supplied elsewhere in textual form (e.g. in a "product characteristics" section of the product page), it is enough to comply. Yet this is not the case.

A4 / UNEASY ACCESS TO THE ENERGY LABELLING AND FICHE INFORMATION

- **Legal reference:** obligation to provide label and fiche information "in proximity" to the price and in one click in case of nested display
- **Severity:** high
- **Impact:** Uneasy access to the label and fiche increases the risk of the information not being identified by consumers
- **Frequency:** most of the websites monitored did not comply to all aspects of the legal requirement and had more or less severe issues in providing access to the labelling information
- **Source:** website designs
- **Possible change with re-scaled 2021 labels:** none

Energy labels or nested displays, and even more for product fiches, are very rarely placed in close proximity to the price information, as the regulation requires.

A first very common situation is a wrong placing of the nested display arrow.

EXAMPLE of a far away and a small energy class arrow

When nested displays are not used, it is the full label pictures that ought to be near the price. In reality, many websites simply provide the label in the product picture gallery. It means that only a (hardly readable) thumbnail is available at first sight, and further clicking/scrolling is necessary to access the full label.

EXAMPLE of a far away label, only visible as a thumbnail when accessing the page

Within the picture gallery, some online retail sites located the labels consistently in the second place – making it at least visible from the product´s main page, but others have only placed it as the last picture, and so it was not visible at all before scrolling to the end of the picture gallery.

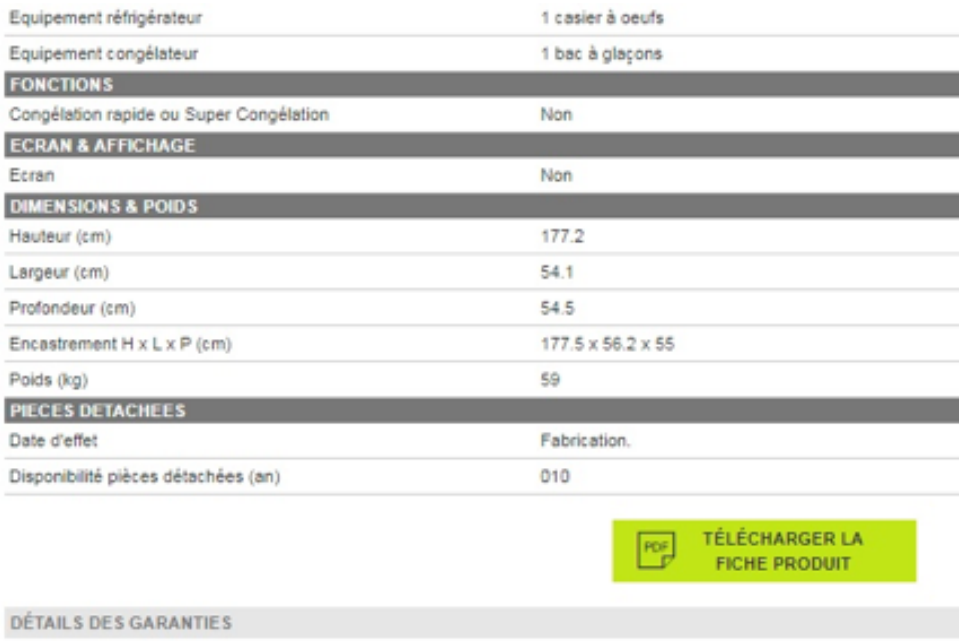
Sometimes a thumbnail is even not present, and the label is only accessible through a textual link.

ENERGY LABEL only available after clicking on a text link

In some cases, the label and/or fiche link are supplied in a specific module on the product page that is automatically filled by the supplier. While this kind of automated supply of information from the supplier to online retail site website is an interesting development and has merits (allowing suppliers to better control and update the data displayed, avoiding mistakes, etc.), at present it does not solve the issue as these page modules are usually far down the product pages and not at all close to the price.

EXAMPLE of a page module called "The brand speaks to you" where the label is directly available from the supplier (but very far from the top of the page and the price tag)

Product fiches commonly show similar types of lack of proximity, as well as using an incorrect term for the link (the regulation stipulates that they should be called "product fiche" in the national language).



Equipement réfrigérateur	1 casier à oeufs
Equipement congélateur	1 bac à glaçons
FONCTIONS	
Congélation rapide ou Super Congélation	Non
ECRAN & AFFICHAGE	
Ecran	Non
DIMENSIONS & POIDS	
Hauteur (cm)	177.2
Largeur (cm)	54.1
Profondeur (cm)	54.5
Encastrement H x L x P (cm)	177.5 x 56.2 x 55
Poids (kg)	59
PIECES DETACHEES	
Date d'effet	Fabrication.
Disponibilité pièces détachées (an)	010

EXAMPLE of a link to the fiche (in green) at the very bottom of the list of product specifications

This variety of issues suggests that the regulatory energy labelling information has been more or less tinkered into existing website designs, without strict compliance at the core of the web design. It also shows that market players have not worked on a harmonised technical way of complying to the regulation across all online retail site websites.

A5 / ABSENCE OF ENERGY LABELLING INFORMATION ON CERTAIN PAGES

- **Legal reference:** obligation to provide label and fiche in all instances where the price of a product is mentioned, i.e. not only product model pages but also product group main pages, basket pages, website main page, special promotion pages, etc.
- **Severity:** Medium to high
- **Impact:** The lack of energy labelling information on product group pages seems particularly detrimental, as this is where consumers make their preselection, use filters, etc.
- **Frequency:** a large majority of the websites monitored do not provide energy labels, nested displays and fiche links on product group main pages, basket pages, and product comparison pages.
- **Source:** website designs
- **Possible change with re-scaled 2021 labels:** none

The absence of energy labels, nested displays, and product fiches outside product model pages is very frequent. Question is, whether the website owners are aware that this is required.

This is particularly unfortunate on product group main pages, the first consumer entry point to start selecting models for purchase.

PRODUCT GROUP main page without energy class information

In theory, it should not be technically difficult to display the nested display arrows also on other pages when they are already available on product pages.

A POSITIVE EXAMPLE of a product group main page with energy labelling information (although the arrows are not as big as the prices)

In several cases, at least a textual mention of the energy class was available, however usually non clickable and having less visual impact than a coloured arrow.

Other pages, such as basket pages and product comparator pages, also miss labelling information on most online retail sites.

A POSITIVE EXAMPLE of a product group main page with energy labelling information

Promotion pages (e.g. for Black Friday, Christmas, etc.) showing selections of special offers where prices are indicated are legally covered by online labelling rules, and should include the label and fiche information. However, frequent non-compliance has been observed on the few samples monitored in the study.

EXAMPLE of a Christmas TV set offer with no energy labelling information at all

Promotional offers are sometimes available not only on the online retail site websites themselves, but also on other communication channels they use. Anecdotal verifications reveal that the absence of energy labelling information is also problematic there.

AN ONLINE RETAIL SITE promotion ad on social media without energy information

Promotion material can take several other forms, such as electronic versions of printed catalogues. While energy class indications are more common on such documents, they are sometimes exaggeratedly small or in an inconsistent format.

AN EXAMPLE of a very tiny energy class mention

PROMOTIONAL ADS with inconsistent arrow colour (same shade of green for all classes)

READABILITY

Other problems arise when, although the labels and/or fiches are present, something goes wrong with the way they are displayed, so that additional efforts may be needed to get a proper understanding.

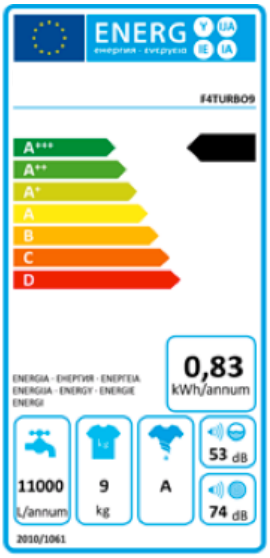
B1 / CORRUPT LABEL

- **Legal reference:** obligation to display the "appropriate label made available by suppliers" in a way that is "clearly visible and legible"
- **Severity:** high
- **Impact:** impossibility for the consumer to access or understand certain product performance data
- **Frequency:** rare
- **Source:** technical problems stemming from website designs, website back-office or (less likely) suppliers
- **Possible change with re-scaled 2021 labels:** improvement could be expected for washer-dryers, when formally introducing the electronic energy label

Although not frequent, a number of cases of problematic labels have been found where a part or all of the data is missing or unreadable. They appear more as exceptions than systematic issues (i.e. no website had a significant amount of them). Some examples are provided below.

LABEL PARTLY CORRUPT
(probably because in this case the file was not formatted as a picture file)

LABEL MISSING
several data

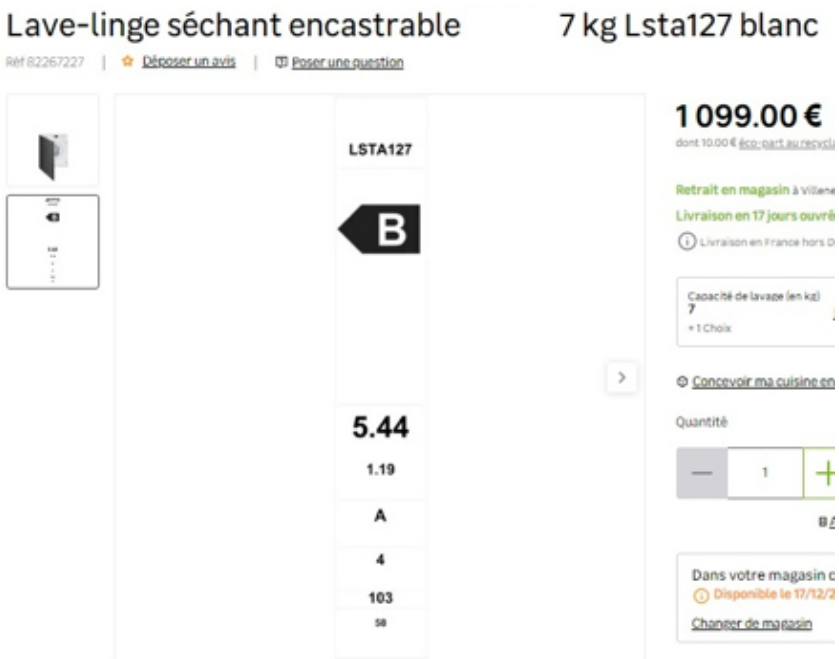


LABEL MISSING
the energy class letter and including unrealistic data

Before the revisions implemented in the 2010's, EU energy labels were all made of two pieces – a background legend strip in the national language, and a second strip with the performance data. Often such labels were prone to mistakes, such as one of the two strips missing. This is definitely a positive development that labels are now only in one piece, and language neutral.

HISTORICAL PROBLEMS with the two strip-labels
(sources: SEVEn archive, MarketWatch project)

It should be noted that washer-dryers, still covered by an old two strip label until March 2021, are not formally subject to online energy labelling requirements. Hence there is no formal obligation for suppliers to supply an electronic version of the energy label – and no obligation for the online retail sites to show them. It is judged appreciative that suppliers and online retail sites generally provide the energy labelling information for this product type. (It is also possible that online retail sites are not all aware that washer-dryers are not legally covered, and so try to comply). Obviously, dealing with a two-part label format has risks, as illustrated below.



