

**Brussels, 14 February 2012**

## **Orgalime comments on the Draft Working Plan 2012-2014 under the Eco design Directive 2009/125/EC**

### EXECUTIVE SUMMARY

Orgalime fully supports Directive 2009/125/EC, which establishes a framework for the setting of eco design requirements on Energy related Products (ErP) addressing all environmental aspects related to such products from a life cycle perspective.

We are pleased to provide our comments on the Commission's announced implementation programme for the period 2012-2014, as indicated in its Draft Working Plan. Our remarks are based on the experience that our industry, as the main affected sector subject to the Directive and its implementation measures has gained with the Directive so far, and aims at contributing to the **establishment of an ambitious while realistic and workable programme** for the years to come.

Against this background, Orgalime makes the following proposals:

- We urge the Commission to **first complete the ongoing implementation** following earlier working plans and to **improve enforcement** so as to demonstrate the success of the Directive before launching the implementation procedure on new product groups. We particularly regret that those product groups that offer the most relevant environmental improvement potential have not been finalised to date. These groups should be given particular priority.
- We acknowledge that the newly proposed Draft Working Plan for the period 2012-2014 targets less products than the preceding working plans. However, **considering the backlog in the ongoing implementation** under earlier working plans and the fact that soon the first adopted implementation measures will already be subject to a review, the **new Draft Working Plan and its proposed implementation schedule appears somewhat ambitious to us**.
- We call for **avoiding overlaps in the product scopes** of future implementing measures and those arising from revision of existing measures.
- We advocate for an **improved project management** that would target only as many lots as reasonably manageable by regulators given the level of resources: this would avoid cutting necessary compliance deadlines for industry generated by delays in the early stages of preparing implementing measures. This would help improve legal certainty and the relevance of study findings for final implementing measures.
- Product groups **mixing too different products into the same group** (e.g.: smart meters / appliances) **is in our view unworkable and will generate problems further down the implementation process**: ideally, product groups should be so clear that examples are not needed to understand the scope of a targeted lot. This would also help to overcome current delays and in fact speed up implementation.
- Not aggregating very different products into one group will, in our view, also become an issue when discussing the revision of existing implementing measures and the link to possible new implementation measures. A careful approach will be needed here to on the one hand ensure coherence between related product groups while acknowledging their differences in product characteristics and performances.

*Orgalime, the European Engineering Industries Association, speaks for 34 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 22 European countries. The industry employs some 9.7 million people in the EU and in 2010 accounted for some €1,510 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.*

- We call for a **consistent and evidence based (instead political) application of all criteria of article 15 of the Directive** for the further implementation.

*We specify our comments on the Draft Working Plan 2012-2014 hereafter:*

## I. INTRODUCTION

The establishment of the Working Plan for the years 2012-2014 should, in our view, fully tie in with the experience already gained with the implementation of the Eco design Directive, and in particular with the first Working Plan. Consequently, the principles listed hereafter would have to be better taken into account before issuing the Working Plan 2012-2014:

- The Working Plan aims at establishing an indicative list of energy related product groups but should not pre-empt the results of the study and impact assessment phases.
- The product group classification should be more refined, and in particular include clear definitions of product groups that, amongst other, distinguish domestic products from commercial products.  
While it is an essential prerequisite to facilitate the next steps of the implementing process, this distinction has not been made as, for example, the Draft Working Plan still considers power cables without any distinction of their use or smart meters/smart appliances in one product group.
- Product groups already included in the first Working Plan or the Transitional Period should be excluded from the Draft Working Plan. In this respect, we welcome the intention of the Commission to await the outcome of the ongoing regulatory processes and reviews before launching preparatory studies on products included in the conditional list.
- Product groups should be considered independently from the energy source used.
- A very cautious approach should be adopted when assessing potential energy savings in the area of professional goods, in particular for standard industrial equipment and industrial processes: the latter are not products.
- Any aspect of the environmental performance of a product should not be taken in isolation from other environmental aspects: only a truly holistic approach will deliver sustainable solutions, which will allow the EU economy to enjoy the benefits of its drive towards ever more sustainable technologies and products.

We provide further detailed comments on the abovementioned core principles in the Orgalime Position paper “Comments on the study for the Amended Eco design Working Plan” ([www.orgalime.org/Pdf/PP\\_Udate\\_Eco\\_design\\_Working\\_Plan\\_Study\\_Oct11.pdf](http://www.orgalime.org/Pdf/PP_Udate_Eco_design_Working_Plan_Study_Oct11.pdf), 3 October 2011).

## II. General comments on the establishment of the Draft Working Plan 2012-2014

### • Roadmap for the adaptation of the Communication

The Draft Working Plan 2012-2014 is accompanied by an indicative time schedule for its adoption, which Orgalime welcomes.

However, while the Draft Working Plan has been sent to stakeholders on 19 December 2011, the final study reports have been made available 3 weeks later (9 January 2012) on the dedicated website. To facilitate the understanding of the indicative list of products for the Draft Working Plan, the final study reports should have been issued in parallel to the Draft Working Plan.

### • Mechanisms of the Eco design Directive

The Working Plan states that “*the process starts with the identification of broad product groups to be considered as priorities for the adoption of implementing measures. The listed product groups are divided into several lots which correspond to particular types of products*”.

