

## Work Package 3 - TRAINING, Module B

### *Introductions to EEPLIANT; Strategy, Inspection and Cooperation*

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This is the 2nd of 4 training modules developed in the Energy Efficiency Compliant Products 2014 (EEPLIANT) programme.

EEPLIANT is a programme of coordinated activities being undertaken by market surveillance authorities across the EU.

Much more detail on EEPLIANT is available on [www.eepliant.eu](http://www.eepliant.eu)

The materials covered in the 4 training modules are based on the document Best Practice Guidelines. Users of these training materials need to download a copy of these from <http://eepliant.eu/index.php/knowledge-base> in order to maximise the benefit from using this and training modules A, C & D.

# Overview of this Module

## **Introduction to EEPLIANT**

- Scope, goal and development of the Guidelines

## **Strategy in National Market Surveillance**

Discussion

## **National inspection programmes**

- Relevance
- Coordination

## **Cooperation opportunities for MSAs**

- Existing cooperation channels
- Examples from other fields

Discussion

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## EEPLIANT project scope

- EEPLIANT aims to develop and harmonise **best practice in Ecodesign and Energy Labelling** market surveillance.
- **Target groups:**
  - Ecodesign and Energy Labelling MSAs - learn from one another, coordinate surveillance across countries and share experiences.
  - EU states looking to extend market surveillance activities.

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The name EEPLIANT is derived from the formal title of the grant application proposal made to the Executive Agency for Small and Medium-sized Enterprises: **E**nergy **E**fficiency Com**PLIANT** Products 2014

The name was chosen to show continuity from a predecessor project ECOPLIANT: European **ECO**design com**PLIAN**ce project, which finished in early 2015.

The key objective of EEPLIANT is to help deliver the intended economic and environment benefits of the Energy Labelling and Ecodesign Directives by increasing the rates of compliance with them. This will be achieved through coordinating the monitoring, verification and enforcement activities of 13 Market Surveillance Authorities across the EU Single Market.

Other objectives are to:

- Continue the momentum created by ECOPLIANT – a momentum that has growing numbers of EU market surveillance authorities (MSAs) actively enforcing the requirements of the Ecodesign Directive;
- Accelerate that momentum by expanding the coverage to include enforcement of the Energy Labelling Directive and Regulations;

- Make it easy for MSAs to take part – they get funding, training, technical support, peer group support and all the extra benefits of working in a team;
- Leverage the entire EU market through taking joint (coordinated) action.

Why are these objectives important?

- The project is a highly visible demonstration to all stakeholders that the marketplace is being policed – something that both the supply-side and consumers have campaigned for;
- It creates capacity in MSAs where, in some cases, none existed before;
- The Action has a transnational impact on the entire EU market;
- It improves the harmonisation of enforcement actions between MSAs in different Member States;
- It creates a common purpose through the involvement of suppliers, users and policy makers.

## Best Practice Guidelines

- set up national market surveillance
- establish Inspection Programmes
- select products for inspection
- identify EEA-wide product model numbers
- conduct document inspection
- conduct compliance verification laboratory tests
- share inspection results
- enforce the Ecodesign and Energy Labelling regulations

Download copies from <http://www.eepliant.eu/index.php/knowledge-base>

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These are the main sections of the Best Practice Guidelines. This document can be downloaded from <http://eepliant.eu/index.php/knowledge-base>.

It is recommended that these training slides are used in conjunction with the Best Practice Guidelines

## How were the guidelines made?

Mainly developed in the ECOPLIANT project:

- Collection and analysis of the experience and practices carried out by the participants in ECOPLIANT
- EU MSA survey
- Pilot action for coordinated Market Surveillance

**NOTE:** the guidelines are a living document that will continue to be developed based on *your* feedback!

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The guidelines primarily constitute a balanced and agreed summary of findings and recommendations included in seven different subtask reports from ECOPLIANT. Full details of the work that ECOPLIANT did to prepare the original Guidelines can be found at <http://www.ECOPLIANT.eu/wp2-reports-establish-best-practice/>

Much of the content of the guidelines is based on current successful practices carried out by MSAs. Case studies are provided throughout the guidelines that provide additional details on how specific MSAs perform particular elements of their tasks.

