

Brussels, 5 November 2015

COMMENTS ON COMMISSION WORKING DOCUMENT ON ECODESIGN WORKING PLAN 2015-2017

Orgalime thanks the European Commission for the possibility to comment on the Commission working document on Working Plan 3 under Directive 2009/125/EU, though we regret that, in contrast to the preparatory work on previous working plans, **no information has been provided regarding its underlying methodology, data, assumptions or changes that occurred in comparison to the draft preparatory study** so as to facilitate an in-depth analysis and true assessment by members of the Forum, including Orgalime.

Such information would have been particularly relevant, since industry's own assessments of energy and resource efficiency savings potentials for the listed 16 new candidate groups more often than not differ from the Commission's given figures and resource efficiency rankings.

In general, Orgalime recommends establishing **common rules for the estimation of "other environmental impacts"** before any study (Lot) is started. These rules should be commonly agreed upon, commented and accepted by the Consultation Forum.

Working Plan 3 should be the opportunity to consolidate the pending work on open lots and reviews: It should identify the remaining open lots from all previous working plans and list those unfinished lots in one consolidated list as priority work items. There are still product groups from the very first priority list included in the initial 2005 Directive, which are not yet concluded; the same applies for product groups listed on Working Plans 1 and 2. Working Plan 3 should therefore be used as the opportunity to coordinate these remaining tasks through one consolidated list.

We further-on provide more specific comments to the seven questions raised in the Commission's consultation document:

QUESTION 1: From the list established by the preparatory study, what products should in your view be included in the new Ecodesign Working Plan for the years 2015-2017 and why?

Orgalime response:

The identification of new products for the new Working Plan, as was the case for previous ones, needs to be science-based, supported by reliable data and in application of a Life Cycle approach to ensure the minimisation of life cycle impacts of products. There needs to be a real case when adding a new product to the Working Plan.

Regarding the suggested list of 16 products, we lack evidence, including background information, on how "other environmental impacts" have been taken into consideration and led to a ranking of "+" to "+++". This would, however, be a pre-condition for identifying priority products. The draft preparatory study as such has so far been characterised by a lack of data, non-representative data, insufficiently science-based data resulting in many simplistic assumptions and contradictions. It is therefore not possible for us to name new priority groups.

Orgalime, the European Engineering Industries Association, speaks for 43 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 24 European countries. The industry employs some 10.3 million people in the EU and in 2014 accounted for more than €1,825 billion of annual output. The industry accounts for over a quarter of manufacturing output and a third of the manufactured exports of the European Union.

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<p>Regarding additional requirements beyond energy, we have concerns on market surveillance and enforcement, which are already the weak point today. Member States claim to have no resources and the Commission is not taking a sufficient lead in ensuring that existing measures are implemented, as might be expected in the context of better regulation, which is meant to be a central part of the Commission's approach today. A product database, as proposed under the Commission's proposal for a new Energy Labelling Framework, cannot replace the need for physical checks. Any requirement must be enforceable and supported by proper standards. Efforts should therefore be first put into ensuring appropriate market surveillance and enforcement structures. An ambitious working plan needs to go hand in hand with a guarantee that Member States are able to and will deal with market surveillance and enforcement appropriately.</p> <p>Overall, the criteria of Ecodesign Directive of article 15 (significant volume of sales, units placed on the market, improvement potential etc.) need to be respected when deciding on Working Plan 3, which is not the case for all the given candidates either. We would expect the Commission to base any proposals in full compliance with the regulatory framework.</p> <p>The overall focus of Working Plan3 should in our view be on finishing open lots before starting new ones. Data will be obsolete if new issues are opened while pending ones are not finalised.</p>
<p>QUESTION 2: What products should not be included and why?</p>
<p><u>Orgalime response:</u> Products for which scientific evidence, data and proof of significant improvement potentials remain weak, should not be included. Common rules for the estimation of "other environmental impacts" should be developed and agreed upon in the Consultation Forum before any study (Lot) is started.</p>
<p>QUESTION 3: What would be the best approach for products that deliver energy efficiency but where this improvement is not related to the intrinsic energy efficiency of the product itself, such as building automation and control systems?</p>
<p><u>Orgalime response:</u> This question refers to the issue of how to best tackle system savings in the future: Orgalime sees limits of the Ecodesign Directive to tackle system savings successfully. Case by case decisions may be required, while Orgalime generally favours carrying forward the success of the Ecodesign Directive through the Energy Efficiency Directive and the Energy Performance of Buildings Directive, particularly for building automation and control systems, which are better suited to a systems approach. Single ecodesign regulation would not be successful because the product's performance depend on the whole system. For example, the building itself influences the type and efficiency of the single product in the system, such as windows, heating systems, or controls. Therefore, a comprehensive system approach is necessary.</p>
<p>QUESTION 4: What would be the best policy approach to tackle ICT products, such as smart phones?</p>
<p><u>Orgalime response:</u> Requirements have to be measureable, enforceable and supported by standards. Carrying out a study on how to best regulate ICT equipment is supported.</p>
<p>QUESTION 5: How can Ecodesign contribute to a more circular economy?</p>
<p><u>Orgalime response:</u> The debate on how ecodesign can contribute to a more circular economy needs to be held in a wider policy context and with much more differentiation between different products, especially Business-to-Business (B2B) and Business-to-Consumers (B2C) products. Orgalime questions how Ecodesign can contribute if proper waste framework conditions and system boundaries are not set and/or applied. For example:</p> <ul style="list-style-type: none"> ○ 2/3 of waste electrical and electronic equipment (WEEE) leak from producer responsibility schemes and are handled by new entrants/other actors than producers due to the economic value of WEEE for operators outside official WEEE schemes. These new entrants/actors do not fall under the WEEE producer responsibility principle. Therefore how could ecodesign requirements translate into environmental benefits? ○ How can Ecodesign contribute to a more circular economy if products are still landfilled?

