

**COMMISSION NOTICE****on the application of ecodesign requirements on the efficiency of power-supply units in servers and data-storage products and of ecodesign requirements on the power-source efficiency of welding equipment****(Text with EEA relevance)**

(2022/C 469/03)

Commission Regulation (EU) 2019/424 <sup>(1)</sup> laying down ecodesign requirements for servers and data-storage products applies from 1 March 2020. In particular, Annex II, point 1.1, of the Regulation includes requirements on the minimum efficiency of the power-supply units (PSUs) used in servers and data-storage products. A first, minimum efficiency level, laid down under Annex II, point 1.1.1, came into application on 1 March 2020. A more stringent (compared to the currently applicable values) value for the minimum efficiency of PSUs will apply from 1 January 2023.

Commission Regulation (EU) 2019/1784 <sup>(2)</sup> laying down ecodesign requirements for welding equipment applies from 1 January 2021. Annex II, point 1, of the Regulation includes minimum requirements for the efficiency of the power source that must be achieved by welding equipment. These requirements will apply from 1 January 2023.

To improve the energy efficiency of the PSUs of servers and data-storage products and the energy efficiency of power sources of welding equipment in line with the new requirements, manufacturers need to install components containing new printed circuit boards. These new printed circuit boards are manufactured using semiconductor chips. However, due to the ongoing global supply crisis for semiconductor chips brought about by the COVID-19 pandemic, manufacturers of printed circuit boards are not able to meet growing demand. As a result, customers are facing much longer lead times for the delivery of these essential components than initially expected.

These exceptional circumstances make it impossible for manufacturers to ensure that the products to be placed on the market as of 1 January 2023 comply with the new energy-efficiency requirements. The significance of the impact of the global chip shortage on manufacturing industries has been illustrated in recent reports, including the European chips survey <sup>(3)</sup>, and was a key driver behind the recent Commission proposal for a European Chips Act. This situation is expected to be short-term in nature and should be largely resolved before 1 January 2024.

A number of Member States have informed the Commission that they are aware of the difficulties faced by industry and are sympathetic to the problems industry will face in complying with their obligations. Various industry associations have also contacted the Commission, outlining the difficulties they are facing. This includes industries supplying products to a range of essential economic sectors, such as the data storage, banking and construction sectors.

Compliance with EU harmonisation legislation such as ecodesign requirements is monitored and enforced through market surveillance carried out by Member States' market-surveillance authorities, in accordance with Article 11 and Articles 14-20 of Regulation (EU) 2019/1020 of the European Parliament and of the Council <sup>(4)</sup> on market surveillance and compliance of products.

<sup>(1)</sup> Commission Regulation (EU) 2019/424 of 15 March 2019 laying down ecodesign requirements for servers and data-storage products pursuant to Directive 2009/125/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 617/2013 (OJ L 74, 18.3.2019, p. 46).

<sup>(2)</sup> Commission Regulation (EU) 2019/1784 of 1 October 2019 laying down ecodesign requirements for welding equipment pursuant to Directive 2009/125/EC of the European Parliament and of the Council (OJ L 272, 25.10.2019, p. 121).

<sup>(3)</sup> See <https://digital-strategy.ec.europa.eu/en/library/european-chips-survey>.

<sup>(4)</sup> Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

In view of the problems likely to be experienced by manufacturers seeking to comply with ecodesign requirements on the energy efficiency of the PSUs of servers and data-storage products and on the energy efficiency of power sources of welding equipment, the Commission sets out a number of considerations that should be taken into account in the context of the enforcement of these obligations.

First of all, it should be noted that the obligation for Member States' market-surveillance authorities to monitor compliance is an ongoing one and not linked to any specific date after the requirements start to apply on 1 January 2023.

Secondly, as regards ensuring effective market surveillance, the Commission recalls the requirement laid down in Article 14(2) of Regulation (EU) 2019/1020 that market-surveillance authorities must exercise their powers efficiently and effectively, according to the principle of proportionality.

The Commission recalls that neither the Commission nor any individual Member State has the authority to set aside any binding deadlines or other requirements laid down in Union law, unless the deadlines or requirements are amended through the appropriate procedures.

However, when enforcing Union law, Member States are required to duly consider the principle of proportionality. In that context, when Member States apply EU law and enforce the requirements laid down by the relevant regulations, they are invited to take into account all of the following conditions:

- the exceptional and unforeseen circumstances of the global supply crisis for semiconductor chips brought about by the COVID-19 pandemic, as demonstrated by the manufacturers, which may prevent manufacturers from complying with the relevant ecodesign requirements in time;
- the time-limited nature of the issue, given the relatively short time period during which manufacturers would be able to continue placing products on the market which do not yet comply with the new energy-efficiency requirements;
- the need for manufacturers to continue to be able to place their products on the market, also in light of the importance of a secure supply of the regulated products to the functioning of a range of essential economic sectors.

If national market-surveillance authorities – in line with these conditions – do not enforce the ecodesign requirements on the energy efficiency of the PSUs of servers and data-storage products and on the energy efficiency of the power sources of welding equipment as of 1 January 2023, the Commission will refrain from launching infringement procedures as long as that lack of enforcement does not go beyond what is required and is limited in time from 1 January 2023 until 1 January 2024.

This approach should apply to all individual units of a product model placed on the market within the indicated time period. This also means that, if market-surveillance authorities encounter a non-compliant product unit after 1 January 2024, but which was placed on the market before that date, the same considerations apply.

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