

Ecodesign for Energy-related Products Regulations 2010 - Post Implementation Review

Title: Ecodesign for Energy-related Products Regulations 2010	Post Implementation Review
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Lead department or agency: Department for Business, Energy and Industrial Strategy	Type of regulation: Secondary legislation
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Background

This document provides an overview of the Post Implementation Review (PIR) of the Ecodesign for Energy-related Products Regulations 2010 ('the 2010 Regulations')¹ for the review period of 20 November 2015 to 20 November 2020.

The 2010 Regulations provide the legislative basis for the compliance regime for Ecodesign implementing measures which are in force in the UK. The scope of this PIR is limited to the compliance regime only and does not seek to assess the implementation of other parts of the 2010 Regulations.

The compliance regime within the 2010 Regulations underpins the Government's continued commitment to ensuring that the 27 energy-related product groups that are subject to Ecodesign implementing measures in the UK are compliant with the relevant requirements. This ensures that the energy savings and consumer benefits that result from more energy-efficient products are realised. Altogether, the body of Ecodesign implementing measures are estimated to save consumers £75 on their energy bills and save 8 MtCO₂ in 2021 – the equivalent of the average yearly carbon emissions from electricity consumption of 12 million homes.

The Office for Product Safety and Standards (OPSS)² is the Market Surveillance Authority ("MSA") for Ecodesign implementing measures in the UK, as appointed by the Secretary of State. The OPSS has the power to impose civil sanctions (such as compliance notices, variable monetary penalties and stop notices to enforcement undertakings) on manufacturers, importers or distributors for offences related to non-compliance with the Ecodesign implementing measures which are in force in the UK. The OPSS also has the power to recover testing costs from manufacturers, importers or distributors of products which are non-compliant. The recovery of testing costs is referred to as "cost sharing".

¹ [Ecodesign for Energy-related Products Regulations 2010](#)

² <https://www.gov.uk/government/organisations/office-for-product-safety-and-standards>

This document sets out a summary of the PIR's main findings, followed by a full PIR report; the Conclusions and Recommendations are outlined at the end of this report.

Summary

1. What were the policy objectives of the measure?

The overall policy objective of the compliance and enforcement regime in the 2010 Regulations is to ensure that Ecodesign implementing measures are enforced, in order to create a level playing field for compliant businesses and to maximise the projected energy, carbon and consumer bill savings. Within this, the compliance and enforcement regime has two other policy objectives, which relate to the powers the MSA has: (a) the civil sanctions power was intended to reduce costs to business (as opposed to the previous criminal sanctions power), whilst maintaining the benefits of a robust compliance and enforcement regime; and (b) the cost-sharing power was intended to reduce the level of non-compliance and to reduce the burden on Government of purchasing products for compliance testing.

2. What evidence has informed the PIR?

The views of stakeholders were captured through:

- qualitative semi-structured telephone interviews with industry trade bodies; and with sanctioned and non-sanctioned companies;
- a Call for Evidence on how the UK can maximise the benefits of energy related products policy post-EU Exit, including specific questions on enforcement and market surveillance. This gathered views from a broad range of stakeholders including businesses affected by the 2010 Regulations, as well as consumer and environmental organisations; and
- correspondence and meetings with the OPSS to reflect stakeholder views.
- Evidence was also gathered through monitoring data on the number of manufacturers and importers/distributors that have been found to be non-compliant.

3. To what extent have the policy objectives been achieved?

The evidence gathered by the PIR suggests that the Ecodesign implementing measures in the UK have been enforced effectively and the majority of the expected benefits realised, so the overall objective of the 2010 Regulations has been met.

The PIR found evidence that the civil sanctions power had met its objective. However, the PIR found that the OPSS had not applied the cost sharing power during the review period, so it is not possible to say whether this power has met its objective.

4. What were the original assumptions?

The Impact Assessment assumed that the burden on small businesses will not be disproportionate compared to that placed on large businesses. Testing costs are based on an assumed average cost of tests and number carried out each year, sourced from the Market Picture testing programme carried out by the Department of Environment Food and Rural Affairs in 2009. Administrative costs were based on an assumed labour cost for a financial clerk and the amount of time needed for processing. Benefits are derived from an assumed non-compliance rate with regulation in the absence of enforcement powers for the OPSS.

5. Were there any unintended consequences?

No unintended consequences were identified.

