

Brussels, XXX
[...] (2018) XXX draft

COMMISSION REGULATION (EU) .../...

of XXX

**implementing Directive 2009/125/EC of the European Parliament and of the Council
with regard to ecodesign requirements for refrigerating appliances with a direct sales
function**

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission. The information transmitted is intended only for the Member State or entity to which it is addressed for discussions and may contain confidential and/or privileged material.

COMMISSION REGULATION (EU) .../...

of **XXX**

implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for refrigerating appliances with a direct sales function

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to Article 114 of the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products¹, and in particular Article 15(1) thereof,

After consulting the Consultation Forum referred to in Article 18 of Directive 2009/125/EC,

Whereas:

- (1) Directive 2009/125/EC requires the Commission to set ecodesign requirements for energy-related products representing significant volumes of sales and trade, having a significant environmental impact and presenting significant potential for improvement through design in terms of their environmental impact, without entailing excessive costs.
- (2) Article 16(2)(a) of Directive 2009/125/EC provides that the Commission should, where appropriate, introduce implementing measures for products which offer significant potential for reducing greenhouse gas emissions in a cost-effective way, such as the refrigerating appliances with a direct sales function in the scope of this Regulation. These implementing measures should be introduced in accordance with the procedure referred to in Article 19(3) and the criteria set out in Article 15(2) of the same Directive.
- (3) The Commission has carried out two preparatory studies covering the technical, environmental and economic characteristics of refrigerating appliances with a direct sales function typically used in the EU. The studies were undertaken in close cooperation with stakeholders and interested parties from the Union and third countries. The results of the study were made public and presented to the Consultation Forum established by Article 18 of Directive 2009/125/EC.
- (4) This Regulation should cover supermarket refrigerating (freezer or refrigerator) cabinets, beverage coolers, small ice-cream freezers, gelato-scooping cabinets and vending machines.
- (5) The environmental aspect of refrigerating appliances with a direct sales function that has been identified as most significant for the purposes of this Regulation is energy

¹ OJ L 285, 31.10.2009, p. 10.

consumption in the use phase. Direct emissions from refrigerants were also identified as relevant.

- (6) As refrigerants are subject to Regulation (EU) No 517/2014 on fluorinated greenhouse gases², no specific requirements on refrigerants are set in this Regulation. Moreover, an increasing use of low global warming potential (GWP) refrigerants in the last decade in the EU market, indicates that the manufacturers are already undertaking a gradual substitution towards refrigerants with reduced impact on the environment, without the need of additional policy intervention by means of ecodesign.
- (7) The use-phase energy consumption of refrigerating appliances with a direct sales function could be reduced, without increasing the combined costs of purchasing and operating these products, using cost-effective non-proprietary technologies.
- (8) The annual energy consumption of products subject to this Regulation in the Union was estimated at 65 TWh in 2015, corresponding to 26 million tonnes of CO₂ equivalent. While the projected energy consumption of refrigerating appliances with a direct sales function in a business as usual scenario will decrease by 2030, this reduction is expected to slow down unless ecodesign requirements are set.
- (9) This Regulation covers products with varying technical characteristics. If the same energy efficiency requirements were imposed on all products, certain technologies would be banned from the market, which would have negative consequences for consumers. For this reason, energy efficiency requirements are set according to the characteristics of each technology, thus creating a level playing field in the market.
- (10) The Commission Communications on circular economy³ and on the Ecodesign Working Plan 2016-2019⁴ underline the importance of using the ecodesign framework to support the move towards a more resource efficient and circular economy. The WEEE Directive 2012/19/EU⁵ refers to Directive 2009/125/EC indicating that ecodesign requirements should facilitate the re-use, dismantling and recovery of WEEE by tackling the issues upstream. Therefore this Regulation should lay down appropriate requirements contributing to circular economy objectives.
- (11) Measurements of the relevant product parameters should be performed through reliable, accurate and reproducible measurement methods, which take into account the recognised state-of-the-art measurement methods including, where available, harmonised standards adopted by the European standardisation bodies, as listed in Annex I to Regulation (EU) No 1025/2012⁶.
- (12) In accordance with Article 8 of Directive 2009/125/EC, this Regulation should specify the applicable conformity assessment procedures.
- (13) To facilitate compliance checks, manufacturers should provide information in the technical documentation referred to in Annexes IV and V to Directive 2009/125/EC in so far as that information relates to the requirements laid down in this Regulation.
- (14) The terminology and testing methods of this Regulation are consistent with the terminology and testing methods adopted in EN 16901, EN 16902, EN 50597 and EN ISO 23953-2.

² Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases (OJ L 161, 14.6.2006, p. 1).

³ COM/2015/0614 final of 02.12/2015

⁴ COM(2016) 773 final of 30.11.2016

⁵ OJ L 197, 24.7.2012, p. 38

⁶ OJ L 316, 14.11.2012, p. 12

- (15) For market surveillance purposes, manufacturers should be allowed to refer to the product database if the technical documentation as per Regulation [Regulation number product specific energy labelling Regulation] contains the same information.
- (16) To improve the effectiveness and credibility of the Regulation and to protect consumers, products that automatically alter their performance in test conditions to improve the declared parameters should be prohibited.
- (17) In addition to the legally binding requirements laid down in this Regulation, indicative benchmarks for best available technologies should be identified to make information on the life-cycle environmental performance of products subject to this Regulation widely available and easily accessible, in accordance with Directive 2009/125/EC, Annex 1, part 3(2).
- (18) A review of this Regulation should assess the appropriateness and effectiveness of its provisions in achieving its goals. The timing of the review should allow for all provisions to be implemented and show an effect on the market.
- (19) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 19(1) of Directive 2009/125/EC.

HAS ADOPTED THIS REGULATION:

Article 1
Subject matter and scope

- 1. This Regulation establishes ecodesign requirements for placing on the market of electric mains-operated refrigerated appliances with a direct sales function, including both remote and integral units, and including appliances sold for refrigeration of items other than foodstuffs.
- 2. This Regulation shall not apply to:
 - (a) refrigerated appliances with a direct sales function that are only powered by energy sources other than electricity;
 - (b) refrigerating appliances with a direct sales function other than compression-type refrigerating appliances, such as absorption-type and thermoelectric-type refrigerating appliances;
 - (c) the part of the refrigeration system, typically the condensing unit, placed outside the refrigerated cabinets with direct sales function in remote cabinets;
 - (d) refrigerating appliances with a direct sales function specifically tested and approved for carrying out food processing such as ice-cream makers, ice makers, or microwave-equipped vending machines, except for refrigerating appliances with a direct sales function equipped with one compartment specifically designed for carrying out food processing which is equivalent to less than 20% of the net volume;
 - (e) refrigerating appliances with a direct sales function specifically tested and approved for the storage of medicines and scientific samples;
 - (f) refrigerating appliances with a direct sales function for the sale and display of live foodstuff, such as living fish and shellfish, refrigerated aquaria and water tanks;

- (g) custom-made refrigerating appliances with a direct sales function made on a one-off basis according to individual customer specification and not equivalent to other refrigerating appliances with direct sales function as defined in Annex I;
- (h) built-in cabinets;
- (i) vertical static-air refrigerated cabinets;
- (j) saladettes;
- (k) chilled horizontal serve-over counters with integrated chilled storage;
- (l) back-wall cabinets in assisted service, placed behind the serving personnel, with added back storage;
- (m) refrigerating appliances with a direct sales function with few or no moving parts supplied with chilled air by an external chiller unit;
- (n) corner cabinets;
- (o) products covered by Commission Regulation (EU) 2015/1095 with regard to ecodesign requirements for professional refrigerated storage cabinets, blast cabinets, condensing units and process chillers;
- (p) wine storage appliances and low noise appliances.

