
Brussels, 20 June 2008

Orgalime comments following the meeting of the EuP Consultation Forum of 28 May 2008

Following the above mentioned meeting, Orgalime would like to underline the importance of a number of aspects and proposals related to the development of the future EuP working plan so as the general discussion held on the implementation of market surveillance:

I. DRAFT EuP WORKING PLAN

- **Orgalime underlines that the nature of the working plan** is to establish an **indicative list** of products that shall, as a next step, be subject of EuP preparatory studies to assess whether or not the selected candidate fulfils the criteria of the Eco Design Directive for establishing an implementing measure (IM) or self regulatory measure. The draft working plan should therefore not preempt the results of the study and impact assessment phases.
The outcome of these future studies and assessments has to remain open, i.e.: the working plan cannot give results of these assessments to come or draw any conclusions for any product group. Paragraph 1, p.8 confirms this and this we support. However, some statements in the draft working plan are contrary to this and should be corrected accordingly, i.e.:
 - p.4: "*The Commission further assessed the 25 A ranked product groups regarding their prioritisation according to the criteria laid down in article 15 of the Eco design Directive ...*".) Also, any figures or arguments given in the table on p. 6-7 for the different candidate product groups cannot be final but have to be subject to a depth assessment during the upcoming study phase.
 - p.1 that prioritises resource efficiency in comparison to other environmental aspects.
- **Draft working plan enters too strongly into the area of B2B** (while for products in buildings and certain transformers action may be positive, addressing machine tools, industrial and laboratory furnaces and ovens, water using equipment should not be in the primary focus). This is a different angle to the products targeted by EuP to date, which was primarily on products that end up with the consumer. B2B equipment has different characteristics (i.e.: relationship between equal business partners where agreements play a fundamental role; example: take back at end of life of an appliance or energy performance, water consumption or other product characteristics of ordered equipment). It raises different concerns and questions: how can production and process related environmental aspects be reliably distinguished (EuP vs. IPPC Directive)? Is the improvement potential indeed in further increasing product requirements or in bringing existing good products into the market? The recently concluded Electra report underlies the second option, i.e.: to place the **focus on replacing today's installed base with existing sustainable products.**
- **ELECTRA findings in a nutshell** conclude that minimum performance requirements (coupled with voluntary benchmarks) can play a role in certain cases, such as electric motors, variable speed drives, lighting systems and appliances, but not always. Electra concludes that the key

relevance for achieving the EU's energy objectives would be on **how to bring existing technologies/appliances to the customer**.

- We acknowledge the difficult task of carrying out the EPTA study, however, we criticise that the chosen approach of reclassifying products listed in the PRODCOM list results in a list of **artificial and extremely broad candidate product groups**. Very different products are clustered within one heading while these bear very different use patterns, technologies, energy consumption, materials or improvement potentials (e.g.: food preparing equipment clusters in the same grouping very different products such as small and large electric and gas-fired ovens, microwave ovens, hobs, grills and coffee and tea machines; or water using equipment is proposed to cluster water cleaning appliances, agricultural and farming machines, water beds and swimming pools). The candidate groups also mix products for domestic use and products for commercial use. This will cause problems at the further implementation process, already at the study level.
- The Eco design Directive targets **products independently from the energy source used** (see article 2.1 Eco Design Directive). This should be fully respected in the implementation process/working plan, which should not promote fuel switching.
- Regarding the third criterion of “**significant potential for improvement**”, the directive reads that it **should not entail excessive costs**. The draft working plan (page 5), however, reduces this to the application of least life cycle cost. LLCC represents the best economic compromise for the consumer in the field of energy, however doesn't take into account industry's competitiveness. This should be corrected.
- Will **SMEs** be able to follow the track? They are much shorter in resources to follow the process. How will the Commission involve SME companies to ensure that measures do not create an imbalance between big and small companies?

MORE DETAILED COMMENTS AND ALTERNATIVE WORDING PROPOSALS:

- **Page 1, draft working plan** states “*The directive facilitates the free movement of energy and resource efficient products across Europe, ...*”. This is erroneous in two ways:
 - Article 1 Eco Design Directive states that “*...the Directive aims at ensuring (rather than facilitating) the free movement of energy using products...*”.
 - Secondly, resource efficiency is not a singled out priority in the Eco design Directive. The Eco Design Directive is on “*energy using products*”, not on “*resource efficient*” products. Also, the study conclusions should be awaited before starting prioritising the relevance of certain environmental parameters against others. The term “*resource efficient*” needs to be deleted.
- **Page 1, draft working plan** states “*The eco design framework allows the consumer to benefit from a combination of better products, energy savings and improved environment.*” This is yet to be demonstrated. We propose to re-word as follows: “*The implementation of the eco design directive should allow the consumer to benefit from a combination of a broad variety and diversity of sustainable products with different technologies at affordable costs, energy savings and an improved environment.*”
- **Page 2, draft working plan** states that “*Implementing measures may also provide that no eco design requirement is necessary for certain parameters.*” This is fully supported by Orgalime in the interest of securing the functioning of the internal market. It is not only of relevance for the

product groups in the list for the second period of EuP implementation, but for any product targeted under EuP.