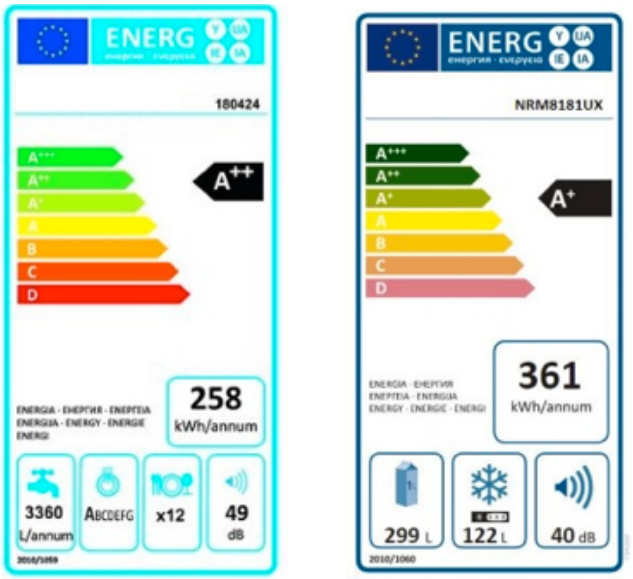
ONLY HALF of this washer-dryer label is shown.
The other half (template part with data headings) is missing, making it incomprehensible

B2 / INCORRECT LABEL FORMATS

- **Legal reference:** obligation to display the "appropriate label" in a way that is "clearly visible and legible"
- **Severity:** medium
- **Impact:** while a wrong label format may not totally hamper reading and understanding the information, it may confuse consumers when they compare several model labels
- **Frequency:** rather rare
- **Source:** technical problems stemming from website designs, procedures, or from suppliers
- **Expected change with re-scaled 2021 labels:** none

EU energy labels have a very precise format and layout – stipulated in the regulations. Variations in colours, pictograms, or data order is not allowed. Yet, several instances of incorrect label formats were observed in our samples.

A first problem, observed several times, is the degradation of the colour rendering of energy labelling scales. According to our investigations, this problem mostly happens when picture file formats are modified. Such changes (e.g. transforming a .jpg image into a .png) may alter the rendering of colours. This is an unfortunate technical issue that even official institutions are facing[51].



STRANGELY COLOURED labels, the type of colour degradation on the left being the most common

It is noticeable that websites opening label pictures in pdf avoid this issue, so a harmonisation of the label picture formatting would certainly improve the situation.

Another main observation is that **light sources** seem to be a product group particularly prone to label format mistakes, which are more frequent than for other groups.

A common issue for light sources is that the label displayed in online retail sites does not have the right format. Regulation (EU) 874/2010 provides two label layouts, however only one of them containing all information can be used for online sales. The other, simpler label is typically used on the light source packaging, which provides the information not present in this version of the label.

51 See for instance the weird-looking label pictures on official html pages of the European Commission, e.g. https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32010R1061&from=EN

Several examples are illustrated below:

SMALL VERSION of the label restricted to tiny lamp packaging use, where the model reference is not shown (and therefore cannot be checked)

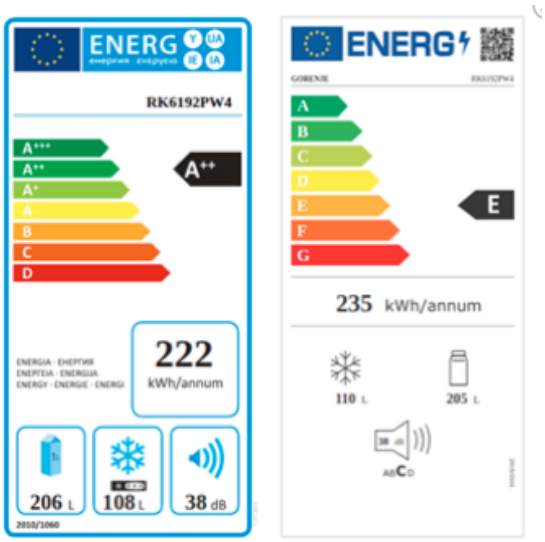
COMPLETELY INVENTED energy label format

NESTED DISPLAY for a lightbulb hosts a wrong energy label format for luminaires

An additional format issue case is worth mentioning. It results of specific subtleties in the energy labelling rules for some product groups. **Refrigerating** appliances are to be classified on a scale from A+++ to D, except certain inefficient technologies that are still allowed on the market and range from D to G, in which case they have to be classified against an A+++ to G class. In the example below the A++ product must use a label showing classes A+++ – D and so the legal provisions have not been understood properly by the supplier.

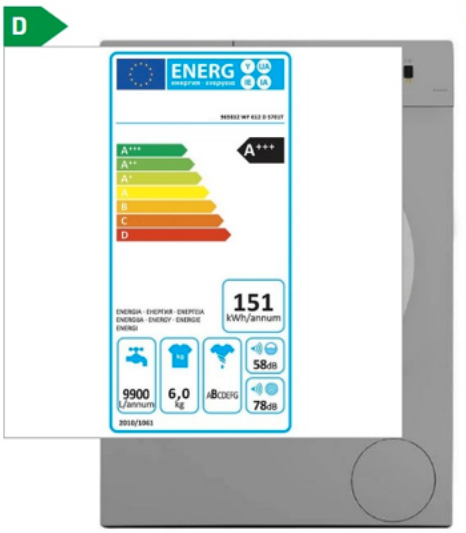
FRIDGE LABEL with a wrong format (A++ model on a scale restricted to D to G models)

Finally, a few instances of anticipated display of the new 2021 label versions before their official entry into force have been found. This is illegal, however such mistakes will only be transitory until the new labels are formally in place.



EXAMPLE of the actual and future labels in the same nested display pop-up

The following example shows a case in which the energy label declares an A+++ product, but the arrow is in a D class (and wrong colour). Reasons for such a mistake are not clear but it might be an anticipated display of the future energy class under the 2021 rescaled labels.



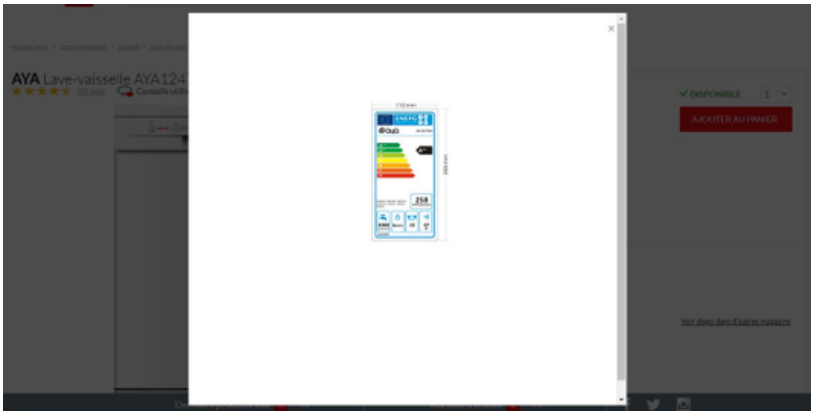
THE DECLARED D class in the arrow in contrast to the A+++ class on the energy label

B3 / LABEL DISPLAY SIZE PROBLEMS

- **Legal reference:** provision that "the size shall be such that the label is clearly visible and legible"
- **Severity:** medium to high
- **Impact:** If the size is such that the label is not readable, the impact on consumers is the same as if the label was completely missing
- **Frequency:** rare overall, but apparently systematic on a few websites
- **Source:** website designs, lack of verification procedure
- **Possible change with re-scaled 2021 labels:** none

Frequent occurrences of labels appearing on product pages as picture gallery thumbnails (and thus very small until the thumbnail is clicked) have already been reported in A5.

In addition, size issues were also observed in relation to nested display pop-ups. Two illustrations are given below.



THIS NESTED DISPLAY hosts a too tiny (and illegible) label

ON ANOTHER WEBSITE, labels appear too big in the nested display (and can't be resized)

After more thorough enquiry, it appeared that these problems were often internet browser-dependent. They are non-intentional and due to lack of responsiveness in website designs.

These size issues should not be underestimated though, as a growing number of consumers seek information and purchase products on mobile devices, where such issues are expected to become more common.

B4 / INCORRECT NESTED DISPLAY ARROW FORMATS AND SIZES

- **Legal reference:** precise regulatory rules as to how the nested displays (that may be used as alternative to an immediate display of labels) shall be presented
- **Severity:** low to medium
- **Impact:** As long as the nested display arrow is readable and contains the energy class, it may be expected that consumers are able to understand and recognise it whatever the format, although the influence on consumer choice might be lessened
- **Frequency:** very frequent
- **Source:** website designs
- **Possible change with re-scaled 2021 labels:** none

The various regulatory obligations on nested display arrows have their logic and are precisely set. Yet, inconsistencies and approximate compliance are recurrent.

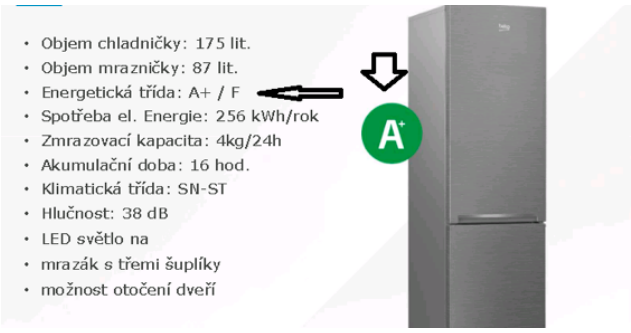
Firstly, very few websites comply with the obligation for the font size of the energy class in the arrow to be equivalent to that of the price. It is almost systematically smaller, if not much smaller.

A SIZE ISSUE EXAMPLE: label class in the arrow vs price information

Secondly, the format of the arrows has been found relatively often incorrect, revealing a lack of standardisation in web design practices. This is surprising, considering that pictures of the correct arrows are specified in the EU regulations and made available through the EU Commission's "Energy label generator"[52].

A COLLECTION of non-compliant arrow formats (wrong colours, wrong shapes, wrong information, wrong scale of classes, etc.)

52 https://ec.europa.eu/energy/topics/energy-efficiency/energy-label-and-ecodesign/energy-label-templates_en?redir=1



AN EXAMPLE of a round nested display image, opening a pop-up with incorrect A+ / F scale of energy classes.

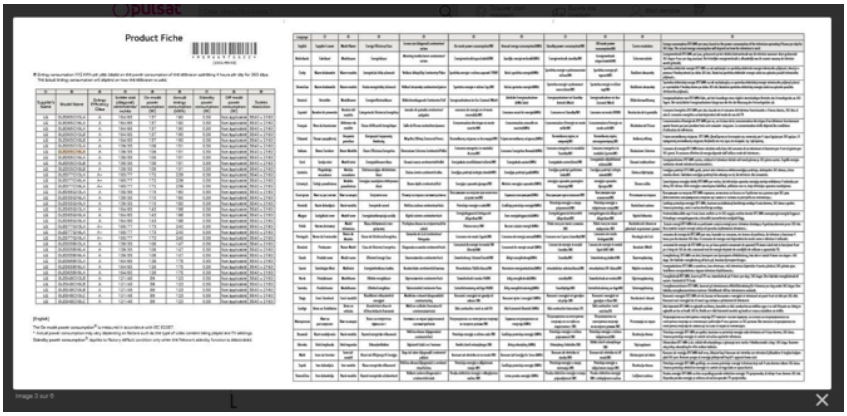
B5 / ILLEGIBLE PRODUCT FICHES

- **Legal reference:** obligation for the fiche size to be "such that the product fiche is clearly visible and legible"
- **Severity:** high
- **Impact:** although the impact of product fiches on consumer behaviour is not known, an illegible fiche is as impactful as a missing fiche
- **Frequency:** rare
- **Source:** website designs, lack of verification procedures, possibly suppliers
- **Possible change with re-scaled 2021 labels:** none

When product fiches are provided as pdf files (especially if it is the exact version from suppliers), issues of a good readability typically of the document do not occur (in terms of comfort display of the document – not the structure of document as such).

