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ECOPLIANT

European Ecodesign Compliance Project

Work Package 2:
Overcoming Barriers and Establishing Best Practices

Task 1:
Identify and describe existing best practices for market surveillance
and possible barriers to coordination

Subtask 1.6: Sharing Data between Member States

Final Report on
Sharing Data between Member States
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WP2 - Draft Interim Report

Sub-task 1.6: Sharing Data between Member States

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The responsibility for the content and the recommendations of this subtask report lie with the author. They do not necessarily reflect the opinion of the ECOPLIANT project partners. However, the "Best practice" guidelines for coordinated and effective ecodesign market surveillance are the agreed views of the project partners.

1. Description of sub-task

Article 24 of Regulation 765/2008 setting out requirements for accreditation and market surveillance obliges Member States to cooperate and exchange information on their market surveillance programmes with other national and EU Market Surveillance Authorities (MSAs) and with the Commission. This is reaffirmed in Article 3(3) of the Ecodesign Directive as Member States are required to keep the Commission and, where appropriate, other Member States informed of their market surveillance results.

A number of support systems are in place for MSAs at EU level:

- ADCO: Member States are obliged to participate in Administrative Cooperation (ADCO) Working Groups. The ecodesign ADCO is chaired by the Netherlands and meets twice a year as a forum for MSAs to exchange information and best practices.

- Circa: The Communication and Information Resource Centre (Circa) is an electronic workspace developed by the Commission to allow with the secure sharing of documents for the various ADCO and other working or interest groups.

- RAPEX: The EU Rapid Alert System (RAPEX) is a system used to facilitate the rapid exchange of information and actions by MSAs to prevent or restrict products which present a serious rick to the health and safety of consumers.

- ICSMS: ICSMS is the Commissions Information and Communication System for Market Surveillance. This database is owned by the EU Commission and all MSAs are obliged to use it to record information on products which present a risk (as specified in Regulation 765/2008). ICSMS can be used for ecodesign but given the lack of clarity on the definition of 'risk', ICSMS is generally used more for recording market surveillance associated with product safety.

The purpose of this sub-task is to develop an online information repository that will allow ecodesign MSAs upload and search testing plans and communicate their results with each other. A tailor-made database, designed for use by all MSA's, will assist in developing a responsive framework for ecodesign market surveillance. The ability to share data will have the dual benefits of improving the effectiveness of market surveillance across the EEA at the same time as reducing its cost through the elimination of duplicated activity.

As the Ecopliant database will contain classified and / or commercially sensitive information on testing plans of Member States and details of live enforcement cases, access will be restricted to EEA Ecodesign MSA's only. This includes access the demo database developed by Spain to record results of document inspections under WP 2 & 3.

The Ecopliant database will be a standalone ecodesign-specific system and is not intended as a replacement for ICSMS. However, as part of WP4 a review of transferability between ICSMS & the Ecopliant database will be carried out and a paper setting out options and recommendations on the feed-in of Ecopliant to ICSMS or its successor(s) will be submitted to the Commission in the latter half of 2014.

While this sub-task is the subject of its own Work Package (WP4) it is considered a horizontal sub-task across all work packages and on that basis has been included as Sub-task 1.6 in this report.

2. Desk studies

A number of desk studies are being conducted to review some of the information systems currently in use by Ecodesign MSA's.

a) National Databases:

The purpose of this study was to identify and examine existing national databases in use by Member States to assess what information was currently being recorded. Databases which have been reviewed to date include Irelands Ecodesign & Labelling Market Surveillance (ELMS) database, Spains Aparatos Domésticos Eficientes (Efficient Domestic Appliances) database and Denmarks SEE database.

ELMS

ELMS is a simple access database used internally by the Department of Communications, Energy and Natural Resources (DCENR) to record the results of market surveillance inspections under the Ecodesign and Labelling Regulations. The database records information on products which have been inspected for compliance. Data recorded includes product information on manufacturers, product / model reference numbers, photos and where applicable details of non-compliance and corrective measures taken.

Aparatos Domésticos Eficientes

Spain's Energy Agency (IDEA) manages a public online database which provides information for consumers on the most energy efficient domestic appliances available. Appliances registered on this database must energy labels from A to A^{+++}. The information for the database is supplied by manufacturers and verified by IDAE. While not strictly a market surveillance database, it allows MSAs check product declarations such as energy class and energy consumption and potential savings.