- **Page 2, draft working plan** states that implementing measures “...shall cover environmentally significant product characteristics, such as energy consumption in the use phase, resource consumption in the production phase, hazardous substances, waste reduction, extension of life time or modular assembling enabling repair or recycling of the product or its components”.
The term “*significant*” shall be removed since bringing evidence to the significance and improvement potential is subject of the preparatory study and impact assessment.“
- **Page 4, draft working plan** states that “an important potential for eco design measures is given by a high potential for better energy input (e.g.: fossil fuels are more efficient for heating applications than electricity)”. This demonstrates a bias against electricity which contravenes article 2.1 Eco Design Directive. This reference should be deleted.
- **Page 4, draft working plan** states that **eco labels** would indicate potential for improvement. In our view these rather indicate environment parameters that could be relevant; however, eco labels are not sufficiently representative to indicate the potential for improvement.
- **Page 4, draft working plan** refers to the criteria of article 15 Eco Design Directive. However, the two sub-criteria of the third criterion of “significant potential for improvement without entailing excessive costs” are dropped (i.e.: a) absence of other relevant Community legislation or failure of market forces to address the issue properly; b) a wide disparity in the environmental performance of EUPs available on the market with equivalent functionality). Why?
 - Page 5, states that “*other Community legislation on Eco Design Measures is absent for the product groups*”, but:
 - A number of ongoing EuP preparatory studies also affect the listed candidates, or parts of them (e.g.: air conditioners and lot 10, refrigeration equipment and lot 13)
 - Other Community legislation on selected environment aspects does exist, i.e.: WEEE/RoHS Directives, and apply to a number of product examples given in the table for some listed candidates (e.g.: microwaves, coffee and tea machines, certain freezing equipment, video recorders, drills, saws or EEE for grinding, cutting, folding unless they are large scale industrial tools machines).
- **Page 5, draft working plan** states that “*at this stage it is assumed that the significant potential for improvement will not entail excessive costs*” and that “*these preliminary assumptions should be investigated by the preparatory studies*”. This however has to be addressed also at the level of the impact assessment.
- Orgalime supports the concerns expressed by stakeholders at the Forum on the proposal for including water using equipment in the working plan. This is to say the least puzzling. This group mixes very different products in one cluster, which is misleading. For water using equipment in agriculture, it is the behaviour of farmers that primarily influences the water consumption and therefore attention should be paid to this aspect in order to realise water savings. For water using equipment for cleaning, which we can only imagine would aim at targeting waste water treatment, we feel that the same arguments are valid as for other industrial equipment. We yet remain to be convinced about the relevance of water beds and swimming pools being included in the working plan.
- We agree with the Commission’s conclusion drawn and presented at the Consultation Forum that escalators, revolving doors, professional hairdryers, compressors and mobile phones

should not be considered priority groups and therefore should not to be included in the future working plan.

II. IMPLEMENTATION OF MARKET SURVEILLANCE

Orgalime generally welcomes any attempt to harmonise market surveillance activities. We fully support the Commission's proposal that the verification procedure for performing the market surveillance checks referred to in Directive 2005/32/EC, Article 3 (2), shall be carried out as set out in harmonised standards, which shall be drawn up under mandate from the Commission to European Standards Bodies in accordance with Directive 98/34/EC.

Including an interim verification procedure in the implementing measure until the reference numbers of harmonised standards have been published in the Official Journal of the European Union could be supported by Orgalime, if in particular the following conditions were met:

- We request regulators NOT to set a unique default horizontal tolerance value applicable for all products since the tolerance value depends on many product characteristics and their specific testing conditions.
- The conformity of products is to be assessed by the manufacturer without any obligation of third party involvement. To avoid possible conflicts in the area of market surveillance caused by dispersion of quality of test laboratories, market surveillance authorities should use only accredited laboratories for their activities in line with the New Legislative Framework, and the Regulation on Accreditation and Market Surveillance more particularly.

Speaking for European engineering, ORGALIME represents 3 industrial branches (electrical & electronic, mechanical engineering and the metal articles & metalworking) that manufacture over 27% of total EU manufacturing output and has 35 member trade federations in 23 European countries. The industry accounted for some 1813 billion euro in 2007. The industry not only represents more than one quarter of the output but also a third of the exports of the EU's manufacturing industries.



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