As ECOPLIANT only dealt with ecodesign, so it has been necessary for EEPLIANT to add references to energy labelling.

It is the intention of the authors to continue to improve these training slides and the Best Practice Guidelines. All users are encouraged to provide feedback and suggestions to [info@prosafe.org](mailto:info@prosafe.org)



## Best Practice Guidelines Section 2.1

# Organization and Strategy in National Market Surveillance

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The following group of slides is covered in detail in Section 2.1 of the Best Practice Guidelines

## Organization and Strategy in National Market Surveillance

- Strategy must be adapted to national policy & legislation
- Some member states:
  - delegate responsibility to one or more MSAs
  - organise market surveillance together with ecodesign, labelling and energy policy development
  - organise MS regionally with a national coordinator
  - have one MSA for ecodesign and one for energy labelling

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Member States are responsible for surveillance activities on their own territory. It is up to each MS to determine how to organise its market surveillance within the framework of the legislation. In this respect the adopted solutions vary among Member States.

This can lead to variations in the level and types of activity undertaken by the MSAs. The purpose behind the coordination projects like EEPLIANT, is to reduce the level of variation through the MSAs working together in the execution of joint activities, exchange of information, development of common methods, protocols or checklists, etc. – these practical activities being built-on and further developing best practices.

## Approaches taken by some MSAs

- MSAs may use their own staff or external public agencies for testing, technical expertise etc.
- Some MSAs have **proactive approaches** for prevention and information dissemination:
  - information meetings
  - newsletters
  - publish compliance guidelines
  - brochures, guides and leaflets

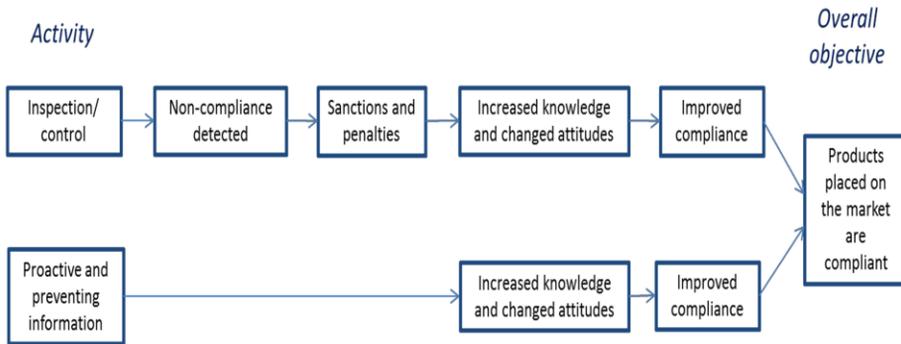


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In addition to inspection and control activities, many MSAs proactively inform manufacturers and their representatives or importers about the regulatory requirements that are in force or coming into force. This can be an effective way to improve compliance, especially when it comes to newly adopted regulations.

The next slide provides an overview of the information providing approach.

## Market Surveillance Approach



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Though not shown in the figure, those MASs that undertake the more proactive communications approach also do inspections, take enforcement actions etc.

## MSA Approaches...

### Some MSAs:

- **Cooperate with national agencies** and public bodies to disseminate ecodesign information
- **Cooperate with national customs** authorities to prevent non-compliant products entering the EU-market.
- **Make public announcements** to inform manufacturers and importers about planned market surveillance actions (this can discourage improper behaviour).
  - e.g. publish yearly market surveillance programme on website.

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## Publishing...NMRO (UK)

- Most effective publishing platform found to be the NMRO website
  - Greater content and distribution control

Passive publication  
(no announcement)

Active publication (e-alerts)

- Active publication reaches >3000 subscribers
  - Consumer organisations, trade associations
  - manufacturers and media organisations.



- Subscribers may use content on their own 'third party' media platforms, increasing the impact of publishing results from market surveillance projects.