SEE

SEE is a simple Microsoft Sharepoint database used by the Danish Energy Agency to record details of their market surveillance activities. Data recorded includes information on manufacturers, product / model reference numbers, details of compliance / non-compliance, technical documentation, dates and communications issued and received.

b) Demo Database for Document Inspections

A pilot database was created by Spain for use in the document inspection sub-task under WP3, as an interim measure until the Ecopliant database has been developed. The pilot is currently being used by participants to record results of the document inspection sub-task under WP3.

The database is an online facility which is used in conjunction with document inspection protocols, also developed by Spain, to assess whether a product is compliant or not based on the information contained in the products technical documentation.

Each product type has a standard form containing details of documentation, parameters and values required to assess compliance. The MSA user completes the form online by entering information about a product from its technical documentation. The database measures the deviation from the required values and assesses whether or not a product is compliant based on the information entered.

c) ICSMS

ICSMS is the Commissions Information and Communication System for Market Surveillance. It is owned by the EU Commission and all MSAs are obliged to use it to record information on products which present a risk (as specified in Regulation 765/2008).

ICSMS is an EU-wide database of consumer and professional products which have been tested as non-compliant by market surveillance authorities. It gathers product information such as test reports, declaration of conformity, photos etc. can be uploaded and shared with other MSA's. Consumers can also view some product information via the public area of the database.

ICSMS appears to be more to the safety-based directives and its use is limited in that it only holds information on products which have been found to be non-compliant (excludes products inspected or tested which were found to be compliant) and cannot facilitate coordination or sharing of activities between Member States.

3. Analysis of surveys and interviews

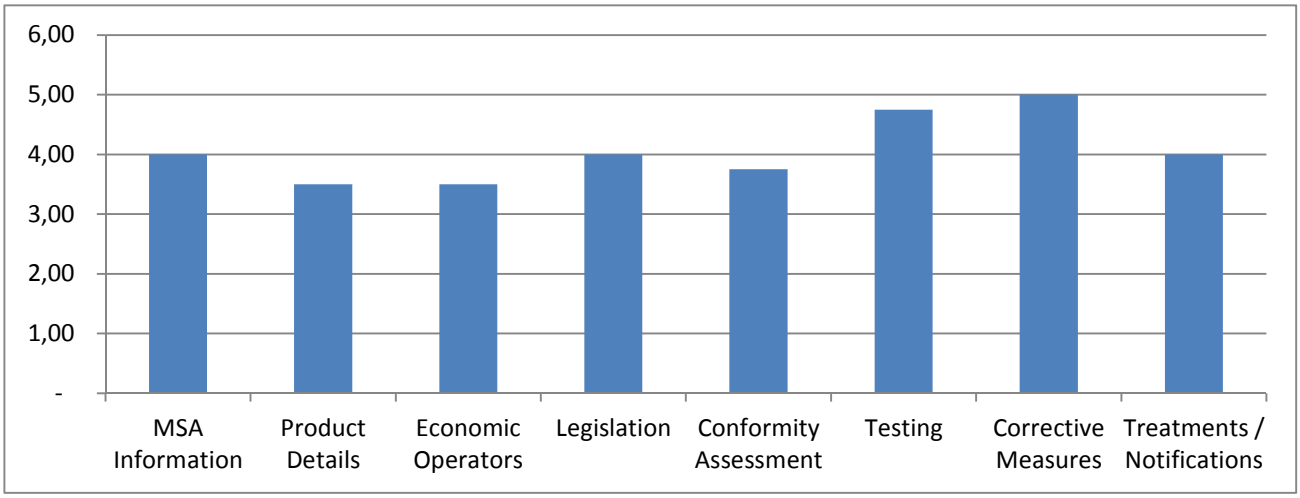
Part B of the Ecopliant survey was used to gauge how Member States record and share their market surveillance information and to get an understanding of what MSA's expected from the Ecopliant database. In total 19 responses were received, representing around two-thirds of EU Ecodesign MSA's.

The survey was designed to gather information on a number of topics:

a) Recording market surveillance information

Around 80% of respondents (15 out of 19) indicated that they are currently recording details of market surveillance activities electronically, the majority of which are using national databases.

The type of information currently being recorded is shown in the chart below. In addition to identifying the information they record, MSAs were asked to rate how important they thought the information was. This chart also shows the average ratings provided by the respondents.



The table below shows the full list of parameters being recorded and the average ratings for each.

Table 1: Information currently being recorded by MSA's

Information	No. MSA's	Average Rating (1 Low – 5 High)
MSA Information		
Inspector / Staff Involved	3	3
Internal Documents	1	5
Product Details		
Brand	3	4
Product / Model No	6	4
Barcode	2	4
EAN	1	2
Markings	2	5
Price	2	2
Economic Operators		
Retailer (Sales Point)	2	4
Invoice	1	5
Country	1	5
Manufacturer	6	4
Importer / Distributor	8	3
Discussions with Economic Operators	1	-[1]
Directives / Standards		

[1] No rating provided.

