

Clarification sheet

European New Legislative Framework (NLF) marking of postal address requirements (incl. LVD, EMC, ATEX) applicable from 20th April 2016.

SUMMARY:

Manufacturer's address

Products must be marked with the postal address at which the manufacturer can be contacted.

Where this is not possible, the manufacturer's address can be on the packaging or in a document accompanying the product.

This address can be either a EU/EEA address or a non-EU/EEA address.

Importer's address

If the address for the manufacturer is a non-EU/EEA address, then the product must also be marked with the postal address at which the importer can be contacted.

Where this is not possible, the importer's address can be on the packaging or in a document accompanying the product.

This address must always be a EU/EEA address.

The new 'blue guide' (April 2016), which is the European Commission's official guide to the application of EU product rules, and takes precedence over other guides, states:

4.2.2.1. The 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 trade mark 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 product¹⁹⁶. Some products e.g. hearing aids, sensors or the like are simply too small to carry such information. In such cases the order of priority is that as a first alternative the information should be on the packaging, as a second alternative on an accompanying document, except for the cases where sectoral Union harmonisation legislation requires the information to be on both the packaging and accompanying documents. The manufacturer has to comply with this obligation regardless of his location (within or outside the EU). This provision implies that products sold without packaging or any accompanying documents, must bear the name and address of the manufacturer on the product itself.

The address must indicate a single point at which the manufacturer can be contacted, in particular by market surveillance authorities. The legal text obliges the manufacturer to put a single contact point on the product. Only one single contact point in each product is allowed. This is not necessarily the address where the manufacturer is actually established. This address can for example be the one of the authorised representative or of the customer services.

The single contact point does not need to be in every Member State where the product is made available. The manufacturer may however put other addresses¹⁹⁷ provided that it is clear which one is the single contact point. The latter is then to be indicated on the product/documentation as the "single contact point". The address or the country does not necessarily have to be translated into the language of the Member State where the

product is made available on the market but the characters of the language used must allow identifying the origin and the name of the company.

A website is additional information, but is not enough as an address. Normally an address consists of a street and number or post-box and number and the postal code and town, but some countries might deviate from this model.

4.2.2.2. The requirement to indicate name and address for importers

Importers must also indicate the following three elements: their (1) name, (2) registered trade name or registered trade mark and (3) the address at which they can be contacted on the product, or, where that is not possible, on its packaging or in a document accompanying the product. The provision refers to an address at which they can be contacted, in particular by market surveillance authorities. This is not necessarily the address where the importer is actually established but can for example be the one of the customer services.

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. Normally an address consists of a street and number or post-box and number and the postal code and town, but some countries might deviate from this model.

The product must always bear the manufacturer's name and address. Imported products must also bear the importer's name and address. Hence, in conclusion, a product normally bears one or two addresses¹⁹⁸:

- If the manufacturer is within the European Union, the product will bear only one (manufacturer's) address as there is no importer involved.

- If the manufacturer (declaring himself as a manufacturer by putting his name and address on the product) is outside the EU and the products are placed on the Union market by an importer, the product will bear two addresses: the one of the manufacturer and the one of the importer.

- If the original manufacturer is outside the EU and the importer places the product on the market under his own name or trademark or modifies the product already placed on the market (in such a way that compliance with the applicable requirements may be affected), the importer is considered the manufacturer. The only address that in this case will figure on the product (or packaging or accompanying document) is the address of the importer who is considered as the manufacturer.¹⁹⁹

200

- If the manufacturer is within the EU (a company located in the EU declaring itself to be a manufacturer by putting its name and address on the product) although the products are manufactured outside the EU, that company is considered to be the manufacturer who places the product on the Union market, even if actual importation is done by another company. In this case there is no importer in the meaning of the importer's definition and it is sufficient to put only the manufacturer's address.

198 In the medical devices sector, the product must also bear the authorised representative's name and address.

199 If the importer is only affixing his name and address and leaves the trademark of the original manufacturer, he remains importer. The address of importer and manufacturer will appear on the product (or packaging or accompanying documents).

200 This is also the case if the manufacturer and importer belong to the same group of companies, and the company based in the EU importing the product into the EU assumes the full manufacturer's responsibility for the product.