

Questions and answers with regard to information on consumer electronics products

Maurizio Iorio, Attorney at Law

In this issue of Market Place, readers will find my answers to some recurring questions posed to me concerning the labelling and information that must accompany consumer electrical and electronic products.

I wish you – as always – a good read!

Q.: Indication of the manufacturer and importer addresses on products

As you know, in order to comply with the various directives, e.g. RED and EMC Directives, both manufacturer and importer are required to indicate their addresses on the product but, where this is not possible, on the packaging or in a document accompanying the radio equipment.

That said, we would like to know if this is to be understood as meaning that we can totally omit to affix the addresses to the product and/or its packaging and include in the packing box a document with the various addresses of the manufacturer and importer.

In addition, since the box for our product is the same for all Europe, if we write the following sentence on the packaging (and then include inside a document indicating the manufacturer's address and the various EU importers' addresses), is this compliant with EU legislation?:

“See inside details for the manufacturer and importers addresses”

A.: I will answer your question by referring to the *2016 Blue Guide*, which addresses this topic in the following paragraphs:

For the Manufacturer:

4.2.2.1. Requirement to indicate name and address for manufacturers

“The manufacturers must indicate the following three elements: their (1) name, (2) registered trade name or registered trademark and (3) the address at which they can be contacted on the product, or, where that is not possible, on its packaging and/or in a document accompanying the product.

The name and address must, as a rule, be affixed to the product. However, it may exceptionally be moved from the product if this rule cannot be followed. This would be justified where affixing it to the product was not possible under reasonable technical or economic conditions excluding however esthetical reasons. It is up to the manufacturer to make this assessment. This assessment has to be done according to the size or nature of the product...”

For the Importer:

4.2.2.2. Requirement to indicate name and address for importers

(...)

“As a rule, the identification and the address of importer must be indicated on the product. Only where it is not possible, the identification and address of the importer may be indicated on the packaging and/or in a document accompanying the product. This may be the case when the importer would have to open the packaging to put his name and address. The additional information from the importer shall not hide the information put on the product by the manufacturer.”

“A website is additional information, but is not enough as contact address...”

As can be seen, it seems that the expression “**where that is not possible**” should be considered in strict terms: e.g., “*that is not possible*” due to the small size of the product or because, as an importer, the same cannot be asked to unpack and repack all products.

In conclusion, the solution proposed by you is apparently not supported by any legally valid objective need and could therefore expose your company to liabilities.

Q.: Operating instructions and safety information: in digital or paper format?

I would like your opinion about the safety documentation that must accompany a Monitor product. In essence, is it acceptable to provide the instructions and safety information for such product only in electronic/digital format on a tangible medium included in its packaging? (CD-ROM in this case). Or must this information necessarily be made available (also) in paper form? In this regard, it seems to us that the relevant legislation (Italian transposition of the new LVD Directive and, in general, the Italian Consumer Code) does not prescribe anything specific about the format or medium on which the information must be provided, as long as this is clear, in Italian and accompanies the product. In addition to this, if not on an optical medium, can this information be included in a user menu accessible from the display, in place of paper documentation?

A.: A clear distinction must be drawn between (a) safety information and (b) instructions on the use of the product. In fact, unlike the **information on product safety**, which should be in paper format, nothing prevents, unless otherwise specified in specific legislation, to provide the **instructions for use** on an IT support or other data storage format that accompanies the product, as long as a hard copy is available upon request by the user.

See the *Blue Guide on the implementation of EU product rules*, published in the Official Journal of the European Union C 272 of 26 July 2016, note No. 100, page C 272/30.

Q.: Google Play and App Store logos

Our company imports and sells electronic fitness bracelets in Italy. We would like to know if we can include the logos shown below in the outer packaging of the product (and also inside the user’s guide) indicating that the product is:

1. **Compatible with Android and/or iOS smartphones**
2. **That the app to be used can be found on the APP Store and/or Playstore.**



A.: -1) The icon with the GOOGLE trademark is NOT of free use and in order to use it (freely) a permission request must be submitted to Google through the following website: <https://www.google.com/permissions/>, whereas

-2) The icon with the APPLE trademark has no protected content and can be used as specified on [https://commons.wikimedia.org/wiki/File:Available_on_the_App_Store_\(black\)_SVG.svg?uselang=en](https://commons.wikimedia.org/wiki/File:Available_on_the_App_Store_(black)_SVG.svg?uselang=en), where are shown the details related to this icon and also confirmed its royalty-free use.