Information	No. MSA's	Average Rating (1 Low – 5 High)
Legislation / Product Group	3	4
Conformity Assessment		
Date of Inspection	4	3
Record / Case Reference	2	4
Faults	1	5
Compliance	2	3
Testing		
Technical Documentation	3	5
Inspection documents (Test reports etc)	7	4
Inspection protocol / process	2	5
Results of inspection	2	5
Corrective Measures		
Date of action	2	5
Measures taken / fines imposed	3	5
Reminder	1	5
Closing Date	1	5
Treatments / Notifications		
Safeguard Clause	1	5
RAPEX Notification	1	3
Other		
Comments	1	2

b) Sharing market surveillance information

47% of respondents (9 out of 19) indicated that the results and reports of market surveillance activities are shared among national stakeholders. These are mostly made publically available via MSA press releases and websites or shared via consumer organisations. Where not considered appropriate to publish, brand / model names are anonymised.

In addition, almost half of respondents stated that they share their market surveillance results and reports with other MSA's and / or Member States. Closets co-operation appears to be amongst the Nordic countries where activities and results are shared on a regular basis.

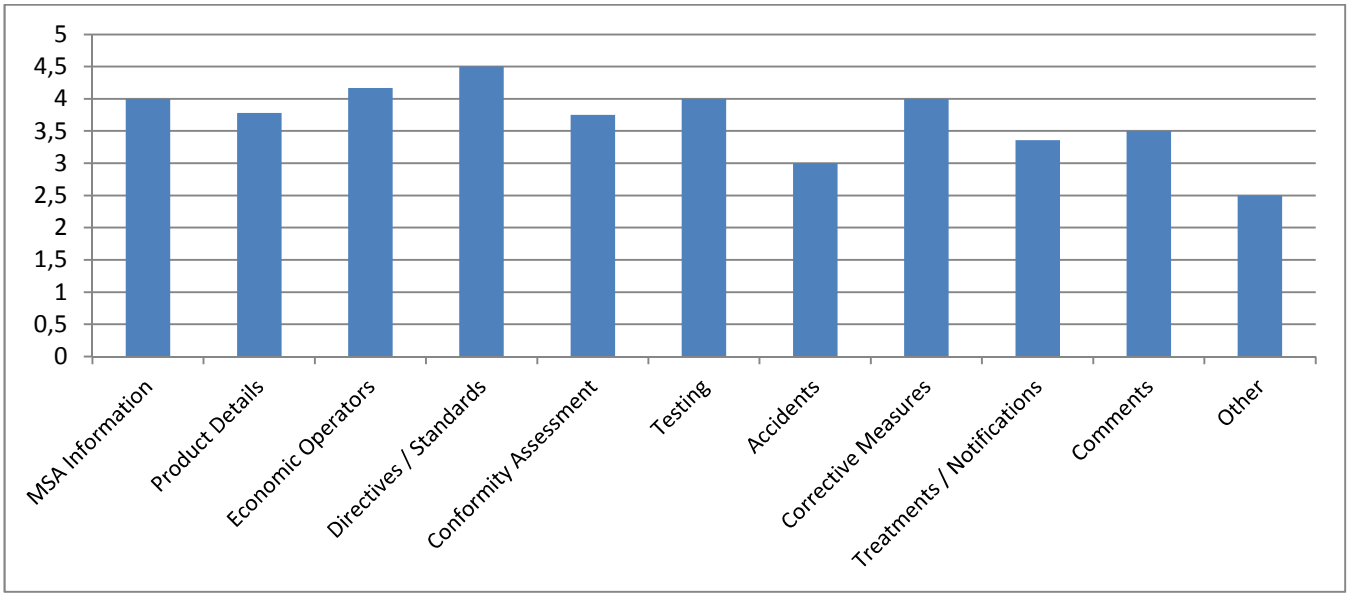
Usually, market surveillance is shared incidentally as soon as the process has ended or the non-compliance has been confirmed. In the majority of cases the information is shared electronically

by email and in some instances the information is shared via the Commissions communication channels such as ADCO / Circa or ICSMS.

c) ICSMS

This section of the survey attempted to assess the extent to which ICSMS is being used by Ecodesign MSA's to record instances of non-compliance. It was found that 8 MSA's are currently using ICSMS and a further 8 indicated that they may consider using it at some point in the future.

Respondents were also provided with a list of parameters from the ICSMS database and were asked to rank them in terms of relevance. The parameters were grouped into heading and the results are shown in the chart below. Parameters which ranked highest include legislation (regulations / standards), product information (model number / brand), information on economic operators and test reports & associated analysis.



