POSITION PAPER

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Orgalim position on the cross-cutting aspects of the Ecodesign and Energy Labelling Working Plan 2020-2024

Executive summary

To carry forward the success of the Ecodesign Directive, we recommend that the following **key principles** are respected when developing new sustainability requirements for products:

- An **impact assessment** must always be conducted;
- **Effective enforcement and market surveillance** must be secured to ensure a level playing field;
- New requirements for products must follow the **New Legislative Framework**;
- Ecodesign requirements must continue to be addressed on a **product-by-product** basis. There is no one-size-fits-all solution due to the huge variety of products, different types of uses of the products, etc;
- The **industry should be involved** as early and as fully as possible in the process;
- The **"SMERC" principle** must be applied: requirements must be Specific, Measurable, Enforceable, Relevant and not harm the industry's Competitiveness;
- Requirements must be based on scientific assessment methods through recognised European or ISO /IEC/ITU international **standards**;
- **Double regulation** both at horizontal and product levels **must be avoided**;
- Product requirements should be **technology-neutral.**

As to the **cross-cutting aspects** of the Ecodesign and Energy Labelling Working Plan 2020-2024:

- **Lightweighting** of products is one of the best options for effective design strategy regarding material efficiency. However, there are several limitations to lightweight design.
- We support the good intention of **recycled content but we have several concerns and recommendations.** As long as the price of primary raw materials is significantly lower and the quality and quantities higher than that of secondary materials, we oppose a mandatory use of recycled content in products because there is no market incentive for their use. Recycled content should only focus on a few materials in the products.
- As to the proposed **ecological profile**, data used to measure against this ecological profile must be harmonised at EU level, comparable, available, updated, verifiable and enforceable. Data may vary by product or by sector. There are still open questions about how this will work in practice. We agree that applying Annex I gives the possibility of a more flexible treatment.
- Regarding **durability**, we support the principle of countering "planned obsolescence" on the condition that "planned obsolescence" is defined and that EU standards and guidelines are applied. The durability of a product is a complex concept. Increased product durability means conflicts with other aspects of the product. There is currently no methodology available that would allow a reliable assessment of the durability of products.
- As to **firmware and software**, double regulation must be avoided, the definition of a software clarified, and the responsibilities of the different actors addressed.
- We recommend only having information requirements for recycling activities concerning **scarce materials and critical raw materials,** and double regulation must be avoided.

Introduction and key principles

Orgalim, representing Europe's technology industries providing innovative technology solutions which are underpinning the twin green and digital transitions that can unlock a greener, healthier and more prosperous future for the EU and its citizens, welcomes the opportunity to comment on the Ecodesign and Energy Labelling Working Plan 2020-2024.

Europe's technology industries strongly support the Ecodesign instrument which has delivered for the consumer, the industry and the planet through its holistic approach of minimising life cycle impacts, based on scientific evidence, at the least life cycle cost – setting measurable, enforceable requirements case-by-case in big saving areas. Our industries also support the Ecodesign Directive since it provides an EU harmonised framework in accordance with the New Legislative Framework for setting the Ecodesign requirements on energy-related products, and as such ensures the functioning of the EU Internal Market for these products. Since the Ecodesign Directive entered into force in 2005, our sector has fully embraced the Ecodesign policy by implementing concrete sustainable product measures and therefore contributing to the EU's wider climate and resource policy agenda. The Ecodesign and Energy Labelling measures have been the tools to enhance the energy and resource efficiency of products and to realise almost half of the EU's 2020 energy efficiency target according to the Commission.

To carry forward the success of the Ecodesign Directive, we recommend that the following **key principles** are respected when developing new sustainability requirements for products:

