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June 20, 2023

Shri Rohit Kumar Singh, IAS
Secretary (CA)
Department of Consumer Affairs

Subject: Recommendations on the issue pertaining to declaration of month and year of manufacture on the packaged commodities and request for appropriate amendments

Respected Sir,

Greetings from MAIT!

At the outset, MAIT extends its heartiest thanks to the DoCA for inviting industry in the subsequent meetings held on 24th May 2023 & 7th June, 2023 under your chairmanship reg declaration of month and year of manufacture on the packaged commodities.

We also appreciate your continuous initiative to accommodate requests made by various industry stakeholders for facilitating ease of doing business and reducing compliance burden, as well as protecting consumer interest.

As instructed by you and your good office during the last meeting, we would like to make the following submission for your kind consideration:

I. Maintain status quo for electronics sector OR exclude imported products from MM/YY of manufacture requirements from the requirements proposed in the amendment dated November 2021

1. Industry supports maintaining the status quo (as was also suggested in the Proposed Amendments) that provides the manufacturers/importers with the option to declare the month and year of “manufacture” or “pre-package” or “import” of the pre-packaged commodities (as opposed to mandating declaration of month and year of manufacture only). The note inviting public consultation for the Proposed Amendments acknowledges that “*various representations were received from industries requesting for extension of date of implementation on the grounds of operational constraints and complying with the new requirements*”. This is because manufacturers/importers, particularly those in the electronics industry, usually import goods/products in bulk quantities from factories (outsourced and in-house) and global supply-chain located in various countries. These products are then packaged, along with the accessories (if any), labelled and stored, in multiple warehouses located in India and are introduced to customers’ locations from the nearest warehouse thereby facilitating faster delivery and ensuring efficiency. Since products are imported in

bulk and stored in warehouses, it is often difficult for businesses to segregate, transport, store such products separately, and determine the month and year of manufacture as this information may not always be readily available for such large quantities. Further, November 2021 Amendment increases the operational and logistical burden on manufacturers and importers, especially those engaged in bulk import of electronic products. This is because, in order to avoid excessive costs related to import and export of goods, products manufactured over a period of time are stored together and subsequently imported as a single consignment. Accordingly, in order to comply the November 2021 Amendment, manufacturers and importers would have to make arrangements to import such products at shorter intervals thereby increasing cost burden on manufacturers/importers or would be required to physically segregate every inventory manufactured in the same year individually based on the month of manufacture to apply the mandatory declarations on the packaging or label as required under Rule 6 of the LMPC Rules. Such a requirement can be eased out by allowing manufacturers/importers to declare the month and year of pre-package or the month and year of import. Accordingly, in the interest of regulatory ease and ease of doing business, it would be beneficial to provide manufacturers/importers with the option to declare the month and year in which a package is 'imported' or 'pre-packed', as opposed to limiting the mandatory declaration requirement to month and year of manufacture, especially for identical products that have been stored together in warehouses or imported in a single consignment.

2. We also understand that the Ministry of Electronics and IT (MeitY) has examined the matter and opined that while the amendment to publish MM/YY of Manufacture may be beneficial in other sectors, however it will create severe challenges for the electronics industry. MeitY has suggested (via inter-ministerial communication) their view for electronics industry to be excluded from the scope of the proposed amendment mandating the declaration MM/YY of Manufacture. Therefore, it is requested that manufacturers/importers, particularly of electronic products should be given the flexibility to use "*Month and year in which the commodity is manufactured or packed or imported*".
3. Further, it is submitted that mandating the declaration of the month and year of manufacture on imported products would require regulatory changes and also create logistical and administrative issues for businesses. As per General Notes regarding Import Policy [ITC (HS)] Classification of Export and Import Items¹ ("**Import Policy**"), all products imported into India are also required to carry declarations including *inter alia*, "*Month and year of packing in which the commodity is manufactured or packed or imported*". As can be noted from the Import Policy, the regulatory processes for importing goods in India have been streamlined with the LMPC Rules allowing manufacturers/importers to declare the month and year of manufacture or import or packaging of products. Accordingly, limiting the requirement to mention the month and year of manufacture would require amending the laws governing the import of goods consequently impacting the overall operations/supply chains leading to delay in introducing products into relevant markets, acting as a market entry barrier and creating ambiguity on regulatory requirements. In light of this, it is submitted that compliance with the November 2021 Amendment could potentially lead importers to opt for a re-packaging facility

¹ Available at <https://content.dgft.gov.in/Website/dgftprod/8bb0976b-c204-4533-b8e6-779708f59e01/GENERAL%20NOTES%20REGARDING%20IMPORT%20POLICY.pdf>.

