

EPEE POSITION PAPER MARKET SURVEILLANCE IN THE EUROPEAN UNION

September 2010, Brussels

The European Partnership for Energy and the Environment (EPEE), represents the heat-pump, air-conditioning, and refrigeration industry (HVACR) in Europe. Founded in 2000, our membership is composed of 40 member companies and national associations across Europe realising a turnover of over 30 Billion Euros and employing more than 200,000 people in Europe.

As is the case for many other sectors, the HVACR sector is impacted by a large range of EU Regulations and Directives. These include Eco-Design of Energy related Products (ErP), Energy-labelling, EPBD, WEEE, RoHS, REACH, among others.

EPEE's members are greatly concerned about ensuring a level-playing field among manufacturers in the European market, and are calling for a robust market surveillance programme. EPEE believes that generally the effective management of compliance has two important parts: First, is a system to verify the claimed energy performance of equipment and second, and the subject of this communication, is a robust market surveillance program.

EPEE is raising this issue because it is especially pertinent to products covered by the ErP.

EPEE and the industry have been very active on certification and have invested considerable resources trying to ensure that manufacturers make valid claims on the performance of their products. However, despite industry's efforts, and the significant investments made, today industry is still faced with free riders, or non-compliance, on the market in Europe.

EPEE believes that the EU should strongly address non-compliance because it distorts the market and comes at the expense of the environment, consumers, and industry. Non-compliance is detrimental to the environment: it results in the sale of equipment that use banned chemicals, that are not energy efficient, and that are not properly disposed of. Non-compliance also hampers the achievement of the EU's emission reduction targets;

- Non-compliance comes at the expense of consumers: they purchase equipment that turns out more costly to operate than expected.
- Non-compliance also undermines the climate change and energy efficiency goals of governments who assume certain levels of equipment performance to achieve energy savings and to reduce carbon emissions.
- The current situation is unfair for companies who make the effort to comply: Whilst free riders just declare compliant performance values

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without making any additional effort, compliant companies have to modify design, add material and/or use more expensive parts to meet the target performance required under EU legislation such as ErP.

If non-compliant products are not quickly identified and removed from the market, compliant companies may go out of business due to higher cost and lower price competitiveness due to their compliance with EU legislation.

- The losses to the industry through the presence of non-compliant products in the market can be calculated for the residential systems below 12 kW based on information provided in the EuP ENER lot 10 study **and could reach 500 million Euros**. This is money that would have been spent on research and development and on creating a better environment through energy efficient and safe products.

Challenges in addressing Non-Compliance

Because today in the EU Market Surveillance can only be implemented by a National Authority, there are two risks that the European Commission should address:

1. Differing resource levels among EU Member States such as expertise, laboratories, and budget may lead to uneven implementation;
2. Uneven national application of market surveillance may result in further market fragmentation within the EU, thus undermining EU-wide environmental targets.

To allay those challenges, testing under market surveillance should only be carried out by institutions which can prove special product related experience and are certified according to European rules. This gives strength to the applied regulation and assures the industry that they are competing on a level playing field.

Conclusion:

EPEE urgently asks the Commission to strongly encourage the Member States to take enforcement seriously, to recognize the need for robust and implementable market surveillance systems, and to cooperate with the industry on market surveillance in order to find efficient and cost-effective systems to ensure compliance with the eco-design standards, among others.

EPEE is ready to facilitate discussions between the Commission, member-states and industry on this issue.

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