- **An impact assessment** must always be conducted to ensure that the implementation of new Ecodesign requirements will be workable, proportionate and will contribute to a circular economy. There must be proven environmental benefits that exceed the costs to industry.
- **Ensuring effective enforcement and market surveillance** will be of the utmost importance for the success of the application of the new requirements and will be even more necessary in the future to ensure a level playing field.
- **New requirements for products must follow the New Legislative Framework (NLF)** including the application of the CE marking and declaration of conformity. Product requirements must be based on applicable Internal Market regulations, to ensure a level playing field and to adjust relevant provisions to specifically solve uncertainties related to definitions, requirements and responsibilities of the different actors.
- **Ecodesign requirements must continue to be addressed on a product-by-product basis**. Product-by-product assessment must be pursued as there is **no one-size-fits-all solution** due to the huge variety of products and differences between business-to-consumer (B2C) and business-to-business (B2B) products, (industrial products are typically designed for longer life and higher reliability and have a greater variation of use profiles compared to most consumer products. Market conditions are also typically different, including markets for maintenance and repair), different types of uses of the products, different incentive structures, customer behaviour, customer relations, pricing, material composition and market dynamics.
- **The industry should be involved as early and as fully as possible** in the development of new product requirements. The sector know-how is extremely important.
- The **"SMERC" principle** must be applied:
    - **Specific** – requirements must be considered on a product group-specific basis. Even within the same product group and within individual categories of equipment in our sector, the products and their environmental impact differ significantly, especially depending on ambient and operating conditions.
    - **Measurability** – the parameters must be clearly determined and measurement methods must be accurately defined.
    - **Enforceability** – it must be possible to verify and enforce requirements through market surveillance.
    - **Relevance** – new parameters and corresponding requirements must be relevant for the environment, the users and applicable even within the specific life cycle phase(s). There must be evidence of clear and significant potential for improvement. For example, information requirements must have a clear objective and be relevant.
    - **Competitiveness** – there must be no significant negative impact on the industry's competitiveness and the competition must be fair.

- Requirements must be based on scientific assessment methods through recognised European or ISO /IEC/ITU international **standards**.
- **Double regulation** both at horizontal and product levels **must be avoided.**
- Product requirements should be **technology-neutral** to ensure a variety of technology options applicable to sustainable design requirements and choices related to material efficiency.
- Product requirements should **not hinder the development of new innovations, business models and products**. Decisions on technology development, product design and technical requirements must be left to the manufacturers who are the technical experts.

You will find below the views and recommendations from Europe's technology industries on the different proposed **cross-cutting aspects** of the Ecodesign and Energy Labelling Working Plan 2020-2024.

1. Lightweight design

- We emphasise the importance of applying a **product-by-product approach** as requirements on lightweighting of products will depend on the type of products.
- Lightweighting of products, i.e. achieving the same functionality with less material, is one of the best options for effective design strategy regarding material efficiency.
- However, there are **several limitations** to lightweight design:
  - **Lightweight design is not possible for all energy related products.**
  - Reducing material might affect other aspects and functionalities of the products such as such their safety, strength, robustness, durability, reparability, recyclability and energy. Therefore, a **trade-off** regarding these other aspects of the products and consumer choice must be taken into account prior to setting requirements for lightweight design.
  - Different proposed resource efficiency parameters contradict each other. For example, lightweighting could negatively impact product durability. Appliances break more quickly and will have to be replaced more often than products containing weightier, but longer lasting, materials. Another example is that lightweighting design could influence the choices of materials and affect recyclability (impact on WEEE objectives).

2. Recyled content

We support the good intention of recycled content but we have several questions, concerns and recommendations:

- We highlight the importance of applying a **product-by-product and material-by-material approach** as requirements on recycled content will depend on the type of products.
- One of the current barriers for recycled content is that today there is only a small amount of materials being recycled and reused in new products. For example, some materials (e.g. plastics) need a value that makes them attractive to collect and recycle. As long as the price of primary raw materials is significantly lower and the quality and quantities higher than that of secondary materials, we oppose a mandatory use of recycled content in products because there is no market incentive for their use. At present, there is still a lack of a sufficiently available supply of high-quality, certified recyclates that are capable of meeting the regulatory, technical and material requirements of the many different product applications over their service life. Furthermore, there is **no economic incentive to use recyclates**. Since there is an issue with the quality and quantity of recyclates available on the market, the industry faces problems sourcing recycled material. It is very important that policy makers concentrate on these greater barriers.
- It is not possible for our industries with complex products to provide information about the recycled content of each material present in our products because only materials suppliers have this information, not the manufacturers. We do not always receive raw materials from the same source. Commodities like steel, copper, silver etc. already include recycled material, but the percentage is not known and varies per product batch. This is

why **recycled content should only focus on a few materials in the products**. This needs to be evaluated for each product category and also for each material.

- Before setting requirements on recycled content, we stress the necessity to take into account the **interface of chemical, product and waste legislation** and the importance of coherent objectives. If this is not the case, our industries will not be able to increase the share of recycled plastics in our products.
- Existing **material efficiency standard** EN 45557:2020 with a general method for assessing the proportion of recycled material content in energy-related products should be used.