In both cases, even when – under the conditions described above – the use of the images in question is allowed, it is not permitted to give the impression to be part of Apple or Google framework or to have a privileged relationship with the aforesaid companies: it is therefore advisable to specify that *“The Apple and Google trademarks, as well as any other trademarks shown, belong to their legitimate owners”*.

Q.: Indication of the guarantee period in the user’s instructions

Some of our customers have pointed out that there is an obligation to show the guarantee terms (e.g. 2 years etc) in the product instructions.

Is there any document or indication regarding the requirement to specify the guarantee terms in the instructions accompanying the product?

A.: In contrast to what has been reported by your customers, there is no obligation to indicate in any document accompanying the products the 24-month duration of the legal guarantee (provided by the retailer) or that of the conventional guarantee (provided by the manufacturer), which is not mandatory and in respect of which it would be sufficient to refer to the conditions available online.

Rather, there is a consolidated opinion of the AGCM (Italian Competition Authority) according to which, when a manufacturer accompanies a product – even though not obliged to do so – with a conventional guarantee, he is required to unequivocally make clear during the presentation to consumers of such guarantee that it does in no way affect the validity of the legal guarantee provided by the retailer and must also briefly but specifically outline the main features of the different legal guarantee since a generic reference to it is not sufficient.

Q.: Language used for the RED Declaration of Conformity and instructions

We market our products (cellular telephone equipment) in all EU countries. We have drawn up:

(a) EC Declaration of Conformity only in English language;

(b) Instruction manual in 12 languages with the Declaration of Conformity drawn up in summary form in the same 12 languages of the instruction manual.

As regards to point a), we would like to know if what we have prepared is acceptable and, with reference to point (b), if we are required to draw up the instruction manual and the Declaration of Conformity in summary form not only in the 12 languages already covered but in all EU languages.

A.: With regard to the first question, the Declaration of Conformity should be made available in Italian language (see, e.g., Legislative Decree 194/2007 - EMC, Art. 9-bis), while for the other Member States it should be translated into the language or languages required by the Member State concerned (see also Art. R10 (2), Annex I of Decision 768/2008; and Blue Guide 2016, page 58). I would remind that in the case of the RED Directive, a summary copy of the Declaration of Conformity must accompany each product.

As regards the second question, the same principles apply: in Italy the instructions must be in Italian language (see, e.g., Legislative Decree 194/2007 - EMC), while for the other EU countries, existing national legislation must be examined, given that also in this case the EU legislation only specifies that the instructions should be in the language easily understood in the Member State where the products are marketed (see, e.g., Directive 2014/30/EU - EMC Art. 9.4, and Directive 2014/53/EU - RED Art 10.8).

Q.: Address of the entity placing a product on the Italian market

Since we are part of a multinational company, can we just indicate the registered office of our parent company or are we required to include the address of the branch placing the product on the market?

For uniformity sake, we would like to affix directly at the production stage the following sticker (by way of example) to products that will be placed not only on the Italian market:

Imported by XX Group - Registered office address: "XXX Germany"

Is this acceptable or do we need to specify the registered Italian office address if the product is imported and placed on the market by our Italian branch?

A.: Pursuant to Regulation (EC) No 765/2008, Decision No 768/2008/EC and various product directives (e.g., EMC, LVD, RED Directives) the entity who first places the product on the EU market is the Manufacturer (if established in the EU) or (if not) the Importer residing therein.

Consequently: in the case of products placed for the first time on the EU market by your company established in Italy, must be indicated your company based in Italy; in the case of products placed for the first time on the EU market by the German branch, must be indicated the German affiliate company; in the case of products placed for the first time on the EU market by the German branch

and later introduced on the Italian market by the Italian branch, must be indicated the German affiliate company.

Maurizio Iorio, Attorney at Law