6. Has the evidence identified any opportunities for reducing the burden on business?

The evidence gathered by the PIR suggests that once businesses have met the requirements of the Ecodesign implementing measures there is very little additional cost to complying with the 2010 Regulations. Market surveillance activity was generally regarded as light-touch and proportionate, meaning the impacts for businesses were minor overall. No scope for reducing the burden on business of the civil sanctions and cost-sharing powers was identified during the Review.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?

The OPSS's approach to enforcement of Ecodesign implementing measures in the UK is broadly similar to the approaches used in the EU, Japan, and Australia to the extent that testing of products and a sanctions regime for non-compliance are at its core. The OPSS' approach is also considered as an exemplar of success by a range of EU countries. However, there are differences in the enforcement practices applied in Australia and Japan when compared with the UK. For example, in Australia, in order to increase testing capacity, the MSA accepts test reports commissioned by business on suspected non-compliant products; and in Japan, the MSA operates a 'name and shame' scheme for non-compliant manufacturers.

Sign-off For Post Implementation Review:

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the policy.

Signed:

A handwritten signature in blue ink, consisting of several loops and a trailing line.

Date: 15/06/21

Post Implementation Review report

1 Introduction

1. This Post Implementation Review (PIR) examined the implementation of the compliance regime for Ecodesign implementing measures, which it set out in the Ecodesign for Energy-related Products Regulations 2010 (“the 2010 Regulations”); specifically, the PIR looked at the implementation of two enforcement powers to impose civil sanctions³ and to recover testing costs (“cost-sharing”). The period of time that this PIR considered is 20 November 2015 to 20 November 2020.
2. Evidence was gathered from a number of sources:
 - qualitative semi-structured telephone interviews with industry trade bodies and with sanctioned and non-sanctioned companies;
 - a Call for Evidence⁴ which, among other things, gathered views on the 2010 Regulations as a whole and the OPSS’s enforcement activities in general, as well as the civil sanctions and cost sharing powers from a broad range of stakeholders including businesses affected by the 2010 Regulations, as well as consumer and environmental organisations;
 - correspondence and meetings with the OPSS; and
 - monitoring data on the number of manufacturers and importers/distributors that have been found to be non-compliant.
3. The PIR did not seek to review the broader energy-related products policy area, such as the effectiveness of the Ecodesign implementing measures themselves.
4. This PIR report is structured as follows:
 - Section 1 introduces the report.
 - Section 2 outlines the policy background, summarising the different pieces of legislation that form the policy area known as products policy.
 - Section 3 outlines the intended effects of the 2010 Regulations.
 - Section 4 outlines the rationale for the level of evidence sought for this PIR.
 - Section 5 outlines the expected scale of impact of the 2010 Regulations.
 - Section 6 outlines the risk of the 2010 Regulations
 - Section 7 outlines the media coverage
 - Section 8 outlines the existing data source
 - Section 9 outlines the methodology
 - Section 10 outlines the question and answers about the impact of 2010 Regulation powers during the review period
 - Section 11 outlines the evidence that was collected

³ Civil sanctions are those that can be applied by the MSA without recourse to the Courts

⁴ <https://www.gov.uk/government/consultations/energy-related-products-call-for-evidence>

- Section 12 outlines the Conclusions
- Section 13 outlines the Recommendations

2 Background

2.1 Energy-related products (ErP) policy aims to encourage the uptake of products which use less energy, resources, and materials in order to save carbon, reduce waste and help households and businesses reduce their energy bills with minimum effort. This is predominantly done through two policies:

- Ecodesign, which drives product innovation, for example by setting minimum energy performance standards, gradually phasing out the least energy efficient products from the market. Ecodesign can also facilitate progress with regards to resource efficiency; and
- Energy labelling, which encourages consumers to purchase the most efficient products on the market.

2.2 ErP policy also includes other measures such as incentives which drive the uptake of more energy and resource efficient products. Our newly refreshed Energy Technology List⁵ helps support this.

2.3 Until 31 December 2020, Ecodesign implementing measures in the UK were made under the EU Ecodesign Directive⁶. However, from 1 January 2021 the powers to make Ecodesign implementing measures in Great Britain are held by the Secretary of State; with the EU Ecodesign Directive no longer having effect in Great Britain. Ecodesign implementing measures made under the EU Ecodesign Directive continue to apply automatically in Northern Ireland under the terms of the Northern Ireland Protocol.

2.4 There are 27 product-specific Ecodesign implementing measures; together, these are estimated to lead to savings of 8 million tonnes of CO₂ and save the average dual-fuel household around £75 on their annual energy bills in 2021.