Also see Page 83, The Customs Manual 2023, available at https://old.cbic.gov.in/resources/htdocs-cbec/deptt_offcr/Customs_Manual_2023.pdf

at manufacturing facilities outside India. This may also result in loss of employment and/or loss of repackaging related businesses/industries within India.

OR

II. Flexibility to allow declaration of month and year of manufacture from a disclosure perspective in a legible and clear manner anywhere on the retail package without PDP and font size requirement, or through a QR code as technically feasible to stakeholders in the sector.

1. It is worth noting that laws and regulations in other jurisdictions require manufacturers to provide limited declarations on the PDP and restrict the applicability of minimum height requirements for letters and numerals to only certain specific mandatory declarations such as the net quantity and not all declarations. For instance, Canada mandates declaring the net quantity of the product on the PDP along with the identity of the pre-packaged product in terms of its common or generic name or in terms of its function, the principal place of business, nature, quality, age, size, material content, composition, geographic origin, performance etc.² Further, the Fair Packaging and Labelling Act of the United States of America prescribes that the statement of net quantity of contents shall be in letters and numerals in a type size established in relation to the area of the PDP.³ Hence, from an ease of doing business perspective, a similar accommodation may be provided under the LMPC Rules requiring declaration of limited information on the PDP and which exempts manufacturers/importers from the PDP and font size requirements under the LMPC Rules in respect of the declaration of the month and year of manufacture.
2. The object of the Legal Metrology Act, 2009 ("**LM Act**") and the rules made thereunder is to ensure public guarantee from the point of view of security and accuracy of information.⁴ Clearly, the intent of the legislature is not to confuse consumers with oversized and lengthy declarations, or to make the compliance requirements onerous, or in some cases categories of consumer electronics (compact devices, including mobile phones and tablets), unviable. Rule 8 of the LMPC Rules mandates displaying the mandatory declarations under Rule 6 of the LMPC Rules on the Principal Display Panel ("**PDP**") of the pre-packaged commodity. Further, Rule 7 of the LMPC Rules stipulates the manner of calculating the PDP area and the font size of numerals and letters of the mandatory declarations. Notably, there are 11 mandatory declarations under Rule 6 of the LMPC Rules that have to be displayed on the PDP including, *inter alia*, the month and year of manufacture or packaging or import. However, it is not always possible or feasible to accommodate all the information on the PDP, particularly in the case of compact products with small packaging. This creates operational challenges for the manufacturers/importers as the unviable PDP dimensions and font size requirements under the LMPC Rules render it difficult to incorporate declarations required by the Bureau of Indian Standards ("**BIS**") and other consumer centric information. This is against the spirit of the consumer-interest intent of the LM Act, which is to give consumers

² See Sections 4 and 10, The Consumer Packaging and Labelling Act. Available at <https://laws-lois.justice.gc.ca/eng/acts/c-38/page-1.html#h-95984>. See Regulations 12 and 13, Consumer Packaging and Labelling Regulations. Available at <https://laws-lois.justice.gc.ca/eng/regulations/C.R.C.%2C.c.417/>

³ Section 500.21(a), Regulations Under Section 4, The Fair Packaging And Labelling Act. Available at <https://www.ecfr.gov/current/title-16/chapter-I/subchapter-E/part-500#500.21>

⁴ Section 2(g), Legal Metrology Act, 2009

all relevant information in a uniform, legible, clear, concise and prominent manner. While it is important to provide the mandatory declarations to consumers, the compliance burden on manufacturers/importers should also be taken into consideration. Accordingly, we request the DoCA to consider the flexibility to declare the date and year of manufacturing anywhere on the retail package without mandating the font size requirements and not requiring declarations to be made on the PDP itself as long as such declaration is provided in a legible and clear manner that is easily accessible to the consumers and exempt manufacturers/importers from the PDP and font size requirements under the LMPC Rules in respect of the declaration of the month and year of manufacture.

3. Notably, the DoCA had, vide a notification dated 14th July 2022⁵ allowed limited use of QR codes for declaring the address of the manufacturer/packer/importer, size and dimension of the commodity, etc. on labels of retail packages under Rule 6 of the LMPC Rules for a period of one year. It is worth noting that other regulations have also adopted digital modes of accessing important regulatory information such as:
 - a. Bureau of Indian Standards (Conformity Assessment Regulations), 2018⁶ read with the BIS Electronic Labelling (e-labelling) Guidelines, 2017 allow devices with an integrated display screen to present the required labelling information including BIS “Standard Mark” electronically in lieu of a physical label on the product.⁷
 - b. The Mandatory Testing and Certification of Telecom Equipment Procedure (“**MTCTE Procedure**”) issued in May 2021 permits “*e-label of TEC Certification in case of Telecom / related ICT equipment with integrated displays in lieu of physical labelling*”.⁸ Additionally, the MTCTE Procedure also allows certain information to be provided in the form of machine readable i.e., two dimensional code (QR code, etc.) in case sufficient space on parts, items or product is not available for marking labelling information.⁹
 - c. Furthermore, under the Consumer Protection (E-Commerce) Rules, 2020, any seller offering goods or services for sale through a marketplace e-commerce entity is required to provide information about the goods and services offered on its platform or website.¹⁰