However, in certain cases, fiches are provided in a picture format. It seems that some online retail sites find it technically easier to add the fiche as an image in the product page picture gallery. Unfortunately, this seriously increases the risk of legibility issues. The reason for this behaviour might be that their website original design does not allow to provide documentation in another way, and they haven't considered it important to invest to improve the design. Or it could be that suppliers do not provide the product fiches in a harmonised format.

In any case, the occurrences identified show that some websites do not have internal verification procedures to detect these flaws.



AN EXAMPLE of illegible fiche in a pop-up display

In a few other cases, the issue is that some fiches are not provided in the right local language.

ACCURACY

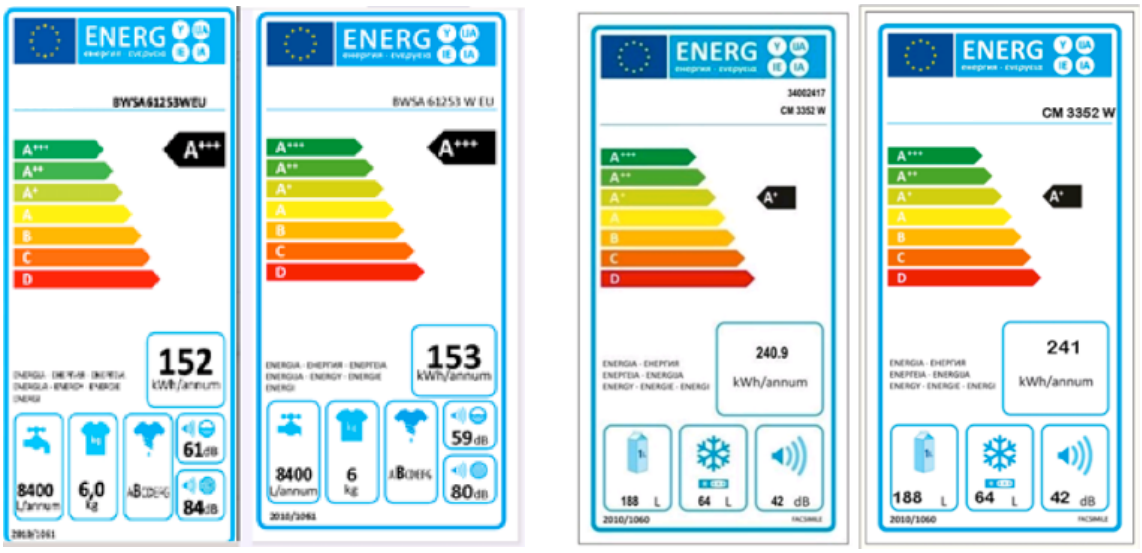
This category refers to the cases where some inconsistencies could be observed between the energy labelling information provided in various places and the energy label itself for the same product model.

C1 / MIS-ALIGNMENT BETWEEN WEBSITE AND SUPPLIER DATA

- **Legal reference:** obligation to display "the appropriate label" and "appropriate product fiche" made available by suppliers
- **Severity:** medium to high (depending on the extent of the misalignment)
- **Impact:** Consumers may be misled by wrong product performance data, which may influence their purchasing decision
- **Frequency:** rather rare, except sometimes for televisions
- **Source:** website back office system, lack of verification procedures
- **Possible change with re-scaled 2021 labels:** none

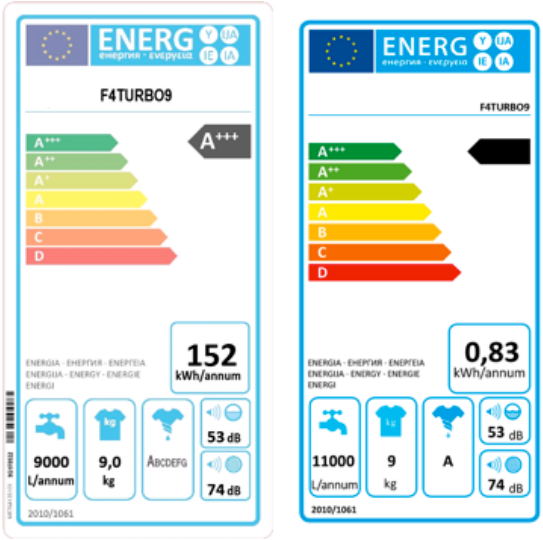
For the majority of the product pages checked in the step 2 monitoring (see chapter 3 for more details on the methodology), the energy label and product fiche displayed (when they were present) were exact copies of those available on supplier official sites.

Yet, in some cases discrepancies have been spotted. Most of the time these discrepancies were minor differences on numerical data of the labels.



TWO EXAMPLES of minor numerical discrepancies between online retail site labels and corresponding supplier labels

In a few cases, the discrepancies were more substantial.



SIGNIFICANT TECHNICAL DISCREPANCIES between supplier label (on the left) and online retail site label (on the right) for the same model

Issues of this kind occur specifically when online retail sites do not simply display the labels from the suppliers, but remake them. The potential reasons for this have already been discussed in case B1.

It is also possible that in the case of minor differences, the labels displayed were those exactly provided by the suppliers but then the suppliers updated them for some reason (e.g. mistake detected, new measurement done, slight technical variation on the model...), and the updated version was not channelled to or detected by the online retail site back office system.

Last, very rare examples were found of product pages displaying a completely wrong label from another model.

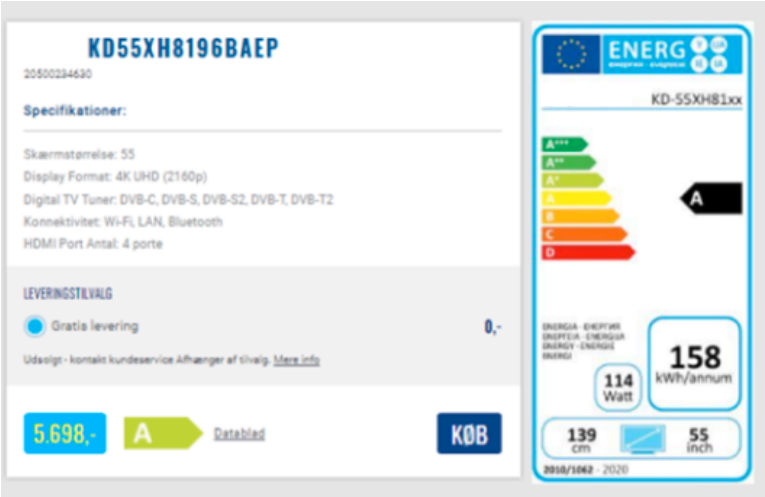
We can conclude that in the samples monitored in this study, the label discrepancies were probably due to unintentional technical problems, and no deliberate fraud has been identified. The same can be concluded about product fiches, for which very few misalignments have been spotted.

C2 / DISCREPANCIES BETWEEN NESTED DISPLAY ARROW AND LABEL INFORMATION

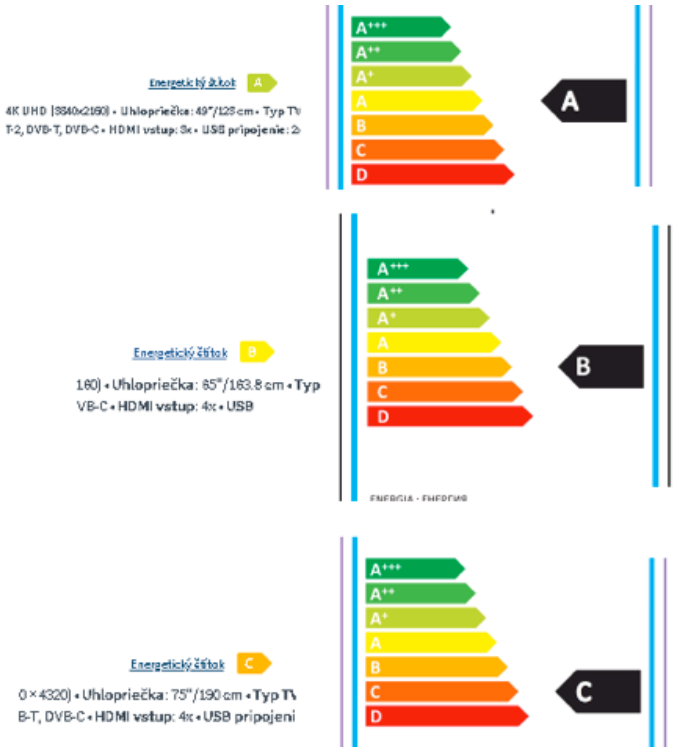
- **Legal reference:** obligation for the nested display arrow to indicate "the energy efficiency class of the product" and be in the colour "corresponding to the energy efficiency class of the product on the label"
- **Severity:** high
- **Impact:** as it can be expected that some consumers do not spend much time reading the energy labels themselves, the arrow indication is essential in informing and influencing consumers at first glance
- **Frequency:** rare
- **Source:** website designs, website back office systems, lack of verification procedures
- **Possible change with re-scaled 2021 labels:** improvement, especially for televisions (thanks to simpler and more harmonised labels across product groups)

Several instances of incorrect nested display arrow colours were identified, most notably for televisions. This was expected, due to the complexity of the implementation of the TV label in four subsequent steps with scale and class colour changes at each step. TV-sets placed on the market before 1 January 2020 had the scale from A++ to E, while units (sometimes from the same model) placed on the market after this date shall bear the label scale from A+++ to D.

This has clearly created confusion, and website designs and designers were often not able to cope with this. This results in nested display arrows often of an obsolete colour (i.e. that of a previous implementation step).