2.5 This PIR focuses on the implementation of the compliance regime for Ecodesign implementing measures, which forms part of the 2010 Regulations; a separate PIR will look at the compliance regime for energy labelling measures.

3. The 2010 Regulations Objectives

⁵ [Energy Technology List](#)

⁶ [Ecodesign Directive 2009/125](#)

- 3.1 The objectives of the 2010 Regulations were outlined in the civil sanctions impact assessment⁷ and the cost sharing impact assessment⁸ carried out around the time that the 2010 Regulations came into force. The overarching policy objective is to provide a proportionate and flexible enforcement regime that reduces burdens on business, seeking to promote compliance with applicable implementing measures, and create a level playing field for compliant businesses.
- 3.2 The civil sanctions power was intended to reduce costs to business, as civil sanctions were expected to require lower legal costs compared with criminal sanctions. It was also intended to maintain a high level of compliance with applicable Ecodesign measures. The civil sanctions power was not expected to lead to an increase in compliance. Instead, the civil sanctions power was intended to maintain the benefits of a robust compliance and enforcement regime. Therefore, the costs and benefits of a high level of compliance were not monetised in the civil sanctions impact assessment.⁹
- 3.3 The cost sharing power was intended to incentivise manufacturers and importers to produce products that are compliant with applicable Ecodesign measures. Therefore, the cost sharing power was intended to reduce the level of non-compliance. The cost sharing power was also intended to reduce the burden on government. The burden on Government could either be reduced by passing costs from the government to sanctioned companies or by allowing more testing to be carried out. Further product testing was intended to act as a further incentive to manufacturers and importers to produce compliant products.

4. Rationale for the Level of Evidence Sought

- 4.1 This PIR was light-touch, and the level of evidence collected was proportionate to the impact of the 2010 Regulations. This approach is further justified by the fact that the 2010 Regulations are not high profile, contentious, or particularly risky.

5. Expected scale of impact of the 2010 Regulations

- 5.1 The impact of civil sanctions was expected to be small-scale and during the review period (November 2015- November 2020). Only three companies were affected by civil sanctions under the 2010 Regulations. The civil sanctions power was expected to maintain the high level of compliance. Therefore, there was assumed to be no impact on compliance rates. The civil

⁷ The civil sanctions impact assessment (Impact Assessment of the Proposed Penalty Regime for the Ecodesign of Energy-Related Products Regulations 2010 and the Energy Information Regulations 2011): http://www.legislation.gov.uk/ukia/2012/26/pdfs/ukia_20120026_en.pdf. This IA was declared fit for purpose by the RPC, and given a green rating, on 27th February 2012.

⁸ The cost-sharing impact assessment (Impact Assessment of Cost Sharing Options available to the Market Surveillance Authority under the Energy Using Products and Energy Labelling Regulations): <http://www.legislation.gov.uk/uksi/2010/2617/impacts/2010/473>

⁹

sanctions impact assessment suggested that the introduction of civil sanctions would create greater flexibility which would be likely to reduce the legal costs to businesses. However, this reduction in cost was assumed to be small and was therefore not monetised as part of the impact assessment. Therefore, the civil sanctions impact assessment had an estimated net present value of zero.

- 5.2 The cost sharing impact assessment had an estimated net benefit to the UK in the form of the cost sharing itself, carbon savings, and reduced energy bills for consumers of between £5.4m and £12.1m (present value terms, real 2011 prices) between 2010 and 2020. The range in net benefit estimates was a result of the cost sharing impact assessment considering two scenarios. In one scenario cost sharing was assumed to increase expenditure for the testing programme, leading to a net benefit estimate of £12.1m. In the other scenario, the budget of the testing programme was assumed to remain constant, leading to a net benefit estimate of £5.4m. The impacts assumed in the cost sharing impact assessment depended on cost sharing being applied in practice. During the review period the cost sharing power was not applied in practice. Therefore, the estimated impact of the cost sharing power within the 2010 Regulations is zero as the power was never used and so the awareness and deterrent effect would also have been minimal.

6. Risk of the 2010 Regulations

- 6.1 The 2010 Regulations were expected to be low risk. In accordance with the OPSS' enforcement policy, offences can be dealt with by the imposition of a civil sanction by the regulator, or by prosecution.

7. Media coverage and stakeholder concerns

- 7.1 The 2010 Regulations are not considered particularly high profile or contentious as they are one aspect of a well-established energy-related products policy and associated Ecodesign implementing measures. No significant media coverage or commentary from stakeholders were identified before the review was carried out.