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This, and the following slide, is one of the case studies that is presented in Section 2.1 of the Best Practice Guidelines.

Case studies can provide a useful route to learning since they provide a real and practical description for how an activity is undertaken by a similar organisation.

## Publishing Results...NMRO(UK)

- NMRO takes a **considered view** on publishing market surveillance results
- Publication of results can be a **meaningful sanction**, the decision to publish or not:
  - must be made on a **case by case basis**
  - must be **proportionate** to the offence, or level of non-compliance.
- Results can be published in different formats e.g.   
- Where appropriate, press releases are developed with the economic operator in question.

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Whether or not to publish the results of market surveillance activities is something that all MSA need to consider. Many regard the process of “naming and shaming” suppliers of non-compliant products as having a useful deterrent effect

## Recommendations

- *Each Member State should consider how to organise its market surveillance in order to make it most appropriate for the specific national conditions.*
- *MSAs should consider whether in-house personnel should be used for all market surveillance activities or if external expertise should be used.*

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These RECOMMENDATIONS are a selection of those given at the end of Section 2.1 of the Best Practice Guidelines. They highlight topics that impact on the effectiveness of MSAs - so all should consider whether their operational procedures should be further adapted in order to continue to improve the effectiveness of their work.

## Recommendations

- *MSAs can consider whether proactive and preventing activities should be carried out in order to inform manufacturers and importers about the ecodesign and energy labelling requirements that are in force or will come into force.*
- *MSAs should consider if the results of market surveillance activities should be published or made publicly available in other forms.*
- *MSAs should consider how to cooperate with national customs authorities in market surveillance.*

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## Recommendations

- *MSAs should consider being involved in national standardisation committees for the development of harmonised testing standards.*
- *MSAs should consider taking part in the formulation of a national position on proposed new legislation, especially regarding enforceability and mandates for standardisation.*

## Discussion

- *How applicable are these recommendations?*
- *Which barriers prevent action in your country?*

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This slide encourages you to reflect on the information provided in the preceding slides and to discuss the content and main topics with colleagues.



## Best Practice Guidelines Section 2.2

# Developing and coordinating National Inspection Programmes

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The following group of slides is covered in detail in Section 2.2 of the Best Practice Guidelines

## National Inspection Programmes

- Can include testing, document(s) inspection, visual product checks and other surveillance activities.
- Some of the aspects to consider...



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The role of the MSA is a complex one. There are a number of different aspects for MSAs to consider when establishing national inspection programmes e.g. resources available, consumer behaviour, national priorities, but also aspects like coordination of inspection programmes within and outside their own country, use of test laboratories, sharing of inspection results and the possibilities for third party funding.

## Outcomes of Inspection

1. **Detection** of non-compliant products
2. Ensure that detected non-compliance is dealt with by appropriate **enforcement** actions
3. Gauge levels of compliance for **market overview** or other data collection
4. Use non-compliance as a dialogue for **engagement** with industry or business

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“Inspection” covers most aspects of determining whether a product is compliant or not. So visits to shops to check on the display of labels (or just noting what products are in stock), the evaluation of the technical documents that suppliers are required to provide (if requested to) and any testing that may be carried out are all activities that fall under the descriptor “Inspection”.

## Inspection Methodology

Based on available resources, a methodology should be determined for inspection. This could be:

- Visual product checks (in situ/in laboratory)
- Checks of documentation requirements (e.g. document inspection or information requirements)
- Screen testing (more fully defined in the Best Practice Guidelines)
- Compliance testing according to the relevant EU legislation procedure

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The starting point any inspection programme should be to determine what its purpose is intended to be. For sure, the MSA will want to determine levels of compliance in its market and to take action where non-compliance is detected. Since resources are always limited, so it is necessary to identify whether particular product or supply sectors should be targeted and just what activities should be included in the inspection process.

Resources will need to be planned too e.g. staffing (skills and time available), budget (particularly needed if product testing is expected to be necessary) and calendar time (the time span for selecting products, obtaining their documentation and having them tested in accordance with the applicable regulations can take many months).