Hence, based on the regulations outlined above, similar accommodation can be made by the DoCA for providing the “month and year of manufacture” of the product in a legible and clear manner anywhere on the retail package (without PDP and font size requirement) or through a QR Code.

AND

III. Extend the date of implementation of the November 2021 Amendment from July 2023 to January 2025 to implement the above flexibility sought.

5 Available at <https://consumeraffairs.nic.in/sites/default/files/uploads/legal-metrology-acts-rules/Notification%20-%20%20I.egal%20Metrology%20%28QR%20Code%29.pdf>

6 Scheme-II of Schedule-II of Bureau of Indian Standards (Conformity Assessment) Regulations, 2018. Available at https://www.bis.gov.in/wp-content/uploads/2019/03/BIS_CA_12032019.pdf

7 The Electronic Labelling (e-labelling) Guidelines, 2017. Available at https://www.crsbis.in/BIS/app_srv/tdc/gl/docs/E%20LABELLING%20GUIDELINES%20registration.pdf

8 Paragraph 2.0, Annexure D, Mandatory Testing and Certification of Telecom Equipment Procedure, May 2021. Available at https://tec.gov.in/pdf/MTCTE/MTCTE_PROCEDURE_amend.pdf

9 Paragraph 4.0, Annexure D, Mandatory Testing and Certification of Telecom Equipment Procedure, May 2021

10 Rule 6(5), Consumer Protection (E-Commerce) Rules, 2020. Available at <https://consumeraffairs.nic.in/sites/default/files/E%20commerce%20rules.pdf>

1. Manufacturers/importers, particularly of electronic products, usually import goods/products in bulk quantities from factories (outsourced and in-house) located in various countries. These products are then packaged along with the accessories (if any), labelled and stored in warehouses, transported and introduced to customers' locations from the nearest warehouse facilitating faster delivery and ensuring efficiency. Since manufacturers/importers import products in bulk and store them in warehouses, it is often difficult for businesses to segregate, transport, store such products separately, and determine the month and year of manufacture as this information may not always be readily available for such large quantities. Hence, any regulatory change imposed in respect of such products is likely to cause critical global supply chain disruptions, thereby necessitating a longer lead time for adapting to these changes, in respect of segregation, printing of multiple labels with specific month and year of manufacture, and careful affixation of these labels on the inventories, at various worldwide manufacturing facilities and global supply chains.
2. It is submitted that streamlining all the processes for complying with the November 2021 Amendment would impact the overall operations/supply chain of the pre-packaged commodities, including export and import of such commodities, making it difficult for manufacturers/importers to implement these changes in a short period of time leading to huge cost implications and changes in the supply chain, especially for small businesses. We accordingly request you to grant an extension in the date of implementation of the November 2021 Amendment from July 2023 to January 2025, providing a transition period of at least 18 months, to manufacturers/importers to facilitate ease of doing business and supply chain management.

AND

IV. Exclude accessories, from the requirement of mandatory declaration of the month and year of manufacture alone under Rule 6(1)(d) of the LMPC Rules

1. We request that accessories be excluded from the ambit of the mandate to declare the month and year of manufacture and in order to achieve this, we request the insertion of a specific definition of "accessories" in Rule 2 of the LMPC Rules to give effect to the exclusion.

Accessories may be defined under Rule 2 to mean - ***'products that are complementary to the main/core product and support or compliment or add-on to the usage of the main/core product, including spare parts and components and which can also be sold separately'***.