8. Existing data sources

- 8.1 The PIR guidance also suggests that the extent of existing data sources should be considered when determining what level of evidence is proportionate. Existing monitoring data is available from the OPSS who regularly carry out testing of products. In line with its enforcement guidance, the OPSS has taken a risk-based approach when deciding whether or not to test if products are compliant with applicable implementing measures. Products are targeted according to the perceived risk of non-compliance, based on a number of factors such as company history. This means that not all products are tested. It also means that the products which are tested are

not randomly selected. Therefore, it is not possible to estimate what proportion of products on the market would fail testing. However, there is data showing the number of products which have been tested and which have failed tests.

9. Methodology

9.1 The PIR asked four overarching research questions to assess whether the 2010 Regulations:

- have achieved their original objectives;
- have objectives that remain appropriate;
- are still required and remains the best option for achieving those objectives; and
- have objectives that can be achieved in a way that reduces the regulatory burden on business.

9.2 In order to answer these questions, the views of stakeholders have been captured through a number of qualitative semi-structured interviews with industry trade bodies and sanctioned and non-sanctioned businesses. Stakeholder feedback was also taken into account from the market surveillance section of the Call for Evidence on how the UK can maximise the benefits of ErP products policy after the end of the Transition Period for leaving the EU. This included a broader range of stakeholders including businesses affected by the 2010 Regulations, as well as consumer and environmental organisations. The views of the OPSS were also captured through emails, telephone, and video conversations.

10. Questions and answers about the 2010 Regulations objectives

Have the Regulations achieved their original objectives?

10.1 The overall objective of ensuring that the Ecodesign implementing measures which are in force in the UK are enforced has generally been met. The majority of stakeholders thought that the OPSS's approach to implementing the 2010 Regulations was risk-based, proportionate, and consistent. However, some respondents wished to see increased visibility of the OPSS' enforcement activities and gave some examples of non-compliance that may have had a detrimental impact on their business.

10.2 The civil sanctions power which includes measures such as financial penalties and stop notices for non-compliance has met its objectives and contributed to the achievement of a high level of compliance. As noted above, civil sanctions were applied three times by the OPSS between November 2015 and November 2020: twice in 2016 and once in 2018.

10.3 Cost recovery enables the market surveillance authority to recover certain costs associated with testing. Where the market surveillance authority proposes to recover its testing costs it must serve a notice of what is

proposed within 20 days of obtaining proof that the article or substance has failed to comply with an applicable implementing measure. The person on whom the notice is served has a right of appeal. Cost recovery has not been imposed since the introduction of the 2010 Regulations.

Do the objectives remain appropriate?

- 10.4 Yes, the overall objective of enforcing the Ecodesign implementing measures remains appropriate, as this is key to realising the full benefits of these measures.
- 10.5 The objective of the civil sanctions power also remains appropriate as reducing the costs to business continues to be important.
- 10.6 Notwithstanding the fact that the cost sharing power has yet to be exercised, its objective of ensuring that non-compliant businesses contribute to the costs of testing products remains appropriate.

Are the Regulations still required and do they remain the best option for achieving those objectives?

- 10.7 Yes, the 2010 Regulations remain the best option for achieving the overall objective of enforcing the implementing measures under the Ecodesign Framework to ensure that the projected financial and carbon savings are achieved.
- 10.8 Further, the civil sanctions power remains the best option for reducing costs to business at the same time as encouraging compliance with the Ecodesign implementing measures.
- 10.9 Despite never being exercised, the cost sharing power remains the best option for ensuring that testing costs can be recovered from non-compliant businesses; however, it would be more effective in practice if some elements of the legislation were less prescriptive.

Could the objectives be achieved in a way that reduces the regulatory burden on business?

- 10.10 We do not judge the regulatory burden on business resulting from the compliance regime under the 2010 Regulations to be significant. Further, there are not proven alternatives for achieving the objectives of enforcing the Ecodesign implementing measures – the civil sanctions regime and the cost sharing power remain the best options. This is supported by evidence gathered by the PIR which shows that the general view of business was that once they met the requirements of the Ecodesign Framework, there was very little additional cost to complying with the 2010 Regulations. Market surveillance activity was generally regarded as light-touch and proportionate, meaning the impacts for businesses were minor overall.

