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**Brussels, 29<sup>th</sup> September 2014**

## **Orgalime comments on the Commission's proposal for a Regulation on Gas Appliances – [COM/2014/0258](#)**

### **Executive summary**

Orgalime welcomes the Commission proposal for a Regulation of the European Parliament and of the Council on appliances burning gaseous fuels (GAR). Although the existing Gas Appliances Directive (GAD [2009/142/EC](#)) has been working satisfactorily so far, this revision sustains its 'New Approach' philosophy. It also outlines a better and clearer definition of the equipment under the scope of the directive, and extends the scope to include new technologies which have flourished over the years.

Orgalime is pleased that its active contribution over the past few years in the preparatory work of the current revision was taken into consideration to some extent. Nevertheless, we are pleased to give hereafter our first opinion on the Commission's proposal.

### **1. Regulation versus a Directive**

Orgalime is pleased that the European Commission has tabled a proposal for a Regulation instead of a Directive. As a representative of European engineering industries, we consider that a Regulation is a better legislative tool for reducing variations in the application and interpretation of the law in the Member States and helping the internal market to operate more efficiently. Furthermore, a more homogeneous application of the legislation will benefit all actors of the supply chain and *in fine*, the European market will become more competitive against its international competitors.

### **2. Call for clarification of the scope of the Gas Appliance Regulation (GAR)**

Orgalime welcomes the fact that the scope of the Regulation does not greatly differ from that of the current Directive, which over the years has proven to work adequately. Nevertheless, we would like to highlight two issues which might raise concern on the application of the Regulation:

- **Further clarification of "industrial use" needed:**

The current scope of the proposal for a Regulation on gas appliances excludes appliances specifically designed for use in industrial processes carried out on

*Orgalime, the European Engineering Industries Association, speaks for 40 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs some 10.3 million people in the EU and in 2013 accounted for some €1,800 billion of annual output. The industry not only represents some 28% of the output of manufactured products but also a third of the manufactured exports of the European Union.*

industrial premises. Although this has also been the case in the current Directive, it might lead to situation where the very same specific product will be falling under the scope of the Gas Appliances Regulation when used in a domestic environment and under the scope of the Machinery Directive (2006/42/EC) when used on industrial premises, such as some bakery equipment. This situation leads to important consequences in terms of conformity assessment procedures and their related cost for companies leading to a potential loss in competitiveness.

Orgalime recommends the European Parliament and the Council to provide a clearer definition of the term 'industrial use' in order to avoid confusion for products which could have a dual use (both domestic and industrial).

A suggested definitive solution would be to have those products which have a dual use to be under the scope of the Gas Appliances Regulation in order to exclude any safety risks.

- **Combustion flue ducts should only be under the Gas Appliance Regulation:**

The Commission's Proposal does not provide a solution to the currently unresolved situation regarding gas appliances including combustion air supply and combustion evacuation ducts. In past [position papers](#) and bilateral meetings Orgalime requested the Commission to find a solution regarding combustion flue ducts, which are extensively used when operating gas appliances. We would like to highlight again that independently of whether the ducts are placed on the market as a single independent duct or as part of a gas appliance, the conditions for placing combustion products evacuation ducts on the market would always be the same with respect to safety conditions.

Therefore, Orgalime recommends that these combustion flue ducts are subject to the requirements of the Gas Appliances Regulation rather than the requirements of the Construction Products Regulation (CPR). CPR certification is only valid for construction works which are permanently incorporated in a building, which is not the case for combustion flue ducts, because the flue function of the appliance is an integral part of the appliance and this function is removed if the appliance itself is removed or not properly installed according to the essential requirements of the Gas Appliance Regulation.

### 3. The systematic CE marking of fittings

One of the objectives of the current proposal, apart from the alignment to the requirements of the New Legislative Framework, is to set clearer definitions and to reduce room for misinterpretation, both at national level but also in the industrial community.

The current Gas Appliances Directive requires manufacturers of fittings to carry out all the conformity assessment procedures necessary to meet the requirements of the Directive, without being obliged to CE-mark their fittings.

Orgalime warmly recommends the CE marking of fittings under the GAR for the following reasons:

- In practice, fittings are already commonly CE-marked although there is no obligation for manufacturers, they do so as this is a logical result of their conformity assessment procedures;
- CE marking the fittings under GAR would only improve harmonisation of technical legislation. Indeed, some other product legislation requires safety components (such as the

Machinery Directive) or safety accessories (such as the Pressure Equipment Directive) to be CE marked;

- CE marking of fittings under the GAR would certainly reduce confusion for manufacturers who have to comply with multiple pieces of legislation that apply to the same equipment

#### 4. Retain the current conformity assessment requirements

Up to now the manufacturer has been obliged to provide the notified body with technical documentation, to enable the latter to carry out its conformity assessment against the legal requirements. This documentation should include a general description of the appliance, conceptual design, manufacturing drawings, test reports, manuals for installation and use, and a list of standards in use to meet the essential requirements of the legislation.

The current Commission proposal (Annex III, 1.3.1.(c) 5) requests the manufacturer to provide notified bodies with any results of design, calculations made and examinations carried out in addition to the current documentation requirements. Although this is in line with Decision 768/2008, this provision is unnecessary and disproportionate.

However, as shown by the current practice, notified bodies do not need to have access to such information to carry out their conformity assessment procedure. Besides, such confidential information is part of manufacturers' industrial know-how and its transfer presents unnecessary piracy risks.

Orgalime therefore recommends removing this very specific requirement, which does not bring any added value for the assessment of the conformity of gas appliances.

#### 5. Establish Product Contact Points on applicable national legislation

During the preparatory discussions between stakeholders and the European Commission in 2010 and 2011, Orgalime stressed the need for better access to the different national regulations on the installation of appliances across all EU Member States.

Orgalime would like to reiterate its suggestion to set up a special institution which would facilitate the exchange of information on differences in applicable national legislation. The institution could take the form of Product Contact Points pursuant to Article 9 of Regulation 764/2008/EC (which is part of the New Legislative Framework package), with the tasks foreseen by Article 10 of the same Regulation: in the case of the Gas Appliances Regulation, Product Contact Points could provide further information about the national legislation in place on installing gas appliances. Such a provision has already been introduced in the Construction Product Regulation and is considered to be a valuable tool for exchanging information.

Orgalime therefore calls on the European Parliament and the Council to introduce a specific article in the final text of the Gas Appliances Regulation to address this matter.

Apart from the above general comments, there are some minor technical issues that Orgalime will share with the three institutions during the ordinary legislative process.

We are confident that the European Parliament and the Council will take on board these issues when discussing with their counterparts and look forward to continuing to contribute to improve this proposal.

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