The table below provides details of the information received from the survey

Table 2: ICSMS parameters and ratings provided by MSA's

	Parameter	Average rating of relevance (1 Low - 5 High)
General		
1	Product Identifier	5
2	Notifying Member State	4
3	Notifying Authority	4
4	Contact	4
5	Processing Member State	4
6	Processing Authority	4

Parameter		Average rating of relevance (1 Low - 5 High)
7	Processor	4
8	Date of Notification	4
Product		
9	GTIN (EAN) Code / Barcode	3
10	TARIC Code	3
11	Search Criteria (Product keywords)	4
12	Product Designation (English)	4
13	Product Designation (notifying state)	3
13a	Product Category	5
14	Brand	5
15	Type / Model	5
16	Serial Number	4
17	Year of Manufacture	4
18	Year of first distribution	4
19	Type of energy used	3
20	Description of product, packaging & dimensions	4
21	Photo / drawing of product / packaging	4
22	Photo of identification markings	4
23	Country of origin	4
23a	EEC Country	3
24	Additional Information	3
Economic Operators		
25	Manufacturer / Authorised Rep	5
26	Importer(s) into EEA	5
27	Supplier (including retailer)	5
28	Also distributed in	4
29	Additional distributors	4
30	Users	3
Standards		
31	Directives / regulations	5
32	Standards	4
Conformity		
33	CE Marking	4
34	CE Marking (Objections)	4
35	Comments	4
36	Declaration of conformity	4
37	Declaration of conformity (Objections)	4
37a	Comments	4
38	Assessment of Conformity	4
39	Comments	3

Parameter		Average rating of relevance (1 Low - 5 High)
40	Certificate of Incorporation	3
41	Certificate of Incorporation (Objections)	3
42	Comments	3
43	Notified body	4
44	Address	4
45	Additional marks	4
46	Additional declarations	3
47	Other documents	3
Testing		
48	Test / engineer's report	4
49	Name / File ref no	4
50	Test / examination date	4
51	Test report(s)	5
52	Test Laboratory	4
53	Scope of testing	4
54	Number of tested samples	4
54a	Type of injury	4
55	Defect risks classification	4
56	Description of defects	4
Accidents		
57	Description of accidents	3
Measures		
58	Voluntary Measures	4
59	Compulsory Measures	4
60	Justification for the adopted measures	4
61	Scope	4
62	Date of entry into force	4
63	Duration	4
64	Additional Information	4
65	Status	4
Treatments		
66	Baton to be passed to	3
67	Authorities to be notified	4
68	Download notification form	4
69	Notification form	4
70	RAPEX No.	3
71	Safequard Clause Notification	4
72	Interdiction Decree	3
73	Visibility of information	3
74	Internal documents	3
75	Public Documents	3

Parameter		Average rating of relevance (1 Low - 5 High)
76	Campaign	3
Comments		
	Subject	4
	From	4
	Date	3
	with regard to chapter	3
Other (Identified in Survey)		
	Equivalent product codes	- [2]
	Accreditation of test lab	5

d) <u>The Ecopliant database</u>

In the survey, MSA's were asked to identify any special features they would like to see incorporated into the Ecopliant database, including those which they felt might encourage its usability. Responses are shown in the table below.

Table 3 – features identified by MSAs for inclusion in the Ecopliant database

Feature	No. MSA's
Simplicity – intuitive and easy to navigate	3
Search engine	3
Statistical & analysis tools	1
Compatibility with ICSMS and national databases	2
Confidentiality / security features	1
Contact points for MSA personnel	4
Planned market surveillance and testing activities	3
Test laboratory and accreditation information	1
Complete list of product groups and applicable legislation & standards and product specific data for the evaluation of compliance	1

[2] No rating provided

Feature	No. MSA's
Complete list of products inspected or tested and the results of such activities	1

4. Preliminary conclusions

The creation of a more co-ordinated and co-operative market surveillance framework will be more efficient in the discovery and removal of non-compliant products thus providing a greater level of protection for consumers and increased confidence for industry through the elimination of unfair competition.

Sharing information is key to effective market surveillance. A tailor-made database, designed for use by all Ecodesign MSA's, will assist in developing a responsive market surveillance framework. Access to such information will enable MSA's learn from the experiences of others, share practices and results and increase the likelihood of rules being applied consistently throughout the single market.

The sole responsibility for the content of this publication lies with the authors. It does not necessarily reflect the opinion of the European Union. Neither the EASME nor the European Commission are responsible for any use that may be made of the information contained therein.