

EU legislation must allocate liability for product compliance online - LightingEurope Online Mystery Shopping Exercise 2023

LightingEurope carried out a mystery shopping exercise throughout 2022-2023. The purpose of this exercise was to establish the rate of non-compliant lighting products sold online via marketplaces that make products available to European users. Once again, the results demonstrate that non-compliant lighting products are easily accessible online.

LightingEurope calls upon EU policymakers to finally address the legal loophole where traders are located outside of the EU and do not have an EU-based economic operator that can be held liable for the non-compliance of the products and allocate liability not just for product safety, but for all product requirements, e.g., when a product does not satisfy ecodesign or energy labelling rules or does not contribute to waste recovery and recycling fees.

Key findings

The exercise has been carried out over 6 EU countries and 4 online marketplaces.

Action	# Products inspected	# Non-compliant products	Percentage of non-compliant products (online check)	Percentage of non-compliant products (physical check)
Products inspected online	150	107	71%	/
Products ordered & physically inspected upon delivery	55	52	/	95%

The focus was specifically on:

- EU mandatory information requirements. The mystery shoppers carried out visual inspections of the information on the webpage and then ordered and received lighting products and inspected the information on the packaging and on the product itself.

- 2 product types:
 - GLS replacement lamps (LED 60w A60 E27, most common types)
 - Desktop luminaire with integrated LED lamp
- 4 platforms in 6 EU Member States:
 - 1 platform in the Netherlands for GLS replacement lamps
 - 1 platform in Poland for GLS replacement lamps
 - 1 platform in Germany for GLS replacement lamps
 - 1 platform in Spain for GLS replacement lamps
 - 1 platform in France for desktop luminaires
 - 1 platform in Italy for desktop luminaires

The mystery shoppers proceeded to the online inspection of the first products that appeared in the search results, following the platforms' search algorithm: meaning that no geographical selection was made (no EU/non-EU distinction was made). This was done so that, to some extent, it was each platforms' search algorithm that decided what products would be inspected. We proceeded to the online inspection of the first 30 products that appeared and ordered the first 10 that failed the online inspection.

Detailed findings for GLS replacement lamps

Below the results for the GLS replacement lamps:

Action	# Products inspected	# Non-compliant GLS replacement lamps	Percentage of non-compliant products (online check)	Percentage of non-compliant products (physical check)
Products inspected online	120	81	68%	/
Products ordered & physically inspected upon delivery	36	33	/	92%

Examples of non-compliance found throughout the exercise

- Only one third of the GLS lamps inspected online presented an energy label.
- Less than half of the physically inspected GLS lamps had an energy label, and some of those were in the old format.
- Two thirds of the physically inspected products did not have any instructions and safety info in a language easily understandable by consumers.
- More than 46% of the products inspected did not have an energy label and were not registered in the EPREL database.
- Other product-specific requirements that were missing:
 - Lifetime information (EU Ecodesign for light sources and separate control

- gear)
- CE marking (EU Low Voltage Directive-LVD)
- Number of switching cycles (Ecodesign)
- Colour rendering (Ecodesign)
- Instructions and safety information in a language that can easily be understood (LVD)
- Information about the dimensions in millimetres (Ecodesign)
- Information about the warm-up time (Ecodesign)

A couple of examples:

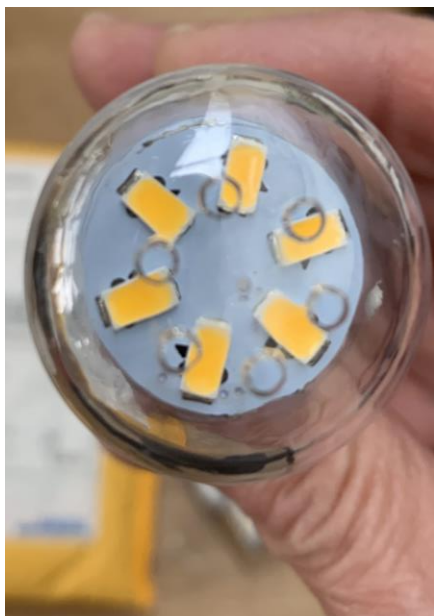
Sample A



Brand	✗
Product Identifier	✗
Energy label	✗
Safety info	✗
Luminous flux	✗
Lifetime	✗
Electrical interface details	✗
Colour temperature	✗
On-mode power	✓
CE mark	✓

NB: These are only some of the requirements checked.