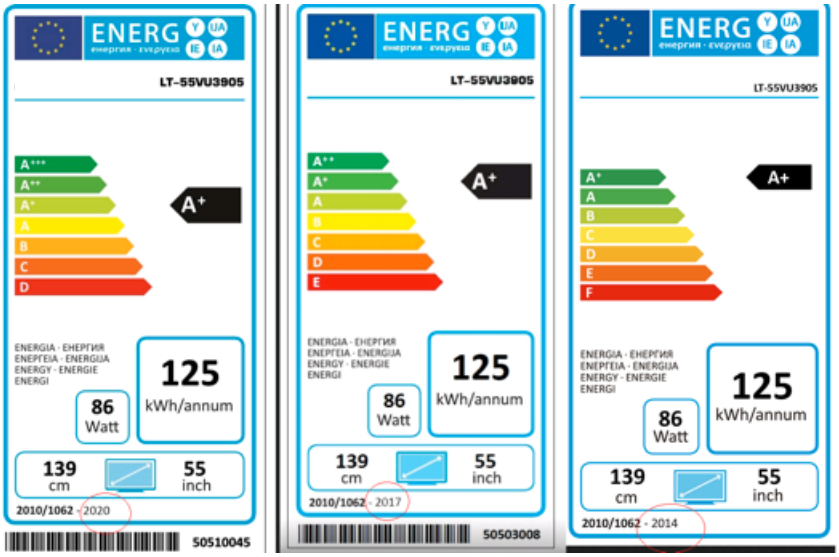


EXAMPLE of a TV product page where the nested display arrow on the left should be yellow instead of green



ANOTHER EXAMPLE of an online retail site with systematic misalignment between arrow colours and genuine energy class colours for three TV models

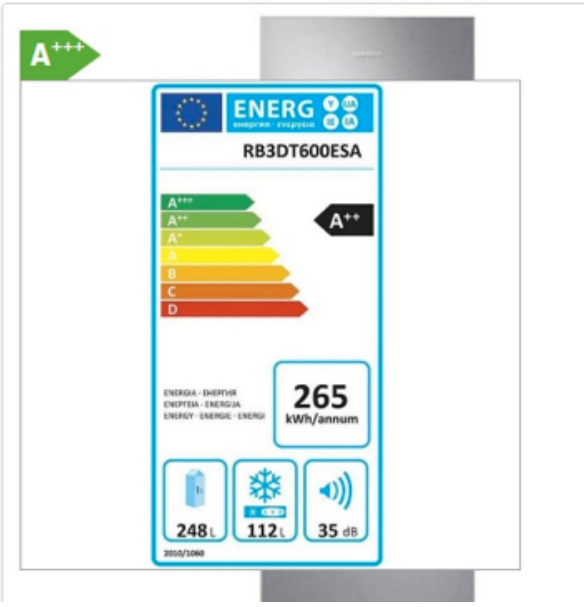
For the same reason, different label versions may be available for a model reference (depending on when the unit was placed on the market) and sometimes coexist on the same website.



THREE LABELS available for the same model with variable scales and energy class colours (from left to right: label on the supplier website, label in the online retail site picture gallery, label in the same online retail site nested display)

Less frequently but more impactful, cases of discrepancies between the class indication inside the nested display arrow and the genuine energy class on the label have been identified.

PRODUCT PRESENTED as an A+ class on the page and arrow, while the energy label says differently



ANOTHER ILLUSTRATION of a similar discrepancy

ADDITIONAL INFORMATION IN RELATION TO ENERGY PERFORMANCE

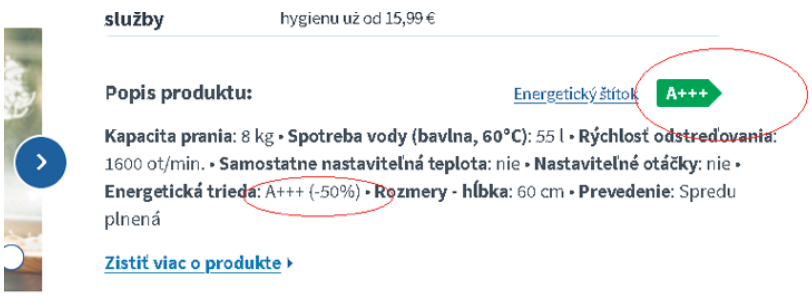
Other aspects related to energy performance information are not explicitly covered by EU online labelling rules, yet it seemed useful to mention them here because they may have a substantial impact on online consumer decision, and thus may be worth considering when discussing regulatory improvements.

D1 / DIS-CREPANCIES BETWEEN TEXTUAL AND LABEL OR FICHE INFORMATION

- **Legal reference:** according to the regulation it is not allowed to provide or display other labels, marks, symbols or inscriptions which do not comply with the requirements explicitly covered in regulatory texts, and so energy performance information (such as the energy class mention) provided in textual form on websites should be accurate
- **Severity:** medium to high
- **Impact:** incorrect and misleading energy performance information may confuse consumers
- **Frequency:** rare, except for the washing machine specific situation
- **Source:** website designs, online retail site staff, lack of verification procedures
- **Possible change with re-scaled 2021 labels:** none, except for “beyond A+++” claims that will disappear for several years (until they may come back again)

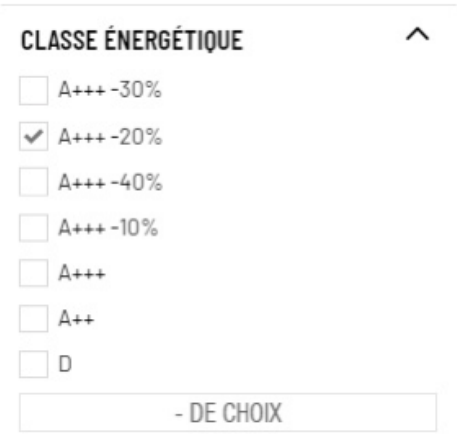
Few discrepancies have been spotted between the energy class on energy labels and mentions of it found elsewhere on the websites, for instance in textual form within the list of product characteristics. It is important to note however that only the energy class mention has been checked and not other performance characteristics.

A particular situation is to be reported for washing machines though. As explained in chapter 2, most washing machines were in the top A+++ class at the time of this research, and “beyond A+++” mentions became common, although they should be considered illegal (as interpreted by EU Institutions).



AN A+++ MODEL described textually as "A+++ (-50%)"

This inflation of non standardised and technically unfounded mentions is leading to ridiculous situations, such as this energy class filter on an online retail site product group main page:



A VERY SPECIAL energy class filter

D2 / MISLEADING ADVICE AND CLAIM

- **Legal reference:** not covered by regulation
- **Severity:** -
- **Impact:** misleading performance claims and inadequate consumer advice might hamper the impact of energy labelling information
- **Frequency:** rare
- **Source:** website designs, website editors, online retail site staff
- **Possible change with re-scaled 2021 labels:** potential improvement regarding energy saving claims

Apart from energy labelling information, websites are free to provide any additional information or advice about energy performance that they deem useful, and some do so.

Sometimes this additional content is useful, such as websites providing guidance and explanations on how to read the labels properly, raising awareness about the new label versions to come in the future, or assisting consumers to calculate the savings they may obtain by choosing an energy efficient model.

In other cases, the content may be incorrect and misleading. While this research has not systematically checked such additional information, a few anecdotal evidence may be given as illustrations.

- Réalisez des économies d'énergies grâce à une efficacité énergétique A+

A MESSAGE CLAIMING: "Save energy with an A+ fridge" (although A+ is currently the worst performance available on the market)

LAVE-VAISSELLE

Le VRAI CONSEIL de **Jean-Michel**
Spécialiste Électroménager

Quelques critères pour choisir son lave-vaisselle?
Le niveau sonore du lave-vaisselle:
Ce paramètre est important si le lave-vaisselle se trouve dans une cuisine ouverte ou dans un studio.
Le nombre de couverts du lave-vaiselle:
Un couvert désigne: 1 assiette plate, 1 assiette creuse, 1 assiette à dessert, 1 tasse et sa soucoupe,
Un **lave-vaisselle 12 couverts** peut contenir 12 fois ces pièces, plus 1 plat ovale, 2 saladiers ronds,
cette capacité est bien adaptée pour une famille de 3 à 4 personnes.
Le plus important est l'aménagement intérieur de votre lave-vaisselle : flexibilité des paniers, po
niveau de chargement en haut appelé tiroir à couverts ou panier à couverts classique dans le panier

SHOPPING ADVICE for consumers on dishwashers listing the most important selection criteria (sound level, place settings, interior design). Energy and water consumption are fully overlooked.

D3 / INSUFFICIENT SUPPORT TO ENERGY CONSCIOUS PURCHASING

- **Legal reference:** not covered by regulation
- **Severity:** -
- **Impact:** websites lacking basic functionalities to select the most energy efficient models hamper consumer choice
- **Frequency:** rather rare
- **Source:** website designs
- **Possible change with re-scaled 2021 labels:** none

Some websites do not propose the basic functionalities enabling consumers to identify the most energy performing models. One example seen a number of times is the lack of filter by energy class or energy consumption in the list of product filters available. When online retail sites have hundreds of model references to offer and do not display energy labelling information on product group main pages, a missing energy class filter means that consumers have practically no way to search models according to the energy performance.

The lack of energy class filters has been particularly observed for the television and light source product groups.

SPECIFIC ANALYSIS ON LIGHT SOURCES (AVAILABILITY OF PHASED OUT LAMP TYPES)

In addition to energy labelling compliance, our research also verified specifically for light sources if online retail sites were respecting the interdiction to sell incandescent light sources, and since halogen-based light sources (although stocks placed on the market before this date still can be sold legally). This interdiction is regulated

under the Ecodesign legislation, yet seemed interesting to monitor within this research as the phase out of traditional light sources has been quite controversial.

Still, a number of online retail sites are offering halogen and even incandescent light sources, especially in some of the countries through marketplace offers. These shops or partner sellers sometimes use the legal "trick" to declare them as "not for household use", although it is clear that these web sites primarily target regular consumers.

HEREBY A FEW ILLUSTRATIONS of incandescent lamp offers on different online retail sites.

The table below provides an indicative assessment of the number of E14 and E27 incandescent and halogen lamp models found in our sample.

COUNTRY	NUMBER OF SHOPS OFFERING SUCH LAMPS (OUT OF 12)	INDICATIVE NUMBER OF MODELS (E27 AND E14) OFFERED, COMBINED
Belgium	1	Possibly hundreds, but on only one online retail site
Czechia	10	169 (but most of them on the price comparison website)
Denmark	4	19
France	6	Possibly hundreds (mostly on one marketplace site and on the price comparison website)
Germany	3	7
Slovakia	9	24

NOTE: the online retail sites were selected fully randomly in terms of the availability of the light sources. The table therefore indicates how easy or difficult it is to find an incandescent or halogen lamp online.

4.5. BARRIERS TO FULL COMPLIANCE: VIEWS FROM STAKEHOLDERS

STAKEHOLDER SURVEY

On top of the website monitoring and research elements already discussed in the previous chapters, a **survey** targeting various types of stakeholders has been organised in December 2020 to collect views on the reasons for online labelling compliance issues. In this survey, the following types of stakeholders have been invited to provide their input:

- **Online retailers:** all owners and representatives of the online retail sites covered in our monitoring were invited to provide feedback, as well as the main retailer and ecommerce federations located both in the six target countries and at the EU level;
- **Supplier associations and federations:** representing suppliers of the five product groups covered both in the six countries and at the EU level;
- **Market surveillance authorities (MSAs):** authorities in charge of verifying energy labelling in EU Member States.

Three versions of the survey have been prepared, all designed for the respective stakeholder types – with questions and interview points specific to their own field of activities, expertise and responsibilities. The project organisers have collected data either in written form or through interviews.

In total, **33 sets of answers** have been collected, with a balanced representation of each stakeholder type – with representatives from the retailer segment (retailers and associations), supplier associations, and market surveillance authorities – both from the target countries and several EU-level organisations.

The general picture received from the responses is that market actors are generally aware of the online energy labelling requirements and make efforts to understand and comply. However, they highlight some reasons why full compliance is not envisaged or possible.

APPRECIATION OF RETAILERS ON THE IMPORTANCE AND EFFORTS TO COMPLY

In general, energy labels are **well appreciated and understood as important by retailers** (in line with the growing importance of sustainability and environmental friendliness of products). In particular the energy classes are considered to be useful and practical.

The retailers that answered our survey confirm that they are aware of the EU online energy labelling requirements, and that **they make efforts** to provide the requested legal documents in the proper format. Some are informed of the regulatory rules through their market associations/federations or the suppliers of products, others are guided directly from authorities. They appreciate that various initiatives are ongoing to assist them with upcoming changes in the energy labelling scheme, notably the introduction of the new arrow-design to be implemented for nested displays. However there are sometimes conflicting guidelines or instructions received at national level. Retailers operating in several countries may therefore receive **mixed information** on proper labelling implementation.

