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EU Law News

A bi-monthly review of EU legal developments affecting business in Europe

New rules about "made in" labels

The European Parliament voted in October to approve new labelling laws that require manufacturers to specify on the product label the country where most of the product was originally made. The aim of the regulation is to ensure a fair playing field for European products competing in a globalised market.

The new rules have an impact on a wide range of products imported into the EU, from shoes and clothing to tools and tires. If consumers stop buying products because they are manufactured outside the EU, it could help boost European production and employment levels by increasing the consumption of domestically made products at the expense of non-EU products.

The approval at the forthcoming Council of Ministers is still pending and uncertain. Sweden and the UK, major European distributors, are reluctant to approve the new rules as they may lead to increased costs due to red-tape. Italy, Spain and Portugal, however, previously pushed for similar labelling laws to stop the growth of cheap imports.

The decision could be an added financial burden for small businesses and the retail industry, as the administrative cost of compliance with the new rules may be too great for many that are still reeling from the effects of the current crisis.

Another criticism has been that the regulation does not make provisions for identifying products made in the concept of "fair trade" that ensures rights and safe working conditions. Undesirable and unforeseen consequences of the new rules may include a decline in the purchase rate of these products.

New strategy to tighten EU data protection rules

The European Commission proposed a strategy early in November on how to protect personal data in all policy areas (such as when booking a flight, opening a bank account or in online photo sharing), including the use of data by the police, whilst seeking to ensure the free movement of data within the EU. In addition to this new strategy, a policy review was carried out as a public consultation to review the 1995 EU Data Protection Rules. The Commission is expected to propose legislation in 2011.

In addition to proposing the new strategy, the Commission is carrying out a policy review of former data protection rules such as the 1995 Data Protection Directive 95/46/EC. This Directive aimed to defend the right to data protection of natural persons and the free movement of data and is complemented by other legislation such as specific rules for data protection in police and judicial co-operation in criminal matters and the e-Privacy Directive targeting the communications sector. The Commission is additionally examining the 2006 Data Retention Directive, which requires companies to store communications traffic data for a period of six months to two years.

The privacy of personal data is explicitly recognized as a right in Article 8 of the European Union Charter of Fundamental Rights and in Article 16 of the Lisbon Treaty, which establishes the legal basis of the data protection rules for all activities in the field of EU legislation. The Commission believes that personal data protection, as a fundamental right, needs to be strengthened, and that is why the strategy will try to make the users inform individuals in a transparent way about how, why, by whom and for how long their data is collected and used. The individuals have also a right to delete their data whenever they wish to.

Commission presents Energy 2020

The Commission has presented a new energy strategy for a "competitive, sustainable and secure energy policy". "Energy 2020" defines five top priorities and outlines actions for the next ten years in order to save energy, achieve a market with competitive prices and secure supplies, boost technological development, and strengthen the EU's position in international negotiations.

1. The Commission identifies energy efficiency as its first priority and proposes to focus its initiatives on the two sectors with the biggest energy saving potential: transport and buildings. To help house owners and local entities to finance renovation and energy saving measures, the Commission expects to propose investment incentives and innovative financial instruments by mid 2011.
2. Another priority for the next decade will be to build an integrated pan-European energy market, as both electricity and gas markets at present remain fragmented by national boundaries. By 2015 no Member State should be isolated. Over the next ten years, overall energy infrastructure investments in the EU of €1trillion are needed.
3. The strategy also focuses on creating a common EU external energy policy so that the EU can "effectively project its combined market weight in relations with key third country partners". The idea is to diversify supply sources and routes in order to avoid crises like the Russia-Ukraine gas dispute, which disrupted supplies to Eastern Europe in January 2009. The Commission also wants to further integrate countries outside the EU into a common energy market. A major co-operation with Africa is also announced, which aims at providing sustainable energy to all citizens of that continent.
4. Four major projects in key areas for Europe's competitiveness will be launched: new technologies for intelligent networks, electricity storage, research on second generation biofuels and "smart cities" partnerships to promote energy savings in urban areas.
5. The Commission proposes new measures on price comparison, switching suppliers and on clear and transparent billing.

New rules for hedge funds agreed

The EU has agreed to tighten rules for hedge funds and private equity funds, ending two years of contentious negotiations between the industrial lobby and the politicians.

The new hedge fund package was developed by the European Parliament, Member States of the European Union and the European Commission after France abandoned its strong opposition to the proposals about the treatment of non-EU managers.

Some of the topics discussed were the provisions for protection against possible "looting" of private equity funds, taking into account the limits of the capital income derived by a private investor during the first years following the acquisition of a company.

Fund Managers from outside the EU Member States will benefit from the new marketing rights, or can obtain a "European passport" for their services, from 2015, provided they and their countries meet certain requirements, such as compliance with international conventions relating to taxes and money laundering.

According to the new rules, capital and information requirements will be compulsory for the "alternative" fund managers, while small investors will enjoy a much more benevolent treatment. In addition, fund managers will have to adhere to other rules relating to, for example, deposit and payment arrangements.

The advantage of these new rules is that as from January 2013, when the Directive must be transposed into national legislation, approved fund managers will be at liberty to market their funds throughout the EU, instead of seeking the approval of each individual Member State.

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