Sample B



Brand	✗
Product Identifier	✗
Energy label	✗
Safety info	✗
Luminous flux	✗
Lifetime	✗
Electrical interface details	✗
Colour temperature	✗
On-mode power	✗
CE mark	✗

NB: These are only some of the requirements checked.

Sample C (the product had no cover for its live parts)



Brand	✗
Product Identifier	✗
Energy label	✗
Safety info	✗
Luminous flux	✗
Lifetime	✗
Electrical interface details	✗
Colour temperature	✗
On-mode power	✗
CE mark	✗

NB: These are only some of the requirements checked.

Detailed findings for desktop luminaires

Below the results for desktop luminaires:

Action	# Products inspected	# Non-compliant desktop luminaires	Percentage of non-compliant products (online check)	Percentage of non-compliant products (physical check)
Products inspected online	30	26	87%	/
Products ordered & physically inspected upon delivery	19	19	/	100%

Examples of non-compliance found throughout the exercise

- For half of the inspected products, due to national legislation, it was impossible to determine the supplier registration in the WEEE register. The rest of the products was non-compliant.

- With very few exceptions, most products remained non-compliant as regard to:
 - LVD CE requirements (wattage and address)
 - LVD requirements in the national language
 - WEEE Marking
 - WEEE information requirements
 - Energy class of the lightsource
 - Repairability information

A couple of examples:

Sample A



LVD CE Info requirements	✗
CE Mark	✗
WEEE Marking	✗
WEEE info requirements	✗
Repairability info	✗
Lightsource energy class	✗

NB: These are only some of the requirements checked.

Sample B



LVD CE Info requirements	✗
CE Mark	✗
WEEE Marking	✗
WEEE info requirements	✗
Repairability info	✗
Lightsource energy class	✗

NB: These are only some of the requirements checked.

Call for ambitious EU legislation

Online sales have been increasing at a rapid rate. A study has shown that online sales for lighting fixtures alone have grown on average 18% per year since 2012. Whilst online sales provide consumers with quick and easy access to products, LightingEurope is concerned by the significant number of non-compliant and dangerous (lighting) products sold on online marketplaces.

The availability of non-compliant products not only puts customer's safety at risk, but also distorts the level playing field between the law-abiding companies that invest in compliance – up to 25% of annual turnover for some of our members - and the free-riders that benefit from not applying the EU legislation. The investment made by companies illustrates the level of resources, both financial and human, required to bring a compliant product to market. The expectation of Europe's lighting industry is that the EU finally addresses the unchecked availability of non-compliant products online and clearly allocates liability to marketplaces when the sellers have no European representatives within the EU jurisdiction.

Products available for online sale to EU customers must comply with all EU rules, including any required product information being accessible on the web prior the purchase. The EU legal framework must prevent the listing and/or re-listing of non-compliant products and making them available to EU customers.

We must allocate liability not just for product safety, but for all product requirements, e.g., when a product does not satisfy ecodesign or energy labelling rules or does not contribute to waste recovery and recycling fees.

Annex I - Methodology

The process in which the mystery shopping exercise was conducted across the participating countries was:

- Enter agreed term in search function – same terms used on all platforms inspected.
- Selection of samples: Take screen shots of the first 40 products to appear in the search results (selection done by platform's algorithm).
- Check webpage for the information on each individual product for the first 30 of the 40 products.
- Purchase the first 10 products that fail the online inspection.
- Check compliance of products received against set list of EU requirements.
- Visual inspection only, no actual testing was done to see if the information displayed was correct.

The type of information requirements that were inspected depended on the product (GLS lamp vs desktop luminaire) and was also divided into information that is inspected online or physically once the product was purchased, ordered, and delivered.

Below are some examples:

- Product brand
- Product Identifier
- Energy label
- On-mode power
- Warmup time
- Dimensions

- Wattage (LVD/Ecodesign)
- Luminous Flux
- Lifetime
- Switching cycles
- Colour temperature
- Beam angle
- Equivalent GLS
- Power factor
- CE Mark
- WEEE Marking
- WEEE information requirements (e.g., crossed out wheely bin logo)

Contact

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LightingEurope is the voice of the lighting industry, based in Brussels and representing 30 companies and national associations. Together these members account for over 1,000 European companies, a majority of which are small or medium-sized. They represent a total European workforce of over 100,000 people and an annual turnover exceeding 20 billion euro. LightingEurope is committed to promoting efficient lighting that benefits human comfort, safety and wellbeing, and the environment. LightingEurope advocates a positive business and regulatory environment to foster fair competition and growth for the European lighting industry. More information is available at www.lightingeurope.org.