Retailers and their federations generally believe that the level of online compliance is good in spirit, but consider **that full correct implementation of the rules can be challenging and resource-intensive**, for technical reasons and also conflicting interests between legal and marketing considerations. Some online retail sites have trouble displaying all the required information on their existing websites, and consider that it would be costly or impractical to make the necessary changes.

Communication and cooperation with suppliers is crucial, as suppliers are obliged to prepare the energy labels and product fiches and supply these to retailers. It is therefore important that a robust system of delivering the documents to retailers is well established.

Retailers have mentioned a number of other specific unclear areas and issues potentially hampering the correct implementation of regulations:

- Specific **technical issues** were mentioned, such as placing the energy label "onto a product picture", and providing the proper label format on all devices (not only mobile apps, but also e.g. smart watches from which it is also possible to purchase products). Grey areas are also highlighted, such as the exact meaning of "proximity to the price", interpreted differently from one retailer to another.

- The system of **documentation delivery** between suppliers and retailers is considered to be generally well functioning, although retailers highlight that they often have to request the information themselves from suppliers and do not always receive it quickly. Some express that the only labels they receive automatically are the paper ones delivered with the products in the packaging, but not the electronic versions. Other means of swiftly obtaining the legal documents would be appreciated, because at present it is not always simple for retailers to systematically track products where the labels are missing. This explains why some product pages remain devoid of labels and fiches. Some retailers point to **EPREL** as a possible solution for retailers to become self-sufficient in this respect.

- Also **internal organisation** causes challenges at some retailers, when the online retail site website is controlled at central level. And so staff having the knowledge and the legal documents available are not in a position to implement this in the online retail sites themselves.

- **Marketplace offers** (i.e. offers from partner sellers presented on an online retail site) seem to create a specific challenge, with typically a lower rate of compliance, as the online retail sites may have difficulties ensuring systematic compliance for such offers (i.e. difficulties to track small partner vendors and make

them implement the rules, different information systems making it harder to streamline the energy labelling information, etc.).

- Retailers do not only have to provide the energy label and the related information, but also other sets of documents or information, e.g. about safety. It is sometimes contradictory that numerous information has to be provided while consumers might struggle to grasp such an amount of information. This is why retailers support **aggregated information designs**, such as labels with multiple pieces of information in one place.

- A specific situation relates to the display of product offers on **search engines**. Consumers often start their purchase journey by searching overall from a search engine – here only a product picture and basic information are displayed, with a structure that the online retail site retailer cannot directly influence. The proper label display cannot be ensured on such an external website, not covered by the regulatory rules.

- Another example of when **clear guidance** to retailers would be useful: connected to used and second hand or refurbished products. Some retailers offer both new and refurbished products – in which case they are unsure whether to label the products.

- Lastly, several retailers mention that preparing for the switch to the **new labels in March 2021** is challenging, as the updated labels only come slowly from suppliers and a final rush is to be expected just before the implementation. Preparing a system to make all the necessary label changes visible in a single day is also considered to be very demanding.

In general, retailers ask for **simple and precise requirements** and for those to be announced early. Further, specific and concrete guidance is appreciated, ideally harmonised throughout the EU, explaining the same rules and with the same requirements. Distribution of such guidelines through local authorities, as well as EU and local-level industry associations is appreciated.

Some of the retailers also highlighted the issue of **unfair competition** – retailers operating from non-EU countries, which provide information in local language, but deliver goods from outside the EU. Without a local representative, it has been difficult for the authorities or custom offices to deal with such entities and therefore such online retailers should be also tackled within similar monitoring and surveillance actions – hopefully the situation will improve in this aspect as a legal representative based in the EU will become mandatory from 2021[53].

REMARKS FROM SUPPLIERS ON ONLINE LABELLING COMPLIANCE

Some of the supplier associations consider the situation with online labelling to be positive in principle and improving, while others insist on the potential for progress. For one of the target countries, the supplier association representative estimated that 80% of retailers take care or their obligations on a regular basis and 20% only start doing it (including adequate placement of the label) once approached by surveillance authorities.

Suppliers generally state that a regular communication flow exists with online retailers, and that the required labelling information is properly and automatically supplied when new models are placed on the market. In some cases, when a label might be missing, this is sorted out bilaterally between the retailer and the supplier. Individual problems are generally seen as an internal issue within online retail sites (e.g. miscommunication between departments) rather than technical difficulties in supplying the data.

This flow works better within the well-established "traditional" retail chain segment, and may be less effective for loosely connected chain-stores (e.g. kitchen vendors and small independent online retail sites). A specific difficulty exists when a supplier updates data about a product model and issues an updated energy label / fiche (e.g. to correct a mistake or because of a small technical change): the retailers need to receive such information on changes and sometimes the documents update on the retailer side takes some time.

Marketplaces and internet hosting platforms are considered a typically difficult segment for ensuring that the information is made properly available. The example of light sources has been highlighted, where large

53 Regulation 2019/1020 on market surveillance and compliance of products, Article 5.

manufacturers are generally aware and in compliance whereas importers and direct sellers of products from outside the EU may be less attentive and compliant.

Suppliers generally support a high level of market surveillance to control the accuracy and proper display of energy labels, guide retailers on how to better comply, and ensure the registration of all supplier models on the EPREL database. They also welcome more public communication about the results, to create awareness and debate. European market monitoring projects were also positively highlighted, however with the risk that they only undertake the monitoring actions for a limited time, or set of countries.

Other specific issues that some of the surveyed suppliers mentioned are described below.

- Project websites are sometimes **overloaded** with information, with difficulties to find the energy labels.
- While retailers might be aware of the requirements, they are not always paying full attention to all aspects. As an example, energy efficiency and performance related parameters are sometimes provided in the product description **text**, making it harder for consumers to compare models.
- A specific situation lies with **suppliers who act mainly as retailers** (i.e. they also have their own brands and hence become suppliers / importers). In such cases, sometimes there is a lower degree of awareness or even a "feeling of responsibility" to deliver and display the required information.
- Concerning the shift to the new generation of energy labels, some suppliers expressed a concern that the transition period of 14 working days may be too short to ensure a change of labels for the large number of models affected. An **information campaign** on the replacement of the labels is deemed crucial, both to ensure a smooth transition and explain to consumers that the old and new labels will co-exist for some time.

THE ROLE AND ACTIVITIES OF MARKET SURVEILLANCE AUTHORITIES (MSAS)

According to the authorities who answered our survey (representing entities from both the countries in scope and other EU Member States), inspections are performed regularly as a means to control compliance. However, **detailed results are rarely published, only overall analysis is sometimes made available**. "Name and shame" is therefore not a common tool used, authorities rather expect retailers to be inspired by each other so that better compliance spreads when the largest players show the way.

Authorities engaged in dialogue with online retailers state that, in general, **they agree to correct identified mistakes and non-conformities**. Some react more quickly than others though. It typically works best with well-established retailers with an experience in labelling and for product groups with a long labelling history, and when time is spent explaining the mistakes and agreeing on a plan and timing of remedy actions (although this process can be lengthy). Some MSAs also use penalties.

In the views of MSAs, most retailers are making some efforts to comply with the labelling rules but **often lack awareness or understanding of all the specific rules**, explaining approximate compliance. One representative evaluated a 85% level of mistakes overall, while another stated: "Under a strict interpretation of the regulation requirements, compliance level is probably zero". Failing to achieve strict compliance may be unintentional by retailers, but it is believed that a lack of prioritisation or financial investment to improve online retail site website designs is an explanation of some of the observed issues.

Most **common mistakes** reported by MSAs are similar to those found in our monitoring: label absence, fiche absence, nested display format and location issues, link issues, etc. Inspection results also confirm that there can be **different levels of compliance within one online retail site** (e.g. lower compliance for light sources than for other product groups). Typically, energy labels are more regularly available for white goods than for more recently labelled product groups. Although not frequently inspected yet, other market segments such as wholesalers, heating product markets or professional markets are suspected to have an even lower level of compliance.

Regarding the **new generation of energy label**s, there are no strong expectations that the level of compliance will change, however the attention and all the information being pushed from various sources could have a

positive effect. It is hoped that not too many retailers will fail to replace the labels in the required 14 days period. Some MSAs explain that they plan to do **specific additional market surveillance activities** related to the proper display of the new labels, as well as engage in communication activities to inform stakeholders about the requirements. After the implementation of the new generation labels, it is appreciated that these should last a long time and avoid the issues of frequent changes to labelling scales

Some MSAs participate and appreciate international cooperation (such as the EEPLIANT projects or the regional Nordsyn cooperation). Such EU-level **projects and coordination platforms** can play a positive role, by supporting a common understanding of the rules and better communicating the requirements (through guidelines, training, monitoring and similar assistance).

KEY MESSAGES

In summary, here are the main insights – shared by many stakeholders – that we identified from the survey responses.

- **Most online retailers make efforts to comply**, but miss full compliance and make various sorts of mistakes

While the communication flows between suppliers and dealers are generally well in place and work to deliver the legal documents, there are market segments where improvements are necessary (e.g. marketplaces), as well as reasons why the proper information is at the end of the day not fully accurately displayed on the online retail site websites.

- **Regular monitoring and verification** of online labelling is an essential activity

This activity is expected from market actors, but is challenging for authorities in a widespread, growing and changing market, with an increasing number of product groups subject to labelling and the additional duty to control the accuracy of the EPREL database entries.

- **Communication** to retailers to increase compliance is necessary

Proactive and unambiguous communication with the sector and with online retail sites, explaining the legal duties, providing personalised feedback, and following back, is most certainly an effective way of improving full instead of partial compliance.

While the new energy labels are not expected to dramatically change the situation in online compliance, they are a good opportunity to initiate or reinforce such activities.

4.6. EXPERT WEBINAR

In addition to the survey described above, an expert webinar was organised for invited stakeholders to present results and collect feedback on the draft recommendations.

The two-hour webinar took place on **3 February 2021** with about 50 participants from various stakeholders (Market Surveillance Authorities, retailer and supplier associations, NGOs and other experts).

The feedback helped reinforce the confidence in the recommendations proposed in chapter 5, notably the need for guidelines for retailers, the potential use of EPREL to remedy some of the compliance issues, the interest for innovative technical solutions, and the necessity of legally clarifying some grey areas.

SAMPLE PICTURES from the webinar presentation

5. Recommendations

This chapter summarises the lessons learned from the previous chapters and discusses recommendations aimed at improving the situation with online energy labelling in the EU.

Our key findings are that almost all online retail sites make some efforts to comply, but rarely to the full level, and that most frequent non-compliance issues are related to the location of the energy label / nested display, the format and size of the arrow, the availability of the product fiche, and the absence of labelling information on some page types (catalogue, basket, comparator,...).

Although the energy labels are going to change, with a revision starting in 2021 for some product groups, most of the online labelling requirements remain the same, so our conclusions are likely to remain mostly valid after the new energy labels hit the market.