11. Evidence gathered by the PIR

Civil sanctions

- 11.1 Evidence from sanctioned companies for this review was limited. Since 2015 three companies were sanctioned. One agreed to be interviewed. However due to their limited knowledge, no evidence about the businesses' experience of civil sanctions was gathered by this PIR.
- 11.2 The OPSS commented that it is committed to delivering the compliance regime in the 2010 Regulations in a manner that is risk-based, proportionate and consistent. They summarised their enforcement approach as aiming to engage with business in the first instance. Civil sanctions or prosecution are considered where businesses have deliberately, persistently, or recklessly failed to comply with their obligations.

Cost recovery

- 11.3 Awareness of the cost-sharing provisions was not uniform amongst stakeholders. There was broad support for the concept of cost recovery among those stakeholders who were aware of these provisions. They thought: (a) it was reasonable to recover the costs of testing non-compliant products, and (b) that because testing was expensive, and cost-sharing could reduce the costs to the OPSS - and, in turn, to the taxpayer - of investigating non-compliance.
- 11.4 The OPSS indicated that recovering costs was complex as the implementing measures carry a burden of proof, along with a legislative requirement to often test a further three products beyond the initial indicative test result. This in conjunction with the associated strict time limits the market surveillance authority has not sought to apply the use of cost recovery since the 2010 Regulations were introduced. Instances of non-compliance have been addressed using alternative approaches.

Influence on business compliance levels

- 11.5 The stakeholder consultations suggested that the influence of the 2010 Regulations and their implementation differs from business to business. Some trade associations felt that the 2010 Regulations and the way they had been implemented had helped their members to comply. They felt that the existing compliance framework - i.e., the combination of the 'stick' of civil sanctions and the OPSS' current market surveillance approach – was promoting compliance. For many businesses, the threat of civil sanctions was a motivating factor behind compliance. And for all, the OPSS' business engagement model, with its emphasis on working with businesses to help them to comply had directly influenced compliance levels. Trade associations and companies felt that this approach had enabled businesses to better understand the Ecodesign implementing measures and supported them in identifying how to comply effectively.

Trade association members more likely to comply

- 11.6 The evidence suggested that trade association membership can be both an indicator of compliance as well as an influence in driving compliance. Trade associations believed that their members were generally compliant with the 2010 Regulations by default. One trade association even reported that complying with the 2010 Regulations was a requirement of membership and that non-compliant members could have their membership removed.
- 11.7 The OPSS are aware that not all companies are members of trade associations. The OPSS engages with stakeholders who are not members of trade bodies using trade magazines aimed at small business and sole traders in order to widen their reach and impact.

Distance selling compliance issues

- 11.8 A commonly expressed view among stakeholders was that distance sellers were more likely to sell non-compliant products. This may in part be due to ignorance, or through deliberately not engaging with their legal duties. Regardless, the view was that the current regulatory framework was ill-equipped to encourage compliance for this grouping. It was suggested that there was no mechanism for removing businesses for non-compliance and then prevent the seller from reappearing on the marketplace under another name. There was also a view that these marketplaces should have more responsibilities to ensure that the products sold through them are compliant.
- 11.9 The OPSS highlighted its active programme of market surveillance activities that covers many sectors and includes shops, online platforms, and retailers. It said that it reached out on a regular basis to a cross section of stakeholders and trade bodies to ensure that their work reflects and aligns with current and topical issues. This is further supported by the OPSS Business Reference Panel¹⁰ that meets with a wide cross section of stakeholders on a regular basis. It also responds to complaints and numerous requests for business advice.

Direct impacts and costs

- 11.10 The general view was that once businesses had met the requirements of the relevant Ecodesign implementing measures, there was very little additional cost to complying with the 2010 Regulations. Market surveillance activity was regarded as fair and proportionate, meaning the impacts for businesses were minor overall. There was also a suggestion that the OPSS's business engagement model had had a positive impact, enabling businesses to access support to help them understand and comply with the compliance regime.

¹⁰ <https://www.gov.uk/government/publications/business-reference-panel/brp-terms-of-reference>

Indirect impacts and costs

11.11 The indirect impacts of the 2010 Regulations and their implementation were regarded more negatively. A small number of respondents expressed a concern that the current approach is not sufficiently effective in preventing non-compliance in some sectors, resulting in:

- an uneven economic playing field with compliant businesses losing sales to non-compliant businesses; and
- compliant businesses incurring extra costs as they seek to fund their own market surveillance.