## Inspection Methodology

**A suitable disposal strategy** for test units must be in place



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Each MSA should have a clear policy regarding the disposal of samples taken from the market. This is likely to be more than simply ensuring compliance with the WEEE Directive since some samples may need to be returned to the supplier, some are serviceable and could, perhaps, be returned to market whereas those that are non-compliant should not be returned to market...

## Recommendations

- *National inspection programmes should be designed and developed to detect non-compliant products that have been or are being placed on the market.*
- *When developing a national inspection programme:*
  - *Ensure that there is a **clearly defined** desired **outcome** (what would you like to achieve?)*
  - *Ensure that there is a clearly defined desired **content** (which product categories to select)*
  - *Ensure that there is **methodology** to develop content (the methods to be used: visual inspections, document inspections, testing...)*
  - *Ensure that there is a suitable **disposal strategy** in place*

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These RECOMMENDATIONS are those given at the end of Section 2.2.1 of the Best Practice Guidelines. They highlight activities that MSAs need to do in order to operate in a consistent and effective way.

## Coordination of Inspection Programmes

- **Use resources more efficiently** between National, regional and EU wide MSAs
- Collaboration provides **numerous benefits**, e.g. increased capacity and cost savings and increased access to laboratory facilities

NOTE: Ecodesign and Energy Labelling Directives: sharing results on non-compliant products is mandatory – See Section 2.8 of Best Practice Guide

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Coordination can take place between authorities within a MS or between authorities in different MS.

Coordination of inspection programmes between MSAs can use the available resources much more efficiently. This can be done between national MSAs, e.g. MSAs responsible for different product directives e.g. energy labelling, RoHS and/or LVD-directives etc. and/or among regional MSA, or EU-wide, e.g. between Ecodesign/Energy labelling MSAs (such as in ECOPLIANT and EEPLIANT).

Sharing details of planned inspection programmes is not a legislative provision of the Directives, although sharing results on non-compliant products is mandatory. Many MSAs however currently share additional information in order to meet mutual objectives. Coordination opportunities might for example occur via the ADCOs or on a regional level through the types of programme coordinated, for example, by PROSAFE.

## How do MSAs already cooperate?

- Ecodesign and Energy Labelling Market Surveillance Administrative Cooperations (**Ecodesign and Energy labelling ADCOs**)
- **ICSMS** product safety database
- Regional Cooperation  
– e.g. across Länders in Germany



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It makes sense for MSAs to cooperate together since the same products are often available in each of their areas. Through cooperation, duplication of activities can be minimised so saving costs and making more effective use of staff capacity. Working together also provides opportunities to learn from each and so improve staff skills and operational effectiveness.

The ADCOs are EU forums for cooperation between those national MSAs responsible for the market surveillance of products covered by Directive 2009/125/EC and its implementing measures, and Directive 2010/30/EU and its implementing measures. The two ADCOs meet separately (but normally on the same day in the same location as they have so many members common to both) twice a year to discuss experiences in market surveillance practices and review those issues for products covered by ecodesign and energy labelling regulations.

ICSMS: Information and Communication System for Market Surveillance –a database maintained by the European Commission. All MSAs are obliged to use it to record information on products that present a risk as specified in Regulation 765/2008. ICSMS has generic templates for recording of data regarding Ecodesign and Energy labelling and is to be further developed to

enable all detailed test data to be recorded too.

## Cooperation in Other Fields

- PROSAFE 
- Rapex 
- EU joint actions in e.g. health technology, biotoxins

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PROSAFE (Product Safety Forum of Europe) is a non-profit professional organisation for market surveillance authorities and officers from throughout the EEA. Since 2006, PROSAFE has been coordinating a number of Joint Actions between various market surveillance organisations within the EEA (European Economic Area), which are all financially supported by the EU Commission.

This project, EEPLIANT, is being coordinated by PROSAFE and is being fully funded by the EU Commission.