In order to improve compliance levels, several types of recommendations may be made, depending on their nature and targeted stakeholders. The recommendations presented here have been inspired by the findings from the monitoring, the input from stakeholders gathered in the survey, and the experience from past projects and activities in relation to the topic. They are classified in five groups:

- **Informational solutions:** recommendations to increase awareness and knowledge of the regulatory rules and compliance issues by market actors, so that they feel more motivated to progress towards full compliance
- **Organisational solutions:** key internal steps that dealers should consider in order to ensure more adequate and strict compliance
- **Technical solutions:** automated technical/IT tools that could help systematise compliance with less errors
- **Regulatory solutions:** recommendations to EU decision-makers to further improve and potentially simplify the online labelling rules so that compliance is made easier and grey areas are avoided as much as possible
- **Research and follow-ups:** further ideas that could be investigated in new projects or activities.

5.1. INFORMATIONAL SOLUTIONS

From dealers, through authorities, suppliers, industry associations, as well as media, NGOs and even conscious consumers – they all can play a potential role in ensuring that compliance is deemed important by market players and compliance levels are increased.

In order that retailers improve further with their online labelling compliance, it is important that the **authorities** continue or indeed increase the level of **monitoring of the market**. While the set of legal requirements is complex, this area of surveillance may still be considered as easier to organise and conduct compared to other surveillance activities.

Secondly, the **communication with retailers** is important – starting from publishing the annual goals of monitoring and the general results of the non-compliances identified, continued with personalised communication with the respective monitored retailers – on the findings and possible improvements, and finishing also on communication with industry associations, ensuring that the full market would receive information about the improvement potential in this area.

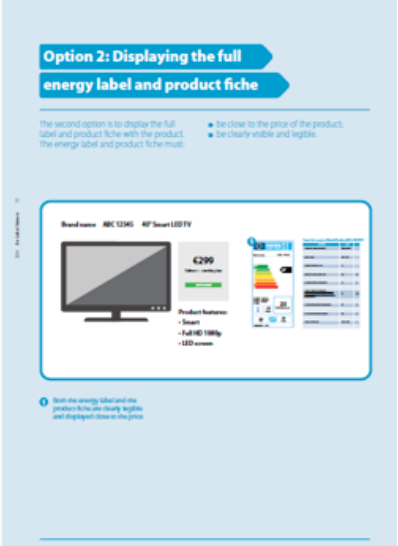
As a specific example of good practice in the communication, **guidelines** on how to obtain compliance could be prepared in relevant national language versions, harmonised between EU countries, and made available by **Market Surveillance Authorities** to all dealers – individually and through industry associations. The purpose is to explain the specificities of the requirements in a clear and illustrative manner so that all parties would receive the same clear guidance and information.

Given the findings of our monitoring and the feedback received through the survey, the following actions can be considered as important within the area of informational solutions – ensuring that dealers (and suppliers for their part) are aware of the importance of energy labelling and all the specific requirements.

RAISING MARKET ACTOR AWARENESS

A long-term **communication flow** between **authorities, retailer associations, and individual retailers** seem to be crucial, so that retailers are aware of the requirements, of the ongoing (general) monitoring activities and of specific requirements. Nonpartisan **projects** or **expert organisations** can also take part in such communication, ensuring effective distribution of information to a number of stakeholders. The communication may take form of personalised and sectoral training, distribution of guidelines, a helpdesk to discuss specific requirements, etc. It is important that such communication take place on a long-term basis, due to the staff fluctuations, start-up of new online retail sites, developing legislation, etc.

- **Information brochures and guidelines** on how to comply and how to avoid the most frequent mistakes are key elements that should be regularly prepared in relevant national language versions, applied notably by **Market Surveillance Authorities**, and made available to retailers – individually and through their industry associations. The purpose is to explain the specificities of the requirements in a clear and illustrative manner, so that all parties would receive clear guidance and information. Examples of such guidance documents already exist and can be used as inspiration.



EXAMPLE of a guide developed by Irish authority SEAI

- **Retailer associations** sometimes already play an active role in informing their members on legal requirements, but could probably do more by alerting them about the frequent non-compliance issues that have been identified in this study, insisting on the need to improve compliance, and organising specific activities (e.g. internal surveys, meetings, regular feedback, etc.).

- **Supplier associations** are also important to remind manufacturers and importers of their duty to provide legal documents in the proper format and swiftly, especially in electronic versions and on demand of dealers.

- **Training** organised for market actors would be appreciated (as revealed by our survey results), to keep dealers aware of the requirements (e.g. due to staff fluctuation) and help them ensure they have a proper interpretation of their legal obligations. These training activities could be organised by authorities, or industry associations, specific projects or initiatives, or their combinations.

- **Guidance on the new regulatory energy labelling provisions entering into force in 2021** would also be appreciated, covering the new energy label formats, the transition phases, as well as the use of the new EPREL database.

PUTTING MORE COMPLIANCE PRESSURE ON RETAILERS

The role of **Market Surveillance Authorities (MSAs)** is key in creating and sustaining a climate of compliance to the rules. It is important that they continue or increase their level of activities, engage with retailers and their associations, and report about their findings and activities. In particular, besides inspecting the presence/absence of labels on online retail site websites, recommended is to also prioritise inspection of the other frequent and severe non-compliance issues that have been identified in this study, and track progress on those in the future.

- **The publication at national level of monitoring and verification plans by MSAs and other projects** seems important so that dealers are aware that online verification activities take place regularly and that their online retail site could be targeted. Publishing and communicating to some extent monitoring plans is therefore important, in addition to information about the general level of compliance and most common mistakes observed.
- **Personalised feedback to dealers** (especially the largest and top sellers) would be key, so that they are under specific pressure, understand the actual need for improvements, and are given realistic but clear deadlines for improvement. It is important to note that some of the dealers surveyed did not have any experience with compliance monitoring, others mentioned lack of clear communication and instructions.
- Environmental and consumer **NGOs** can also play a role by providing support in raising the profile of the importance of energy labelling and ensuring compliance, naming and shaming the most non-compliant actors, and educating consumers and media about the importance of proper energy labelling information.

THE SHIFT TO THE NEW ENERGY LABELS

Specific awareness raising and communication activities about the new energy labels seem relevant. Although the large dealers who responded to our survey state that they are generally aware of the changes to come, it might not be the case for **smaller online retail sites**.

Information and education of consumers and opinion leaders about the new labels could also be a relevant way to ensure that consumers, media and other market stakeholders are more aware and vigilant about the information they see on websites, which would contribute to the pressure on dealers and suppliers to ensure compliance.

It is important to note that the new generation of energy labels will bear lower energy classes (such as D instead of A++), which have lower "marketing" potential. Communication efforts should be therefore made to ensure that the new labels are properly displayed and that also the energy class is available in catalogues, advertisements, etc.

All new things being difficult and involve learning steps, rescaling the energy label poses challenges to all types of market actors. New nested display elements, new rules for label information in advertisements, changing the physical label on displayed products in a certain timeframe and in principle, implementing two different terms used for the link to the product fiche, depending whether the product type was re-scaled or not. Consequently, mistakes will probably occur.

Market surveillance **is essential to obtain and maintain a compliant market. And when non-compliances are** detected in an online retail site, the retailer should be asked to correct, perhaps using a soft approach for some time after the implementation of the re-scaled labels. **Retailers** failing to cooperate with authorities and correct as requested should preferably be subject to some form of sanction to establish that the energy labelling requirements are deemed to be important and to be respected.

The main impression is that despite the challenges, rescaling of the energy label is appreciated by retailers as our survey shows, and they are already making an effort to implement the necessary changes. Few retailers already – illegally – may display the rescaled energy label as they "find it to be better". Other retailers may build a stock for them of the old models to be able to use the A+++ scale as much as possible, seeing the plusses as a more effective promotion factor. This could create a situation of unfair competition from retailers having built a stock and offering "old products" for sale beyond the transition period.

Market surveillance authorities will probably have this focus area in mind and they have the provisions to remove from the market the "old products" still being offered for sale after a nine-month transition.

5.2. ORGANISATIONAL SOLUTIONS

For a dealer, ensuring systematic compliance to the online labelling rules requires a good internal organisation, from the stage of creating the online retail site website design to the practical daily detection of potential issues. We discuss here some of these important organisational steps, and make a specific focus on 'marketplace' activities (which play an increasing role in online markets).

ENSURING A HARMONISED LEVEL OF INTERNAL KNOWLEDGE AND INVOLVEMENT

Some of the key obstacles to ensuring compliance can be a low priority by the **retail management**, a heterogeneous level of awareness among internal departments, and inadequate tools and procedures to implement systematic compliance and remedy actions. Areas of improvements include:

- When designing a new or updated website for their online retail site, the various departments/staff in charge (e.g. IT, marketing, sustainability...) need to work hand in hand to **issue upfront website specifications that ensure full compliance with online labelling rules**. Compliance should be a top priority dealt with at the earliest stage of the design. Once a website is already in place, it becomes much more technically difficult to accommodate all the specific labelling rules if it has not been specified from the start.

- Some stakeholders confirmed that various levels of awareness and compliance might exist even within the same online retail site for various product groups (depending on the product group, manager, etc.). It may be lower for product groups with a shorter history of energy labelling. **Ensuring thorough and homogenous communication, training, good practice exchange and involvement of internal staff** responsible for all product groups seems crucial.

DETECTING AND REMEDYING NON-COMPLIANCE

While retailers generally acknowledge that labels and fiches may not always be available on all their product pages, they also consider that tracking missing documents and chasing suppliers to obtain them may be challenging. Thus, product models without display of the legal documents may remain for a long time.

To improve this situation, more systematic techniques and tools should be considered, inspired by quality management. **Dealers** should have dedicated procedures to **automatically detect non-compliance problems** such as missing (or incorrectly formatted) documents and swiftly remedy them. This could involve:

- Automatic repeated messages to suppliers to retrieve the proper documents,

- Automatic connection to the EPREL database to obtain the documents,

- Other potential solutions to obtain the documents (e.g. via search engines or other retailers),

- Display of an automatic apology/warning message to consumers whenever a document is missing,

- Compliance dashboards to inform online retail site product managers of the compliance rates and track low-compliance or problematic suppliers and partner sellers.

Another important aspect is to ensure that when an official **market surveillance** activity has concluded on compliance issues with respect to online labelling, corrective actions are taken and implemented as swiftly as possible. Recommendations include:

- Setting clear and firm deadlines and escalating financial penalties to dealers to correct detected compliance issues on their websites in time,

- When a supplier label requires corrections, the supplier should be obliged to inform dealers about the change and ensure they receive the corrected version immediately,

- Whenever a market surveillance activity is carried out in a physical shop and detects issues (e.g. missing labels, wrong labels, inaccurate implementation of other labelling rules, etc.), it would seem relevant that the online retail site of the concerned dealer is verified as well, and that the dealer is reminded to comply both offline and online.

Incandescent light source offers in some of the **online retail sites** monitored during this project also raise questions about the compliance to Ecodesign regulations. Incandescent light sources have been banned for years, and cannot be placed on the EU-market legally anymore, even if they are marketed as "not intended for household use" or "shock resistant". Retailers should be encouraged to track and investigate these suspicious situations on their websites.

THE CASE OF MARKETPLACE OFFERS

Digitalisation allows for online shops to be much more flexible and creative in the range and provenance of the product models they offer for sale, compared to a brick-and-mortar shop where the models are physically displayed on shelves. The chain of responsibilities may be more complex and diluted, which creates specific challenges for providing the accurate energy labelling information throughout this chain to the final consumer.

Models sold through **marketplaces** have been identified as a notable concern, as highlighted by some of the online dealers in our survey. Some online retail sites are pure marketplaces, while others provide a part of their product portfolios through marketplace principles. In our monitoring, such products have shown to be more often prone to non-compliance issues (although no statistically-robust quantification of this claim can be made).