Article 2 **Definitions**

For the purpose of this Regulation, the definitions in Article 2 of Directive 2009/125/EC shall apply. In addition, the definitions set out in Annex I of this Regulation and the following definitions shall apply:

1. 'mains' or 'electric mains' means the electricity supply from the grid of 230 ($\pm 10\%$) Volt of alternating current at 50 Hz;
2. 'refrigerating appliance with direct sales function' means an insulated cabinet with one or more compartments that are controlled at specific temperatures, cooled by natural or forced convection whereby the cooling is obtained by one or more energy consuming means and are intended for the functions of displaying and selling items to customers, accessible directly through open sides or via one or more doors, and/or drawers, including refrigerating appliances with a direct sales function with areas used for storage or assisted serving of items not accessible by the customers. For the purpose of this Regulation, unless specified otherwise, 'cabinet' refers to 'refrigerating appliance with direct sales function'
3. 'remote unit' or 'remote cabinet' means a cabinet which consists out of a factory-made assembly of components that in order to function as a refrigerating appliance, needs input of electricity and to be connected additionally to remote components (condensing unit and/or compressor and/or water condensed unit) which are not an integral part of the cabinet;
4. 'integral unit', 'integral cabinet', 'plug-in unit' or 'plug-in cabinet' means a cabinet that does not need to be connected to remote components in order to function as a refrigerator or freezer, because it has an integral refrigeration systems (i.e. incorporating a compressor and condensing unit);

5. 'refrigerator' means a cabinet that maintains the temperature of the products inside the cabinet at chilled operating temperature;
6. 'chilled operating temperature for cabinets equipped with EMD' means that the temperature of products stored in the compartment or cabinet is continuously maintained between -1°C and 15°C;
7. 'chilled operating temperature for cabinets not equipped with EMD' means that the temperature of products stored in the compartment or cabinet is continuously maintained between -1°C and 10°C;
8. 'EMD', also known as 'EMS', means an energy management system for saving energy;
9. 'freezer' means a cabinet that maintains the temperature of the products inside the cabinet at frozen operating temperature;
10. 'frozen operating temperature' of a supermarket cabinet means that the temperature of products stored in the compartment or cabinet is continuously maintained below -12°C;
11. 'foodstuffs' means food, ingredients, beverages, and other items primarily intended for consumption which require refrigeration at specified temperatures;
12. 'compression-type refrigerating appliance' means a refrigerating appliance in which refrigeration is effected by means of a motor-driven compressor;
13. 'absorption-type refrigerating appliance' means a refrigerating appliance in which refrigeration is effected by means of an absorption process using heat as the energy source;
14. 'thermoelectric-type refrigerating appliance' means a refrigerating appliance in which refrigeration is effected by means of a thermoelectric process;
15. 'condensing unit' means a product integrating at least one electrically driven compressor and one condenser as defined in Regulation (EU) 2015/1095;
16. 'built-in cabinet' or "built-in appliance" means a refrigerating appliance that is designed, tested and marketed exclusively:
 - (a) to be installed in cabinetry or encased (top, bottom and sides) by panels,
 - (b) to be securely fastened to the sides, top or floor of the cabinetry or panels, and
 - (c) to be equipped with an integral factory-finished face or to be fitted with a custom front panel;
17. 'vertical static-air cabinet' means a cabinet with one or more vertical display openings, without internal forced-air circulation; a single static air compartment within the cabinet is not sufficient to designate the cabinet as a static air cabinet;
18. 'vertical cabinet' means a cabinet with a vertical display opening from the front;
19. 'static-air cabinet' means a cabinet without internal forced-air circulation; a single static air compartment within the cabinet is not sufficient to designate the cabinet as a static air cabinet;
20. 'saladette' means a cabinet with one or more doors or drawer fronts in the vertical plane that has cut-outs in the top surface into which temporary storage bins can be inserted for easy-access storage of foodstuffs such as, but not limited to, pizza toppings or salad items;