2. Given the nature of these accessories, declaration of information regarding the month and year of manufacture is not warranted given the nature of the products. Further requiring the month and year of manufacture on such retail packages does not elevate consumer interest in any meaningful manner. Consequently, the removal of this information pertaining to the month and year of manufacture for accessories would not have any deleterious effect on consumer awareness. Accordingly, accessories should be exempted from the mandatory requirement of declaring the month and year of manufacture alone. Rather an option to

declare the date of 'pre-package' or 'import' should be provided to the manufacturer/importer. Proposed amendments to Rule 6(1)(d) is suggested below:

Proposed insertion of Proviso to Rule 6(1)(d) – ***“Provided that in relation to accessories the manufacturer/importer shall declare the month and year of pre-package or month and year of import or month and year of manufacture”.***

AND

V. Exemption for spare parts, from application of sub-clause 6(1)d of LM Packaged Commodity Rules

1. The electronics industry has supported the Ministry of Consumer Affairs in implementing various consumer-friendly initiatives. This has included compliance with LM Packaged Commodity Rules, as amended from time to time. The amendment to LM Packaged Commodity Rules vide GSR 779(E) dated 2nd November, 2021 contains the following modification to sub-clause 6(1)d, which omits the words “pre-packed or imported”: The month and year in which the commodity is manufactured or pre-packed or imported shall be mentioned in the package.
2. In this context, it may kindly be noted that in the electronics sector, service and repair of products forms a small, but extremely significant and customer-centric part of the value chain. Components and spare parts that are used to replace existing, functionally similar components, are often sourced from various factories, and often from multiple countries. The factories that manufacture these spare parts cater to similar requirements around the world, and work to common global standards. The date of manufacturing is not specified for such spare parts, which are used for service and repair purposes.
3. To resolve this issue in a manner that protects the interests of all stakeholders, and is easy to implement on the ground, we suggest that the LM Packaged Commodity rules be suitably updated to include:
 - (a) A succinct definition of “spare parts”, that is sufficiently generic, and specifies clearly that the relevance of “spare parts” is for replacement purposes.
 - (b) A proviso to Sub-Clause 6(1)d, exempting “spare parts” as so defined, from the implementation of the rule.

Placed below are the suggested amendments:

- a) Rule 2. Insert Clause (oa): "Spare parts" means all parts or components which are used as a replacement to identical or functionally similar parts or components within a product.
- b) Proviso to Clause 6(1)d: Provided that nothing in this sub-clause shall apply to "spare parts".

In light of the above and in the interest of ease of doing business and regulatory compliance, our recommendations are as follows:

1. In the interest of ease of regulatory compliance and facilitating ease of doing business, it would be beneficial to continue to provide manufacturers/importers, particularly of electronic products, with the option of declaring the month and year in which a package is 'imported' or 'pre-packed' or 'manufactured' on the package of the commodity, as opposed to limiting the mandatory declaration requirement to month and year of manufacture. **Alternatively**, we request the DoCA to consider relaxing the mandatory requirement of providing the month and year of manufacture for imported products, thereby allowing manufacturers/importers to declare the month and year of 'import' or 'pre-package' on the package of imported products.

OR

2. Permit flexibility to declare month and year of manufacture anywhere on the retail package or through a QR code. Exempt manufacturers/importers from the font-size requirement for displaying the month and year of manufacture of the pre-packaged commodities calculated basis the PDP of such products.

AND

3. In order to implement the above stated flexibility, extend the timeline for the implementation of the November 2021 Amendment from July 1 2023 to January 1 2025 by providing a period of at least 18 months to allow manufacturers/importers to smoothly, implement changes at their manufacturing, and packaging facilities, and streamline all their global supply chain operations required for the implementation of the November 2021 Amendment.

AND

4. Exclude accessories from the requirement of mandatory declaration of the month and year of manufacture as required by the Rule 6(1)(d) of the LMPC Rules by way of amendments to Rule 6(1)(d). Consider introducing a definition for "accessories" of the products under the LMPC Rules. Accessories may be defined under Rule 2 to mean 'products that are complementary to the main/core product and support, or compliment or add-on to the usage of the main/core product, including spare parts and components, and can also be sold separately'.

AND

5. Exemption for spare parts, from application of sub-clause 6(1)d of LM Packaged Commodity Rules. Placed below are the suggested amendments:
 - a) Rule 2. Insert Clause (oa): "Spare parts" means all parts or components which are used as a replacement to identical or functionally similar parts or components within a product.
 - b) Proviso to Clause 6(1)d: Provided that nothing in this sub-clause shall apply to "spare parts".

Your kind consideration will go a long way in ease of doing business in the IT and electronic sector. We continue to ensure that the consumer's interest is protected.

We look forward to receiving positive consideration upon our requests!

Warm regards,

A handwritten signature in purple ink, appearing to read 'Suhail', is written in a cursive style.

Col Suhail Zaidi (Retd)
Director General

CC: Ms. Nidhi Khare, Additional Secretary, Department of Consumer Affairs

CC: Shri Anupam Mishra, Jt. Secretary, Department of Consumer Affairs

CC: Shri Ashutosh Agarwal, Deputy Director (Metrology), Department of Consumer Affairs