RAPEX - The Rapid Alert System enables quick exchange of information between 31 European countries and the European Commission about dangerous non-food products posing a risk to health and safety of consumers. As such, it does not relate to the energy efficiency regulations governing products. It is expected that RAPEX will become integrated with ICSMS.

## Overcoming Barriers to Coordination

- **Defined objectives:** the purpose of sharing planned inspection programmes should be set and agreed among participants.
- **Detail:** the level of detail (e.g. product category or model specific) to be shared, as this may impact on resources requested from each participant of a coordinated inspection programme.
- **Confidentiality:** ownership and access to data should be established and agreed in advance.

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This is the 1<sup>st</sup> of two slides.

Coordination activities take time, so time has to be invested in the activity before the benefits become visible. Finding time to do the necessary preparatory work, attend meetings etc. can be challenging for very busy staff. Another challenge faced in coordination programmes involving more than one MS is that of language – this will mean that communications are likely to be done in a language (the choice made is most usually, English), which will not be the native language for most persons taking part.

Most commentators would say that the benefits to be derived from coordination programmes outweigh the challenges mentioned above and on this and the following slide.

## Overcoming Barriers to Coordination

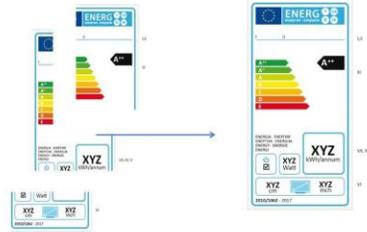
- **Communication:** contact points should be appointed to ensure proper communication and data flow and that any changes to inspection programmes are rapidly shared
- **Time constraint:** careful time consideration and appropriate process planning is needed for establishing national inspection programmes
- **Flexibility:** the capability of each partner to positively manage changes in the initial process planning should be considered, since it varies between countries

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## National Coordination e.g. NMRO(UK)



- Responsibility for the Energy Labelling Directive is **'split'** between three UK authorities
- Coordination is therefore vital (whether formal or informal)



- Coordination managed by UK **Market Surveillance Co-ordination Committee (MSCC)**. Members: government departments, agencies, public authorities, co-ordinating and professional bodies engaged in UK market surveillance

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A case study example of how coordination takes place in the UK

## International Coordination e.g. Nordic Countries - *Nordsyn*

- Denmark, Finland, Iceland, Norway and Sweden have cooperated closely in Ecodesign and Energy labelling market surveillance since 2011.
- All market surveillance officers in all five countries are involved.
- **Homogenous Nordic markets give good conditions** for market surveillance cooperation, often with the same manufacturers, importers and products.
- The countries **exchange their yearly market surveillance plans**



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This is the 1st of two slides that provide a Case Study of an on-going trans-national coordination programme.

This case study example of how coordination takes place across several MS in the EU. It is probably the best example of a continuing trans-national coordination programme.

## International Coordination e.g. Nordic Countries - *Nordsyn*

- Sharing market surveillance programmes enables **identification of common inspection areas** at an early stage.
- If two or more countries have decided to test the same product category, checks are made to **avoid testing the same product**.
- When inspections are done, the **results are shared**.
- Homogeneous Nordic market:
  - Have been cases where non-compliant **products have been withdrawn** in several Nordic countries based on the test result from one country.



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## Recommendations

- *When coordinating inspection programmes, ensure that **existing opportunities** – EU-wide and regional - are identified and taken advantage of*
- *When inspection programmes are written in national languages, ensure that there is a **comprehensive English summary**.*
- *Ensure that **barriers are identified** and properly **managed** before coordinated inspection programmes are developed*

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These RECOMMENDATIONS are those given at the end of Section 2.2.2 of the Best Practice Guidelines. They highlight activities that MSAs need to undertake when developing coordination programmes.

## Discussion

### **Your cooperation examples**

- *Which other cooperation methods do you use?*
- *Have you cooperated with other countries?*
- *Can we build on cooperation from other fields?*

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This slide encourages you to reflect on the information provided in the preceding slides and to discuss the content and main topics with colleagues.