



ORGALIME

# Position Paper

Brussels, 9 April 2018

## OWN INITIATIVE REPORT BY RAPPORTEUR RIES ON ECODESIGN IMPLEMENTATION: Key points of the European industry affected by the Ecodesign Directive today

The Environment Committee of the European Parliament is currently establishing an own initiative report on the implementation of the Ecodesign Directive 2009/125/EC. On behalf of the European industry affected by the Directive in its entirety today, Orgalime would like to provide the following key comments and recommendations:

### EXECUTIVE SUMMARY

- The Ecodesign Directive 2009/125/EC, as set in place in 2005 and revised in 2009, provides the **EU harmonised framework for the setting of ecodesign requirements on energy related products** ("ErP"). As such, it secures the functioning of the EU internal market for energy these products. Upholding the Ecodesign Directive as the environmental product policy tool for the sector in scope today is essential from this point of view.
- **Europe's manufacturing strength lies in quality, performance, skills and innovation**, rather than low-cost or low-value products. The affected industry has therefore been both, supportive of the Ecodesign Directive from the outset and a strong and reliable partner throughout the entire implementation process during the past thirteen years.
- The given criteria of "**minimising life cycle impacts**", "**based on scientific evidence**", "**at least life cycle costs**" and "**setting measurable, enforceable requirements case by case**" in "**big savings areas**" have in our view been the recipe for success and credibility. These should continue to apply for the further implementation on any product parameter.
- We support **improving market surveillance** in line with the proposed market surveillance/goods package, including through more coordination of Member States' activities, a minimum level of surveillance activities or a better link to the existing ICSMS database. Proper market surveillance supports manufacturers' investments and compliance efforts with ecodesign measures.
- **Strengthening the decision-making process**, and adopting implementing measures individually as soon as their preparatory work is finished, would be helpful. The Ecodesign Consultation Forum is in our view an example of Better Regulation: it plays an essential role in bringing together regulators, industry and other stakeholders in the decision-making process to build consensus and credibility in a transparent and inclusive manner.
- **Better consistency of legislative instruments should be pursued**, as we observe the trend of duplication of product requirements in different pieces of EU and national legislation, which negatively impacts the functioning of the internal market and the realisation of environmental objectives. Incorporating the ecolabel criteria as benchmarks in ecodesign would in our view be counterproductive and remove the rewarding effect of the ecolabel. Also, there should remain sufficient room and flexibility for further innovation at the top end.
- Should **the scope of the existing Ecodesign Directive be extended beyond energy related products to more and/or to all products**, the existing framework of the Ecodesign Directive must be maintained for ErP to guarantee legal certainty, investment certainty, and confidence and trust in the market in the ongoing implementation. A separate instrument for other products, which could take the Ecodesign Directive as a model, may be more suitable in such a scenario.

We provide our detailed comments hereafter:

Orgalime, the European Engineering Industries Association, speaks for 42 trade federations representing the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs nearly 11 million people in the EU and in 2016 accounted for some €2,000 billion of output. The industry represents over a quarter of the output of manufactured products and over a third of the manufactured exports of the European Union.

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## **1. Securing the functioning of the EU internal market**

The EU internal market, which has just celebrated its 25<sup>th</sup> anniversary, has been the base for building up our industry's strength: European technology manufacturers represented by Orgalime employ more than 11 million people in Europe and employment figures are rising. Companies of our industries are more often than not global technology leaders, such as in energy efficiency, automation or material efficiency technologies.

The core point of the Ecodesign Directive is to **secure the functioning of the EU internal market for energy related products (“ErP”)** through environmental product requirements that are fully harmonised across Member States.

**Upholding the Ecodesign Directive as the environmental product policy tool for the sector in scope today is essential in this respect.**

## **2. Ecodesign implementation to date created a Win-Win for the environment, industry and consumers**

Our industry was supportive of the Ecodesign Directive from the outset, and the instrument is delivering **good results at product level for the environment, the consumer and the industry**: the combined implementation of ecodesign and energy labelling measures by Orgalime's industries contributes to realising almost half of the EU's 2020 energy efficiency target. The annual primary energy saved as a result of these measures is estimated to be more than the annual primary energy consumption of Italy.

The given criteria of “**minimising life cycle impacts**”, “**based on scientific evidence**”, “**at least life cycle costs**” and “**setting measurable, enforceable requirements case by case**” in “**big savings areas**” have in our view been core elements for the success of Ecodesign at an environmental and economic level in the past. They also remain the key recipe for future success, the credibility and consumer acceptance of any further product requirement, including on any other parameters than energy performance in the use phase.