The obligation to provide and show labelling energy information lies with the actual **seller** appearing on the invoice, whereas the marketplace has the obligation to facilitate a way for the partner seller to show the label and product fiche. Given the increasing market share of marketplaces, we recommend that they are included in market surveillance prioritisation.

EXAMPLE of a marketplace offer on a well-established online retail site, that has not the slightest energy-related information (even in the product description or list of characteristics)

The following recommendations to **dealers** can be made to improve compliance in this area:

- Online retail sites should make the systematic supply of energy/environmental information **a key condition** for a partner seller to be welcomed on their marketplaces; this may be done through selling charters, compliance checklists for each model and/or other contractual means, and the sanctions should be clearly highlighted.
- **Information**, e.g. overview of compliance requirements with EU Energy labelling and Ecodesign regulations and/or compliance guidance documents, should be provided to all partner sellers as soon as they join a marketplace.
- Online retail sites should implement as much as possible **similar product information streams** and requirements for all the models they present, be they internal or offered by partner sellers. Attention should be given to details, such as the size and picture format in which the energy labels are supplied to ensure legibility and compatibility with the online retail site display mechanism.
- One further idea could be to **block a model upload** as long as the labelling information is not adequately filled by the partner.
- Dealers should develop tools to **monitor partner sellers** (e.g. share of missing energy labelling information per seller) and take **firm progressive sanctions** (e.g. exclusion for a week, or no model promotion, and then definitive exclusion in case of recurrence).

5.3. TECHNICAL SOLUTIONS

As checking and solving non-compliance situations manually can be time consuming, especially for large online retail sites, we discuss here potential automated solutions to ensure a higher level of compliance to the online labelling rules.

CONCEPT OF A STANDARDISED ONLINE LABELLING MODULE FOR ONLINE RETAIL SITES

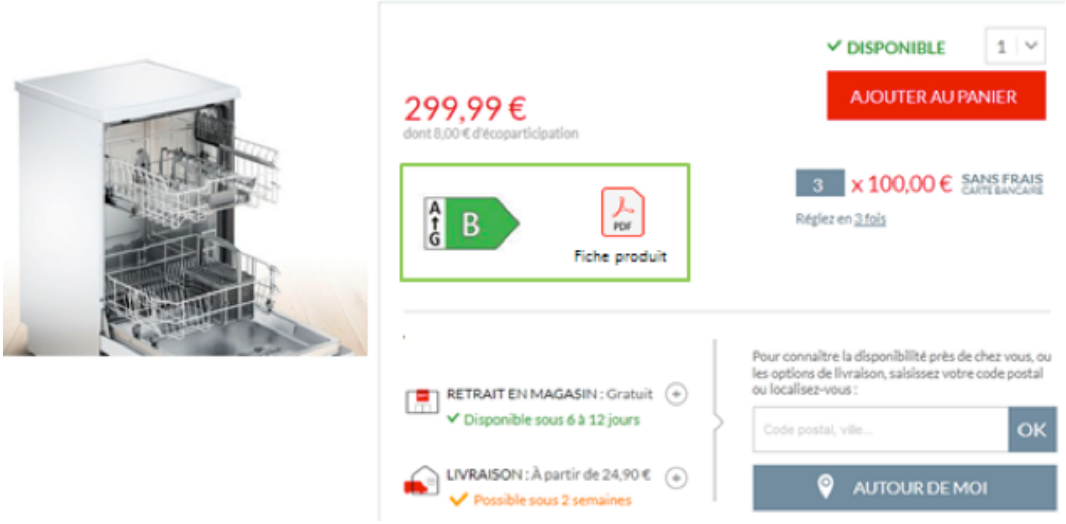
Our monitoring activities have revealed that a substantial share of online retail sites (especially those from well-established **retailer chains**) offer on some of their product model pages a specific module (often called "info from the brand" or similar terms) that is apparently directly fed by the supplier with information about the model (additional pictures, characteristics, marketing claims, even sometimes the energy label and product fiche). This interesting development shows that direct and immediate product data streams between suppliers and online retail site websites are possible.

Based on this, we suggest that developing a **universal energy labelling module** could substantially enhance automatised compliance. The technical specificities of this page module could be developed collectively by supplier and retailer associations, and then used by all market actors. The principles would be:

- A ready-to-embed box programmed to display all the necessary information in the right format, so that online retail sites would just need to insert it on their webpages in close proximity to the prices;
- The content would be directly fed by supplier data (or EPREL data) to ensure continuous up-to-date and correct versions of the label and fiche (this could work e.g. on the EAN code identification).
- The module could automatically detect the website country and pick up the fiche in the right language
- It could be made responsive to work properly on all types of devices.

Such a solution would largely reduce the need for interventions and efforts from **dealers**, notably improving compliance in **smaller and specialised online retail sites** that face difficulties with the technicalities. It would also improve the issues with marketplace models (as the module would gather the correct product information from the supplier irrespective of who sells the product).

Just to illustrate and give an idea, we show how this universal module could look like on two different online retail site pages.



EXAMPLE 1

EXAMPLE 2

The arrow would open a pop-up displaying the label through a direct data flow from the supplier or EPREL (same procedure for the fiche link).

In case of a temporary breakdown of the information system from the dealer/EPREL, a warning message could be automatically displayed by the module (e.g. "*Energy efficiency information for this product is not available at the moment. Please check again later*").

Once such a module has been developed, it could be recommended or even made mandatory for all online retail sites operating in the EU. It would improve compliance for several of the issues identified in this study (cases A1, A2, A3, A4, B1, B4, B5, C1, and C2 identified in chapter 4).

THE EPREL DATABASE TO SUPPORT COMPLIANCE

At the time of the survey organisation, there was no experience from retailers in the use of the new EU **EPREL database** (as the public access part is not yet possible). **Retailers** therefore did not comment in detail on it – in general the preference is to secure a well-functioning flow of information with suppliers, but expectations are that EPREL can be used as a useful back-up source in individual cases where the supplier has failed to supply the electronic label and product fiche. Some **dealers** state though that they are well-informed also in respect to the re-scaling of the energy label and currently consider how to best use this possibility.

The **EPREL** database was positively mentioned as a tool to be used between suppliers and retailers for the provision of the required documents, notably in individual cases when these may have gone missing or a digital version of the document would be needed. General contribution to compliance is expected to be positive, given that it will make the respective documents more easily available. The delay in publicising the database has been mentioned however, as also delaying other related efforts such as mobile applications enabling to calculate product running costs.

EPREL could develop into a very useful database, when also the resource related requirements have been implemented and made accessible to the end-users, perhaps even turning into a downright product passport.

Access to product information data in EPREL is also expected to assist suppliers to detect "false declarations" and possible fraud from other suppliers.

Last, the EPREL database is understood to be useful also to Market Surveillance Authorities, to operate more efficiently, and – later on – potentially for consumers. Further clarification of responsibilities on who and what documentation would be provided there might still be needed though, for individual cases, e.g. concerning language variants of product fiche documents etc. For the future, however, it could be possible that suppliers actively and centrally direct dealers to the EPREL database for obtaining the requested documentation.

WEB CRAWLERS TO ASSIST MARKET MONITORING

WEB CRAWLERS are digital robots which scan the web and automatically collect extensive data about the thousands of products offered for sale from online shops. Web crawlers can be very effective in providing a good picture of the state of the market and on certain characteristics of models for sale (price, energy class...). They can be useful to prepare a market verification campaign and provide a first hint of suspicious online retail sites. They could also automatise verification of consistency between the information provided by suppliers on EPREL and that displayed on dealer websites.

Some **market surveillance authorities** have started using them, and are satisfied with the level of assistance provided by the crawler, however some mention that webcrawling does not cover all retailers and product groups or specific labelling parameters, and would appreciate a more exhaustive and flexible scope of this tool. Current web crawlers may also be limited by some website designs and features that prevent a proper collection of the information.

At present stage, the benefit for market surveillance of using the web crawler is still not fully certain. Verifying the legibility, adequate placing, correct formatting, and accuracy of labels, nested displays and product fiches is not simple to automatise. A replication of the system to other languages also remains a cost-related issue. Development within artificial intelligence may make web crawlers capable of doing all this in the future. If so, it would be a great assistance both to MSA verification activities and possibly also the policy development in general.

The Nordsyn co-operation, having pioneered and developed a web crawling tool to be used by the EU Nordic Energy agencies, backs this in the conclusion of their latest report.[54]

> This project showed that the NordCrawl-tool can indeed already be a useful tool for both market surveillance and policy evaluation for ecodesign and energy labelling. Still it has the potential to be further developed.

54 https://www.norden.org/en/publication/nordcrawl-2-0

5.4. REGULATORY SOLUTIONS

An important set of recommendations relates to the complexities and clarity of the **legal requirements**. It is clear that the main goal of setting energy labelling requirements for internet sales is to give customers easy and transparent guidance as part of their purchasing decisions – and motivate them to select more energy efficient models. It is therefore important that the respective parts of legislation are **formulated in a clear manner**, being interpreted in the same way by all market actors and authorities across the entire EU market.

Given the large number of individual sub-requirements, though, it is an open question of what potential is available to **simplify** the legal requirements. Could some specific requirements be removed from the future legislation in order to make it easier to comply for retailers, yet to ensure full level of understanding for consumers? Examples of such areas include the display of product fiche – how much are they used by the consumer prior to their purchasing decisions? Is it necessary to ask for the range of energy classes to be indicated in catalogues or advertisements? How should the "proximity to the price" be defined so that it is clearly defined? These and similar issues do deserve further attention so that the requirements remain clear and as practical to achieve as possible.

OBSERVATIONS ON EXISTING LEGAL REQUIREMENTS AND GREY AREAS

The **regulation** texts outlining the requirements for sale through the internet in the first instance describes a situation where the full energy label and the full product fiche are displayed. Monitoring shows however that this solution is not chosen frequently by the online retail sites as a web page simply does not provide sufficient space to be able to do so (some show the energy label in the picture gallery, but that is not the proper form of display).

The regulation offers a secondary solution to fulfil requirements by using a nested display, which is the solution chosen by many online retail sites – if we do not count the online retail sites in non-compliance by showing the label only as part of a picture gallery. Hence, understanding the specificities and details of the nested display become very important.

The existing regulation text however opens room for interpretation when specifying the position of the nested display to be "in **proximity to the price** of the product". Monitoring has revealed that this is being interpreted very differently, some even considering it to be close to the price when it is as far away from the price as allowed by the screen size. The same aspects apply for the link to the product fiche.

To avoid interpretation and to ensure that consumers can expect to always identify the nested display or link close to the price, policy makers are recommended to specify precisely the maximum relative distance between price and nested display/link.

Another interpretation issue relates to the extent of the requirement. The regulation text states "where the offer is made through the internet…". Some retailers interpret this to be a requirement limited to the product model page, not aware that it applies to all **types of web pages**: model pages, product group main pages, comparison pages, basket pages, special deal pages.

Therefore, **policy makers** are recommended to clarify and inform that the obligation to display the energy label and the product fiche applies in all instances where a product is displayed with a price – and a possibility to buy the product exists.

In general, the level of detail forming the online labelling requirements, i.e. indicating the energy class by the use of the right colour of the nested display arrow makes it a substantial task for retailers, especially SMEs.