21. 'horizontal serve-over counter' means a horizontal cabinet with a serve-over counter function;
22. 'horizontal cabinet' means a cabinet with horizontal display opening on its top and accessible from above;
23. 'serve-over counter' means a cabinet for assisted service;
24. 'corner cabinet' means a cabinet used to achieve geometrical continuity between two linear cabinets that form an angle to each other and/or that form a curve. A corner cabinet does not have a recognisable longitudinal axis or length since it consists only of a filling shape (wedge or similar) and is not designed to function as a stand-alone refrigerated unit. The two ends of the corner cabinet are inclined at an angle between 30° and 90°;
25. 'volume' means the volume of the space within the inside liner of the cabinet, equal to the sum of the compartment volumes, in dm³ or litres;
26. 'wine storage appliance' means a refrigerating appliance with only one type of compartment for the storage of wine, as defined in Commission Regulation (EU) *[insert number of ecodesign regulation]* with regard to ecodesign requirements for refrigerating appliances;
27. 'low noise refrigerating appliance' is a refrigerating appliance with noise power emission lower than 20 dB(A), as defined in Commission Regulation (EU) *[insert number of ecodesign regulation]* with regard to ecodesign requirements for refrigerating appliances;
28. 'compartment' means an enclosed space within a cabinet, which is directly accessible through one or more external doors or drawers and may itself be divided into sub-compartments. For the purpose of this Regulation, unless specified otherwise, 'compartment' refers to both compartments and sub-compartments;
29. 'external door' is the part of a cabinet that can be moved or removed to at least allow inserting the load from the exterior to the interior or extracting the load from the interior to the exterior of the cabinet;
30. 'sub-compartment' means a permanent enclosed space within a compartment having a different operating temperature range from the compartment within which it is located.
31. 'specifically tested and approved' means that the product:
- (1) has been specifically tested for the mentioned operating condition or application, according to the European legislation mentioned or related acts, relevant Member State legislation, and/or relevant European or international standards, and
 - (2) is accompanied by evidence, in the form of a certificate, a type approval mark, a test report or other documentation, that the product has been specifically approved for the mentioned operating condition or application, and
 - (3) is placed on the market specifically for the mentioned operating condition or application, as evidenced at least by the technical documentation, information on the packaging and any advertising or marketing materials.

Article 3
Ecodesign requirements

Refrigerating appliances with a direct sales function shall comply with the ecodesign requirements set out in Annex II from the dates indicated therein.

Article 4
Conformity assessment

1. The conformity assessment procedure referred to in Article 8 of Directive 2009/125/EC shall be the internal design control system set out in Annex IV to that Directive or the management system set out in Annex V to that Directive.
2. Where the information included in the technical documentation for a particular model has been obtained by calculation on the basis of design, or extrapolation from another model, or both, the documentation shall include details of such calculations or extrapolations, or both, and of tests undertaken by manufacturers to verify the accuracy of the calculations undertaken.

Article 5
Verification procedure for market surveillance purposes

Member States shall apply the verification procedure described in Annex IV to this Regulation when performing the market surveillance checks referred to in Article 3(2) of Directive 2009/125/EC.

Article 6
Circumvention

The manufacturer or importer shall not place on the market products that have been designed so that a model's performance is automatically altered in test conditions with the objective of reaching a more favourable level for any of the parameters declared by the manufacturer in the technical documentation or included in any of the documentation provided with the product.

Article 7
Indicative benchmarks

The indicative benchmarks for the best-performing products and technologies available on the market at the time of adopting this Regulation are set out in Annex V.

Article 8
Evaluation

The Commission shall assess this Regulation and shall present the results of this assessment, including, if appropriate, a draft revision proposal, to the Consultation Forum no later than five years after its entry into force.

This assessment shall review the requirements in the light of technological progress.

Article 9

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. This Regulation shall apply from 1 January 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
Jean-Claude JUNKER
The President