



WORKING GROUPS



WORKING GROUP ON LABELING AND TRACK & TRACE SYSTEM



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**MANDATORY LABELING OF PRODUCTS WITH
MEANS OF IDENTIFICATION**

By the end of 2021, mandatory labeling with means of identification has been or is planned to be introduced as a mechanism

for combating illegal circulation of industrial products belonging to such product groups as tobacco products, footwear, drugs, fur coats, photo cameras and flash lamps, tires and treads, consumer products, perfumery and eau de toilette, dairy products, bottled water, as well as bicycles and wheel-

chairs. Experiments are also conducted to introduce labeling for dietary supplements, beer, and low-alcohol beverages, as well as antiseptic biocides.

The practical experience of introducing labeling by some industries demonstrates that mandatory labeling does not materially reduce the volume of the illegal circulation of industrial goods and that the participants in the circulation of labeled goods do not get the profit declared, namely in the form of:

- › A growth in revenue or an increase in the competitiveness of “white businesses”, as companies do not detect a decrease in either the volume of counterfeit goods or the size of the “grey market” as a whole. Moreover, labeling allows mala fide market players to sell illegally imported or produced products by buying a labeling code from the labeling system operator and placing the labels on their products.
- › Process optimization or cost reduction. Currently, the introduction of labeling entails a material complication of business processes at all stages of the supply chains and a significant financial load on producers and importers.

The majority of participants in the circulation of labeled products consider mandatory labeling as a mandatory tax that is costly to administer: with a cost per labeling code of 50 kopecks, a large company’s expenses may reach a hundred million roubles due to investments in operating solutions at the labeling introduction stage, in opening customs warehouses meeting the requirements of the respective industry, in engaging warehouses in placing labels outside the Russian Federation, due to high rates for placing labels on products at warehouses, including customs warehouses, or due to additional logistical costs arising from delivering imported goods to customs warehouses or warehouses outside the Russian Federation for the placement of labeling codes.

Hence the high cost of administration reduces the attractiveness of the Russian consumer market for new players and increases production costs.

Over several years, the Government of the Russian Federation, in cooperation with the business community, has been working on the improvement of the legal framework for the purpose of introducing labeling for specific product categories.

However, the currently available technical resources and the existing legal frameworks have a large number of weaknesses and inconsistencies, which make the business environment unpredictable, complicating business processes and increasing the unproductive costs of bona fide market participants, in particular:

- › Frequent technical and operational unavailability and technological failures of the operator of the labeling system lead to delays in shipments of goods, additional unjustified costs, missed sales and a reduction in the range of goods for the Russian consumer.

- › Weak coordination between authorities with regard to the introduction of legislative initiatives having a direct impact on the labeling system and, consequently, businesses.

- › The incompatibility of labeling codes in EAEU markets.

RECOMMENDATIONS

Within the framework of the issues described, AEB member companies have prepared a number of recommendations and proposals that will help stabilize the environment for the introduction of labeling and achieve the stated advantages for all participants in the turnover of labeled goods.

Prior to the adoption of the resolution on the introduction of labeling for new product categories:

1. To increase the transparency of adopting resolutions on the introduction of labeling for additional product groups, taking into account:

- › The results of a detailed market analysis from the perspectives of the existence of counterfeit products and assessment of the efficiency of introducing mandatory labeling as an instrument for combating the circulation of illegal products in various categories of consumer products.

- › Assessment by market participants of the rationality of introducing a traceability/labeling system in this category of goods, taking into account the confirmed volumes of counterfeit goods, specifying the source of data to the total volume of the category of goods offered for labeling in monetary and physical terms. The methodology for assessing the feasibility of introducing labeling should be agreed by the relevant department with market participants and approved by a decree of the Government of the Russian Federation.