The European engineering industries remain committed to continuously improving the environmental performance of products from a life cycle perspective.

## **3. Aspects of the draft report that would further strengthen the Ecodesign Directive and improve coherence with other legislative instruments**

### **3.1 Improving Market Surveillance**

Orgalime welcomes amendments in the draft report that support **improving market surveillance in line with the proposed Market Surveillance/Goods Package**, including through more coordination of Member States' activities, a minimum level of surveillance activities or a better link to the existing ICSMS database.

However, we believe that pre-marketing third-party certification services cannot replace physical market surveillance and enforcement activities, while extending the scope of the new energy labelling product database (EPREL) to all ecodesign regulations is too premature at this stage. The EPREL database foresees a compliance interface with the objective of strengthening market surveillance, however its limits are already becoming evident. Conformity assessment databases cannot be a replacement for physical market surveillance activities - these remain the only effective means to detect free-riders and to support manufacturers' compliance efforts and investments.

Regarding the proposal to establish “digital product passports”, the draft report remains too vague at this stage for us to be in a position to provide a positive recommendation. If it meant attaching a QR-code or similar to products subject to an energy labelling implementation measure, such “passports” are already underway and there would be no further need to include the proposal in this report. Double regulation should be avoided. If another concept were under debate, more clarification would be necessary.

We insist that product information requirements, whatever the form, should be

- meaningful and easy-to-understand to deliver concrete and tangible environmental results, and
- respecting European Intellectual Property Rights to protect confidential business-data and know how.

There should also be a clarification of what third parties are allowed to do or not to do with data derived from EPREL and their liability in case of erroneous application or misuse/misinformation of the consumer.

### 3.2 Strengthening the decision-making process

The draft report contains important suggestions to **strengthen the decision-making process**, including proposals for adopting implementing measures individually as soon as their preparatory work is finished. We support these proposals. Without such steps, many measures may well be outdated at the moment they are adopted and industry's serious implementation work risks being undermined.

**Voluntary agreements should in our view remain an alternative to implementing measures**, since the Framework Directive is designed as a toolbox of different means, legislative and non-legislative, for promoting ecodesign on a large variety of different products. Also, this approach is consistent with the recent call made by the Commission in the new Plastics Strategy for voluntary industry pledges on recycled contents or recyclability of products.

If more recycled contents are to be used in new products, improving the quality of secondary raw materials should be prioritised. Their **quality** has to be such that the technological needs of a product are satisfied, including that product manufacturers remain in a position to comply with the applicable product legislation, such as relevant substance restrictions or energy efficiency legislation. Besides these quality aspects, there is to date no methodology to reliably measure recycled contents in products.

In general, we support amendments that aim at helping to **create a competitive market for raw materials** as the basis for further market driven take up in products.

### 3.3 Strengthening science based implementation and better consistency with other legislative instruments

The draft report includes important proposals that **strengthen a science based, product group specific implementation on different product parameters from a life cycle perspective**. This is in the interest of protecting consumers and European industry from undesired consequences. In particular, safety, health or product functionality must not be compromised by end-of-life requirements.

Finally, we welcome amendments that promote **better consistency and convergence** between ecodesign regulations and other EU legislative instruments (see entry 5).

#### **4. Scope extension to more products**

Some amendments suggest **extending the scope of the existing Ecodesign Directive beyond energy related products to more and/or to all products**. Should this way forward be pursued, the existing framework of the Ecodesign Directive must be maintained for energy related products to guarantee legal certainty, investment certainty, and confidence and trust in the market in the ongoing implementation. A separate instrument for other products, which could take the Ecodesign Directive as a model, may be more suitable in such a scenario.

#### **5. Addressing more product parameters in ecodesign implementation**

Industry together with other stakeholder groups is already actively engaging in the work of European standardisation organisations to develop generic standards related to material efficiency aspects following the respective Commission standardisation mandate of 2016. This work includes the aspects of recyclability, recoverability and reusability, durability, reversible disassembly and end of life extraction time for any product group listed in Article 16 of the Ecodesign Directive. These product parameters are now systematically assessed in ecodesign implementation to identify possible requirements, which however need to be measurable and enforceable while beneficial for consumers from a life cycle perspective.

Nevertheless, Orgalime is observing a trend of undermining the internal market through shifting product legislation to the national level. This presents a major political challenge to this key EU achievement.