Similarly to the point above, also marketplace sales (product is offered by another dealer then the website operator) and the location of the retailer (local jurisdiction for authorities) deserve further attention.

POSITIVE IMPACTS OF THE NEW ENERGY LABELS

Introduction in 2021 of the re-scaled energy label, A–G, origins from the revised regulations. These carry on the existing obligations toward online retail sites. The overall requirement and details related to energy labelling for internet sales as such have not changed in the new regulations, except the introduction of a new design for the nested display which shall include both the energy class and "the range of available energy efficiency classes".

The range of available energy classes will appear directly on the rescaled energy labels. Products subject to this new label format should in theory not pose a challenge to retailers. However, ecodesign minimum requirements and effect of banning the least efficient products (classes) from the market is not common knowledge to consumers and also retailer staff. It is therefore recommended to develop information materials targeting consumers as well as retailers to inform them about this very effective legislative tool.

Although the revised regulations do not change the requirements related to internet sales, implementing the A-G labels are expected to generate improvements:

- Renewed focus on the energy label and the advantages it gives in general through branding and campaigns about the energy label and energy savings
- No shift of label designs introduced gradually (e.g. the introduction of the present energy label for TVs in successive tiers with different label scales clearly created challenges for market actors)
- Minimised risks of using an incorrect energy class letter and colour in the nested display arrow.
- End of misleading slogans such as "A+++ -X%"

A challenge arises during the **transition period** (between March and November 2021 for the first 5 rescaled label entries into force), where product models already available on the market but where no further product units have been supplied to the market after November 2020 (old models) will still be visible. Consequently such product units will be displayed and sold with the "old" energy labels alongside with models showing rescaled labels until December 1st 2021. This situation will probably cause confusion with consumers. Essential is that retail staff and retailer websites are aware and well-informed to be able to explain the situation and help consumers understand the reasons and the new labelling scheme.

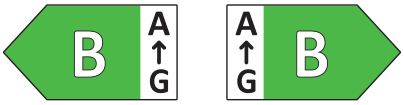
CONSIDERATIONS ON THE DISPLAY OF AVAILABLE RANGE OF ENERGY CLASSES

Market actors are obliged to display the energy efficiency class of the product and the range of the efficiency classes available on the label in any visual advertisements or technical promotional material they provide. During monitoring of **advertisement and promotional deals** in this project (although on a limited sample), a high level of non-compliance was apparent. Many ads and promotional offers do not display any energy labelling information, and those who do often indicate the energy class in small size and/or without the range of available classes.

For the rescaled labels, the regulation foresees that the ecodesign effect will be directly visible on the energy label by greying energy classes when ecodesign minimum requirements come into effect.

The European Commission however also expects the range of available classes to be displayed for product groups not rescaled yet. Here there will be no assistance to dealers from the label design and as the available range of products differ between product groups it may be unknown to retailers, or time consuming to obtain and implement this information in general.

Another aspect is whether consumers will understand this new information. For new product models, consumers will be presented to the new nested display arrows.



For products using the old label, dealers may indicate the range as a text, e.g. (A+++ – D). This might cause some confusion for both dealers and consumers. The **European Commission and MSAs** are encouraged to reach out to assist retailers to understand and implement the requirements properly, probably supplying to them an overview of the available range for each product group.

It is also worth noting that retailers increasingly make their advertisement catalogues available online. This means that consumers can click the ad and be directed to the online retail site. Consequently, such advertisements will be subject to the internet sales requirements and not the requirements related to visual advertisements.

FURTHER POSSIBLE IMPROVEMENTS TO THE REGULATIONS

Our monitoring revealed by far that the **product fiche** is not considered by retailers with the same attention as the energy label, indicating that this legal document has a low priority with retailers for its proper display, format and location. Non-compliance related to a missing product fiche is significantly higher than non-compliances of missing labels. The product fiche is intended to provide assistance to consumers, making them able to easily compare product performance data – though a standardised form.

Consumers probably have not been asking for the product fiche either as they are not accustomed to see and use this document; the product fiche only had to be enclosed in the packaging of individual products, not being relevant to consumers anymore, having already bought the product. Also retailers have not been obliged to present the product fiche. This has changed when the requirements towards internet sales have come into effect in 2015, however this change does not seem to have had a positive effect on the prioritisation of the product fiche.

Especially manufacturers but also retailers put effort into preparing and displaying the product fiche, however given the high level of non-compliance in this area, policy makers are encouraged to gather more evidence on the relevance and benefit for consumers of the product fiche and if relevant consider changing the obligations related to product fiches. The product fiches should not be an obstacle causing neglection of the primary focus to present the energy label information. Alternatively, consideration on how to most effectively make use of EPREL and provide easy access to the product fiche though the QR-code on the new generation label is recommended in this respect.

Another important area to increase outreach and effect of the energy label would be to include price/product **comparison websites** as a market actor having obligations similar to that of dealers. As these do not sell any products themselves, at present there is no obligation for them to display any labelling information. A very high

share of consumers however start their search for a new product through a comparison website. This means that consumers may make their choice already at this stage, not having had any energy efficiency information before proceeding to an online retail site – or going to the physical shop.

A similar issue occurs for s**earch engines**, which increasingly provide direct product model information (including shop prices) allowing model comparison and selection.

In addition, to ensure that consumers can make effective and adequate use of energy performance information during their product model selection, policy makers could consider including a new requirement to oblige online retail sites to provide **systematic search filters and sorting functions by energy class for all product groups covered by energy labelling**. We have spotted in our monitoring that such filters by energy class were sometimes unavailable, making it very difficult – if not impossible – for consumers to select the best energy performing models and make energy performance one of their selection criteria.

Finally, **mobile devices** have been observed in some instances not to display energy labelling information properly, especially on smartphones. As mobile devices are now used commonly also for online shopping, considerations should be made on how to address and improve this situation.

5.5. RESEARCH RECOMMENDATIONS AND FOLLOW-UPS

We provide here some suggested ideas for further research and monitoring efforts to ensure long term and wide-spread online labelling compliance.

MONITORING: THE RELEVANCE OF A NEW ROUND IN AUTUMN 2021

The monitoring efforts organised within this project have taken part in Autumn and Winter 2020, with the online monitoring organised mainly in November 2020 – focusing still on the "current" energy labels. While most stakeholders surveyed did not expect any significant changes with the transition to the new labels, it would be useful to repeat similar **monitoring exercise** again in Autumn 2021, a few months after the new regulations will be "transposed into shops".

This follow-up could take place in few variants:

- Focusing on the same target countries, and the same product groups and sectors of online retailers, if not on the very same retailers, to be able to precisely compare the market development – and judge this after the transition to the new labels.
- Focusing on new countries, to enlarge the detailed evidence on the online labelling compliance within new countries, and to compare on similarities and differences between those countries.
- Focusing not only on the "traditional" white goods, TVs and light sources, but also other product groups offered through internet sales, such as the ovens, range hoods, air-conditioners, water heaters and local space heaters or the respective professional refrigeration products – so that they could also be evaluated (and possibly the specific retailer segments distributing these products, including installers) for online label compliance. These other product groups have benefited from lower attention from previous similar efforts and could therefore be included in the continued future activities. Scope of online retail sites would probably have to change as some of the suggested product types are marketed by other types of retailers.
- Comparing product groups with the new energy labels (applied since March 2021) with the product groups with the current energy labels (to be transformed gradually in the next 15 years) to see e.g. if the scale of energy classes available for products offered in sales (mainly B to F for new labels with A+++ to A for the current ones) has any impact on the willingness of retailers to display the label, since the energy class is also used in marketing communication of suppliers and retailers.

DEVELOPING EU-HARMONISED TOOLS (COMPLIANCE GUIDANCE AND MODULE)

As indicated above, a clear, regular and focused **communication** between the authorities and the retailers play an important part in ensuring high levels of compliance. One practical tool facilitating such communication, could be the **"Retailer guide"** which would provide illustrative and "to-the-point" information about the requirements and provide practical tips to ensure compliance – from the label display to the advertisements, etc.

The guideline could be produced in a separate project, in close communication and collaboration with the market surveillance authorities. The following steps could be organised within the effort to develop and deliver the guidelines, ensuring its highest-possible impact[55]:

- Development of the content of the guidelines, in close communication with the **Market Surveillance Authorities** – taking inspiration from the few existing national or segment-specific guides. Authorities could continue the communication through their coordination body, the energy labelling ADCO, and the guideline should contain all specific aspects of the labelling requirements – from the general label display rules, to the specific requirements of placement, proximity of price, font size, nested display definitions, advertisement requirements, etc. (see the already existing example from Ireland above as an example of such document).

- Once developed and elaborated in a representative graphic design, the project could coordinate with the authorities: not only ensuring their comments and feedback would be included in the document, but that they would ideally all "acknowledge" the document. The respective representatives of the **European Commission** should also be consulted in the preparation of the document. The ideal result of the action would be that the guideline would be "authorised" for further circulation within the retailer sector with the support of the MSAs.

- In order to ensure the widest possible impact, specific capacity should be also devoted to preparing translations of the document into various EU languages, so that local stakeholders from around the EU could work with it in full detail. Respective MSAs should authorise the individual translations before publishing the guides.

- As a follow up, the guidelines would not only be made available to the authorities, but also actively shared with industry and interested experts: EU-level and national-level associations representing the retailers, as well as suppliers, and possibly **consumer NGOs, and other governmental bodies**. The document could be then introduced in national webinars, and also made available by the MSAs to l retailers having been subject to market surveillance.

- The guideline among MSAs – to agree on a common document, based on the EU-level legislation, as well as to collaborate with the private industry, mainly the retailers, to whom it would be disseminated. In addition, it could then also serve as a positive example to other sectors, where the increased importance of online commerce also plays an ever-greater role, or to stakeholders outside the EU – either the accession countries, or other countries that take an inspiration from the EU label, which would also benefit from such clear leadership example and compliance manual.

The universal labelling module concept discussed before could potentially also be developed within this EU-wide framework.

PREPARATORY WORK TO SUPPORT FUTURE REGULATORY IMPROVEMENTS

One of the key outcomes of this project was that while most retailers clearly make an effort to display the energy label, almost all of them also did not manage to provide all the required information and in the fully proper format and location. This clearly indicates that a review of the clarity of the requirements, as well as a prioritisation could be useful in order to make sure that retailers have to comply with only impactful requirements for consumers and market actors.

A specific **preparatory study** or dedicated document could be therefore elaborated, sorting and evaluating the respective requirements in this regard, followed by a detailed stakeholder discussion. The focus could be:

55 Note: An example of guidance document from Ireland: https://www.seai.ie/publications/A-Retailers-Guide-to-Online-Energy-Labelling.pdf

- Grading the requirements by the “impact” on consumers – ranking from crucial ones to the ones with only little impact on consumers, to serve as a guidance for further update of priorities of the online labelling requirements.
- Sort the requirements by the degree of compliance to them – as identified in this monitoring, and in similar past and possible future projects: ranking the level of compliance to requirements – from full compliance to almost no compliance.
- The resulting review of the less useful (for consumers) and more complicated (for retailers) requirements could form a basis for consideration for the future online labelling requirement modifications.
- Identifying also the requirements in a possible “grey zone” – where the specific implementation may be a subject to different views and opinions, both by the retailers and the authorities, and to specify either a new wording for such requirements, to make it clear to all stakeholders, or prepare a “recommended” format of implementation, or to propose a full elimination of such requirement, in case it would not be important form the consumer point of view.

About the authors

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