- How can Ecodesign contribute to a more circular economy if products are still illegally shipped outside Europe?

In addition, how can Ecodesign contribute if enforceability of requirements and market surveillance remain weak?

How can Ecodesign contribute if consumer acceptance, especially in the B2C sector is not clear? Consumers are not necessarily interested in second hand products.

It is in our view that the Ecodesign Directive contributes in a most sustainable way to a more circular, resource efficient economy (economically, environmentally and socially) through minimising life cycle impacts.

The success of the instrument lies in its science based and holistic approach by balancing environmental, social and economic aspects from a life cycle perspective. This needs to be further pursued in the future to maintain the credibility of the instrument for both, the affected industry and consumers. This is fundamentally a question of good regulatory governance and of effectively mainstreaming competitiveness of industry into all policy areas as adopted by Council conclusions.

QUESTION 6: What product specific or horizontal requirements under Ecodesign would you support, for instance to improve the durability and reparability of products and make it easier to reuse or recycle materials contained in them?

Orgalime response:

Horizontal requirements would be too heterogeneous, not sufficiently adapted to the individual case or taking into account different product specificities and characteristics. They should not be pursued. We particularly do not support horizontal measures on durability, recyclability or reparability under Ecodesign given the wide disparity of different products targeted by the Directive.

We wonder what a horizontal requirement for "durability" for example would look like. It could only be qualitative and nevertheless require sector specific substantiation.

We would be supportive, however, towards applying the "repair as produced principle" under Ecodesign Implementing Measures and other EU legislation, notably REACH. It would guarantee access to spare parts and thereby help durability and reparability of products.

Requirements on "recyclability" risk further strengthening the illegal WEEE actors that handle WEEE due to its economic value for actors outside official WEEE schemes and without falling under the WEEE Directive's producer responsibility principle (EPR). The easier it is to dismantle and recycle a product, the more likely it is, due to this WEEE market reality, that producers will not see their product back at the end of life stage.

QUESTION 7: How can market surveillance work to check circular economy aspects, such as durability and reparability?

Orgalime response:

As for any other product parameter, market surveillance and enforcement can only work by carrying out physical testing on physical characteristics inherent to the product.

Proper standards are a prerequisite as are proper waste policy framework conditions.

We feel that it remains premature to include additional resource efficiency parameters into the Working Plan: data, methodologies and standards are missing, requirements risk being unenforceable and this just opens the door to free riding, once again putting at risk the competitiveness of legitimate producers.

For further information, please consult latest ORGALIME Position Papers:

- [Circular Economy 2.0: How it can successfully work for and with European Manufacturing](#) (03.08.2015)
- [Policy Recommendations on Circular Economy Package](#) (27.10.2014)
- [Comments on ErP draft working plan 3](#) (13.11.2014)

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