**With respect to improving legislative consistency for the electrical and electronic equipment (EEE) sector, and the RoHS Directive 2011/65/EU, the REACH Regulation 1907/2006 and the Ecodesign Directive in particular, we suggest the following:**

- the implementation process of the Ecodesign Directive should assess the use and relevance of hazardous substances for a particular product group, as it has been done under the ongoing implementation.
- In case the preparatory study demonstrates that the use of a specific substance in a given product category fulfils the criteria of the Ecodesign Directive for setting requirements, the relevant substance restriction should be adopted under the REACH Regulation or, where relevant, under the RoHS Directive in full coherence with the REACH Regulation. There should be:
  - one common substance evaluation for REACH and RoHS implementation based on, inter alia, on risk, the availability of reliable substitutes and technical feasibility of substitution; and
  - sufficiently long compliance deadlines on a case by case basis.
- This is an area where there is an increasing trend of duplicating regulation through different legislative instruments (RoHS, REACH, Ecodesign, WEEE, Waste Directive), which needs consolidation. The Ecodesign Directive provides a holistic, fully harmonised framework for setting ecodesign requirements for our sector on any environmental parameter throughout the life cycle, and that should remain the case. The given other legislative instruments should take the findings of the ecodesign process fully into account.

**Setting requirements targeted to the specific case** (thus product-group by product-group) ensures workable, meaningful and enforceable requirements. Mixing different product groups into one lot (horizontal requirements) has demonstrated significant drawbacks such as time-delays or a failure to conclude on any requirement, and should not be promoted.

Where a product group and its parameters have been evaluated, **implementing measures should also spell out the areas for which it has been concluded that no ecodesign requirement is justified**, as article 15.6 of the Directive suggests. To secure the functioning of the internal market, this existing provision needs to be applied in the future.

Some amendments suggest a “**top runner**” approach in Ecodesign and/or a better link with the **Ecolabel Regulation**: Orgalime believes that today’s triangle of ecodesign measures to cut off the least performing products from the market, energy labelling to inform the market about the various levels of product performance and ecolabelling as the tool to reward top performing products, has created synergies and effective results in the market. Incorporating the ecolabel criteria as benchmarks in ecodesign would in our view be counterproductive and remove the rewarding effect of the ecolabel. Ecodesign benchmarks should be ambitious but remain achievable. Also, there should remain sufficient room and flexibility at the top end for further innovation possibilities.

**Consequently, we recommend to adopt the following amendments:**

33, 41, 43, 44, 47, 48, 49, 50, 53, 54, 58, 63, 68, 72, 75, 76, 78, 79, 82, 85, 88, 89, 90, 101 (instead of 71, 73 and 148), 114, 116, 117, 124, 125, 134, 137, 140, 146, 159, 165, 166, 167, 168, 170, 179, 180, 181, 182, 184, 188, 190 and 196.

**The following amendments should be rejected:**

39, 40, 65, 73, 83, 87, 91, 100, 105-108, 111, 112, 115, 119, 130, 147, 153, 160, 161, 167, 169, 173-178, 180, 191, 193 and 197.

## 6. CONCLUSIONS

European industry remains committed to be a serious partner in ecodesign implementation - **Europe’s manufacturing strength lies in quality, performance, skills and innovation**, rather than low-cost or low-value products.

A **science based implementation** will secure the value, credibility and acceptance of the Ecodesign Directive by all stakeholders. Shifting environmental burdens from one life cycle stage to another at the expense of Europe’s high level of consumer, health or environmental protection or at the expense of European industry’s innovation and competitiveness edge would not do so.

Finally, to turn the ongoing and irreversible energy, digital and circular economy transitions into an opportunity for Europe, it is important to acknowledge that **the future is about the “eco-operation of systems”** rather than the eco-design of standalone products. Most of the further savings potentials lie at the systems level and the operation and management of ever more connected devices within systems, such as buildings, transport, industry or energy infrastructures.

Therefore, we believe that effectively **managing and optimising the use of our resources**, be they energy, raw materials, water, chemicals or other, throughout the life cycle and throughout the economy should be Europe’s priority - the best resource remains the one that is not used at all.

Looking forward, important tools and actions to tap into these system savings potentials are an ambitious review of Directives 2012/27/EU (EED) and 2010/31/EU (EPBD) and more investment into waste management infrastructures in support of a Circular Economy to develop bottom up and stir systemic change throughout the economy.

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