3. Ecological profile

- It is important that the **data** used to measure against this ecological profile will be **harmonised at EU level, comparable, available, updated, verifiable and enforceable**.
- **Data may vary by product or by sector**. With global supply chains, an EU-limited approach could lead to the same shortcomings and difficulties experienced currently with the ECHA SCIP database (see more details in Orgalim Position Paper about the SCIP database).
- There are still **open questions** about how this will work in practice; e.g. ownership of the data and dissemination of the data, how to control the data. If the data will come from consultants, it can be costly for companies to gain access to this data, which can also be dispersed and not necessarily recorded in a consistent manner.
- We agree that **applying Annex I**, i.e. setting generic ecodesign requirements based on ecological profiles in those fields of constraints as illustrated below **gives the possibility of a more flexible treatment** with the ability to capture, value and also encourage (future) product specific innovations.
  - Improving the environmental performance of rather complex products and product systems
  - Improving the environmental performance of products with comparably lower environmental impacts and improvement potential / energy savings during use phase but high impacts / improvement potential of raw material extraction, manufacturing and end-of-life phases
  - Improving the overall environmental performance of products with environmentally relevant use of consumables
  - Improving the overall environmental performance of products with mainly indirect environmental impacts; e.g. shifting impacts of the use phase into the cloud-specific requirements as addressed by Annex II of the Directive is likely to have the most certain effectiveness and hence is the most powerful regulatory tool. However, as they remove products with low performances from the market they also require the greatest certainty of net benefit prior to their introduction. In cases where this is challenged by 32 methodological constraints, the major environmental improvement potential of the Ecodesign regulatory framework will not be exploited if this leads to potentially weak implementing measures, only voluntary agreements, or, at the worst, to no regulatory measures for certain product categories at all. On the other hand, applying Annex I, i.e. setting generic ecodesign requirements based on ecological profiles in those fields of constraints as illustrated above, gives the possibility of a more flexible treatment with the ability to capture, value and also encourage (future) product-specific innovations.
- The study contains estimates of possible energy savings. Since some of these estimates could be questioned, we recommend that they be used cautiously and mainly as indicative values. For the product groups and horizontal measures selected for the Working Plan, we recommend that more in-depth studies of potential energy savings should be conducted. Please note that there seems to be **double counting of energy consumption**; energy consumption of motors, energy consumption of fans and compressors (which have built-in electric motors).

4. Durability

- We emphasise the importance of applying a **product-by-product approach** as requirements on durability will depend on the type of products and also on the services offered in conjunction with the products.
- Europe's technology industries, nurturing a long-term reputation and credibility, avoid designing products of short durability. **Planned ageing is not, and cannot be, a long-term sustainable business model**.
- We support the principle of countering "planned obsolescence" on the condition that "planned obsolescence" is defined and that the EU standards and guidelines are applied.

- The durability of a product is **a complex concept** that depends on the design of the product but also on several other aspects such as robustness, reparability, upgradability, maintenance and reuse as well as on the usage of the product by consumers and customers, the way the product was installed, the environment of the products, etc.
- Increased product durability means **conflicts** with other aspects of the product such as lightweighting, energy efficiency, substances substitution and affordability.
- There is currently no **methodology available** that would allow a reliable assessment of the durability of products.

5. Firmware and software

- We emphasise the importance of applying a **product-by-product approach** as requirements on firmware and software will depend on the type of products, types of uses and types of firmwares and softwares.
- **Double regulation** on the matter of software used in products **must be avoided.**
- The question of whether a software is a product should also be clarified.
- The possibilities of upgrading a product via software updates is limited to the capabilities of the host product and related to price.
- It is also important to address the **question of responsibilities of the different actors**. Manufacturers cannot be held responsible for updates (in particular security updates) which have been done by other actors. In addition, the responsibility of a user who refuses to update software should also be addressed.

6. Scarce and critical raw materials

- We recommend only having **only information requirements** for recycling activities concerning these scarce materials and critical raw materials.
- Scarce materials and critical raw materials are already regulated in other regulations. **Double regulation must be avoided.**
- Existing **standard** EN 45558:2019 with a general method of declaring the use of critical raw materials in energy-related products should be used.

Orgalim represents Europe's technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU's largest manufacturing sector, generating annual turnover of €2.126 billion, manufacturing one-third of all European exports and providing 11.326 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.

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