- › Assessment of the results of the pilot project, including an assessment of the results of the experiment at each step of a supply chain, depending on the specifics of the respective industry. Moreover, the duration of the experiment, with due regard for the specifics of the respective industry, including climatic and seasonal specifics, and the period sufficient for eliminating deficiencies shall be assessed. All circulation participants shall carry out an assessment of the said results and publish detailed reports in public sources.

- › Assessment of the readiness and harmonization of the legal framework for the creation of a stable environment for the introduction of labeling.

- › Assessment of regulatory impact, including on small and medium-sized businesses.

2. In cooperation with industry participants, to develop a “roadmap” for each category of products subject to mandatory labeling with means of identification. The roadmap shall



contain the terms for the introduction of mandatory labeling requirements, with due regard to the stage-by-stage introduction of product labeling and traceability; the criteria for the assessment of pilot project results; as well as the terms for the analysis of the results of pilot projects and for the elimination of detected deficiencies, and transition periods, coordinated with market participants, within which penalties will not be imposed.

Hence, for additional product groups, the labeling shall not be introduced prior to the elimination of the technical barriers and harmonization of the regulatory requirements.

To improve the functioning of the labeling system in the product categories that are currently subject to labeling, as well as to reduce and optimize the costs faced by participants of labeled goods circulation, we recommend as follows:

1. In the conditions of a plurality of state systems of traceability of goods, to provide for the possibility for market participants to transmit data on the turnover of goods through a single interface (in particular, for EGAI, the Mercury system, the marking of the CRPT, the national system of traceability of goods of the Federal Tax Service) without charging taxes/fees for using such an interface, as well as to ensure the integration of state information systems and Chestny ZNAK labeling system.

2. To introduce a single standard for label reading and processing systems for all additional categories newly becoming subject to labeling, in order to prevent unnecessary expenses for the implementation of duplicating traceability systems, including that used at the EAEU level.

3. To eliminate the possibility of parallel implementation and/or the use of different traceability/labeling systems within the same product group in order to prevent double load on businesses (including small and medium-sized businesses), partly by taking into account the systems used at the EAEU level.

4. To regulate the circulation of labeled goods through the Internet.

5. To specify the labeling system operator's administrative and civil responsibilities for providing technical support for mandatory labeling, including liability for material malfunctions of GIS MT:

- › To develop clear standards on the part of the Operator for its work and responses to critical situations (SLA).
- › To amend the model agreement with the GIS MT operator: to introduce an SLA for the services of Operator-CRPT and GIS MT; to reduce service rendering times to several hours.
- › To specify the labeling system operator's administrative and civil liability for material malfunctions of GIS MT.

6. To establish liability for electronic document management operators as labeled product circulation participants.

7. To ensure the possibility of affixing labeling codes at importers' warehouses within the Russian Federation (after the importers' customs declaration of products and release of the products by customs authorities for domestic consumption) in order to reduce the material economic expenses faced by importers and shorten the duration with which products are supplied to consumers.

8. To ensure access to GIS MT information, taking the interests of all market participants into account.

9. To ensure proper protection by the commercial information system operator of circulation participants' information; to establish provisions on classifying information as confidential and to specify in the Administrative Offence Code of the Russian Federation liability for "data leakage" and for the disclosure of confidential information to third parties.

10. To reduce the risk profile / the volume of regulatory activities with respect to bona fide participants of labeled product circulation.

11. To develop and approve criteria for initiating in-market inspections related to the detection of legislative violations in the field of labeling products with means of identification.

12. To develop fiscal (tax exemptions) and non-fiscal (grants, preferential credits, measures aimed at improving the business environment) support measures for small businesses participating in the labeling system.

13. To ensure the protection of intellectual property rights in the circulation of labeled goods, in accordance with the Protocol on Protection and Enforcement of Intellectual Property Rights (Appendix No. 26 to the Treaty on the Eurasian Economic Union).

14. To ensure practical unification of requirements for the product labeling system at the EAEU level, the integration of labeling systems, and the recognition of labeling codes, as well as to eliminate the possibility of using several different traceability systems within the same product group.



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