An uneven economic playing field

11.12 A small number of companies raised concerns about there being some level of non-compliance in their sectors, and that this may have had a detrimental impact on their business. These respondents wished to see increased Market Surveillance activities to prevent non-compliant companies gaining an economical advantage by not undertaking the full ambit of testing and checks that complaint businesses undertake. One trade association suggested that non-compliant companies may have a price advantage over compliant ones which created concerns over lost revenue.

Compliant businesses losing sales to non-compliant businesses

11.13 Among the respondents that held concerns about non-compliance, some highlighted that a potential impact of an uneven playing field is the loss of market share for some businesses. One company reported that it had lost sales to non-compliant competitors.

Increased internal market surveillance costs

11.14 A number of trade associations and a company reported that they were undertaking their own increased internal market surveillance activity on a voluntary basis.

Unintentionally non-compliant businesses

11.15 There was a view that some businesses were unintentionally non-compliant. Respondents who made this representation said these were often businesses that were small and lacked the resources to understand, or engage with, the regulatory framework, or businesses that were based outside of the UK.

Suggestions from stakeholders for improving the implementation of the 2010 Regulations

Visibility and transparency

11.16 Recommendations for greater visibility and transparency included:

- Making the application of sanctions against non-complaint companies more visible, both to act as a deterrent and to improve industry confidence in market surveillance procedures.
- Introduce a Communication Plan in order to improve industry confidence in and understanding of market surveillance procedures. This could include reporting on the level on activity conducted (tests, visits, information requests, incidences of non-compliance).

Resourcing and activity

11.17 In relation to increased resourcing and activity, the suggestions for improvement included:

- Increase the OPSS's capacity to carry out more market surveillance activity and testing.
- Consider alternative funding models for market surveillance - for example, using the revenues from fines to fund market surveillance rather than it being funded by the Exchequer.

11.18 The OPSS has an agreed budget with BEIS and recognised that there was always pressure from business for Government agencies to be given more resources. However, they strive to do as much market surveillance as possible within their budget while maintaining a quality service and professionalism.

Shifting the emphasis of market surveillance activity

11.19 There were suggestions that market surveillance could:

- Improve its scrutiny of distance sellers by requiring them to check that the products they are selling are compliant (rather than just acting as a 'neutral' marketplace).
- Focus market surveillance activity on less mainstream businesses, such as those not part of trade associations or smaller companies, who are often less likely to have the resource to engage with ecodesign legislation to the same extent as larger firms.

Mechanisms for improved collaboration

- 11.20 There were also recommendations for enabling improved collaboration between industry and the OPSS by:
- continued/accelerated working between the OPSS and industry to build the OPSS' technical capacity about the products they test
 - enabling the OPSS to act on testing results from certified laboratories conducted by companies.

12. Conclusions

- 12.1 The evidence gathered by this PIR found that the Ecodesign implementing measures have been well enforced. As a consequence, the projected financial and carbon savings are expected to have been largely achieved. The evidence showed that stakeholders' perception of the OPSS' approach to enforcing the implementing measures was risk-based, proportionate and consistent. The PIR gathered evidence from a small number of stakeholders who expressed a desire to see further and increased visibility of the OPSS' enforcement activities.
- 12.2 The Review showed that civil sanctions are an effective and positive lever for reducing the incidence of non-compliance, in line with the objectives of the 2010 Regulations. The evidence gathered showed that the potential damage to a business' reputation from being sanctioned for breaches, contributed to the high level of compliance.
- 12.3 The cost sharing power has not been applied during the review period, so it is not possible to say whether this power has met its objective. The PIR highlighted several barriers to implementing the cost sharing power, which should be explored further with a view to making it more effective in enabling the OPSS to recover the costs of testing from non-complaint businesses.
- 12.4 The PIR also identified challenges in reporting suspected non-compliant products as there did not appear to be a clear process for doing so.

13. Recommendations

- 13.1 In order to increase the visibility of the OPSS' enforcement activities, the OPSS should look to increase the transparency and availability of information about its enforcement activities. This is an activity that does not require amendment to the 2010 Regulations.
- 13.2 Further, to improve the reporting of non-compliance, the PIR recommends that the OPSS makes the process for this more visible and easier to find on its website. This is an activity that does not require amendment to the 2010 Regulations.

- 13.3 The PIR recommends no change to the civil sanctions power as the evidence gathered suggests that it met its objective of incentivising compliance. This part of the 2010 Regulations should therefore be renewed without amendment.
- 13.4 The PIR recommends that BEIS continue to monitor the use and effectiveness of cost sharing powers and if appropriate consider changes in consultation with the OPSS.