We acknowledge the difficulty of identifying a list of energy related product groups. However, “the identification of broad product groups”, as described as the first step of the mechanism, which mixes rather different product into one group, is in our view not workable; moreover, this only risks causing further implementation problems, including further delays. Clustering very different products under one heading should be avoided as these have very different use patterns, technologies, energy consumption, materials or improvement potentials. For example, very different products, such as small and large electric and gas-fired ovens, microwave ovens, hobs, grills and coffee and tea machines have been clustered in the same product group under first the Working Plan (2009-2011), namely “food preparing equipment”. Experience has shown that such a clustering causes significant problems at least at the implementation stage, if not already at the study level.

- **The state of play**

The Draft Working Plan states that 18 broad indicative product groups have been identified and that 17 implementing measures have been adopted so far (page 4). While the Draft Working Plan indicates that 12 eco design regulations and 5 energy labeling regulations have been adopted, it should be clearly specified that these implementing measures regulate “only” 12 products out of the 37 products targeted so far. The current wording may be understood as if implementing measures have been issued for almost every indicated product group, which is not the case today.

We acknowledge that there is still considerable work underway for the adoption of the remaining implementing measures under earlier working plans. Therefore, Orgalime urges the Commission to focus first on product groups identified so far, including preparatory studies on products that have not yet (even) started (e.g.: lots 27 - 31). The implementation process of the new Draft Working Plan (2012-2014) should not undermine the efforts taken by our industry in contributing to the various ongoing preparatory studies. In particular, the introduction of new product groups should not jeopardize the adoption of long awaited implementation measures, i.e.: eco design regulations on boilers and water heaters. In addition, it should not delay the implementation of an effective market surveillance that is not really operative so far.

Orgalime welcomes statements that the Commission plans to focus on the completion and the implementation of the remaining measures and possible voluntary agreements for product groups identified under the 2005 Eco design Directive as well as the first Working Plan.

The state of play of implementing measures is also accompanied by an indicative time schedule for adoption of the remaining measures and undertaking scheduled reviews, which we find helpful.

- **The indicative list of products**

- **Categorisation of product**

While using instruments that are known by industry is a proper approach in principle, the use of the product categories of the PRODCOM 2009 list in the study on the first Working Plan resulted in a list of artificial and extremely broad candidate product groups. Experience has shown that such a clustering, i.e.: food preparing equipment, leads to problems at later stages of the implementation process. We therefore welcome efforts made in the current VHK study to address this core concern, in particular to improve the categorisation of products on the basis of the primary product function and the assessment of the product group description. A better and consistent definition of products is necessary to facilitate the next steps of the implementing process as well as to foster effective and enforceable legislation as a result.

In addition, the broader context in which a product is used is important. Products for domestic use, products for commercial use and industrial use should not be mixed into one product group. The first Working Plan aggregated products, i.e.: lighting in domestic and tertiary sector, which also confirmed results at the further implementation process, i.e.: the study level. Experience has also shown that the scope interpretation of such a group is led by comparisons with domestic/consumer

market product categories and usage patterns, which are relevant to commercial sector products. Making a clear distinction between domestic, commercial and industrial products at the stage of grouping products would be helpful for establishing effective legislation.

We therefore support the approach taken in the draft VHK study report – to consider the context of the use of a product and, especially, to separate products used in industrial processes from products used in the tertiary/domestic sectors.

- **Eco design assessment criteria**

Orgalime fully supports that the indicative list of energy-related product groups would, as a next step, be subject to dedicated preparatory studies to assess whether or not the selected candidate group fulfils the criteria of the Eco design Directive for establishing an implementing measure or self regulatory measure.

However, the Draft Working Plan (page 6, 5th paragraph) refers only to the third criterion and its first sub-criterion of article 15 of the Eco Design Directive. Why have the other criteria been dropped? In addition to the potential for improvement in terms of the environmental impact, the preparatory studies should assess the volume of sales and trade, the environmental impact and the disparity in the environmental performance of products available on the market. In particular, industry is concerned with what is in our view the often erroneous application of the criterion of “volume of sales and trade/200000 units”: aggregating very different products into one group has repeatedly generated problems during the further implementation process, including time delays, uncertainties of scope or use/development of relevant standards. This is in our view likely to become even more complex for energy related products. Besides, circumventing what were intended to be measures to ensure proportionate legislation can hardly be considered as exemplary in the context of better regulation.

Furthermore, the Draft Working Plan states that “*suggested improvements in environmental performance should be based on lowest life cycle costs to guarantee cost-effectiveness*”. The Eco design Directive specifies that the product shall present significant potential for improvement “*without entailing excessive costs*”, while the Draft Working Plan reduces this to the application of the lowest life cycle cost. LLCC represents the best economic compromise for the consumer in the field of energy; however, it does not take into account industry’s competitiveness. The Draft Working Plan should therefore be corrected accordingly.

- **Indicative product groups**

The Draft Working Plan does not include any explanation on the indicative list of product groups: what kind of product would be included in the list. Such information would, however, be useful to identify the targeted savings potential and possible enterprises, which might be concerned. In particular, some products groups have neither been studied, nor defined in the study on the Amended Working Plan, i.e.: smart appliances/meters. A better definition of products is necessary to understand the scope of a targeted lot and to facilitate the next steps of the implementing process.

The Draft Working Plan does not provide detailed explanation on the inclusion of these product groups. “Large savings potential” does not seem to be enough as explanation, especially for smart meters that have not been investigated in the study on Amended Working Plan.

- **Priority product groups**

Given the massive number of remaining implementing measures to be adopted, Orgalime welcomes the limited number of products included in the priority list of the Draft Working Plan 2012-2014. While fewer products are targeted than in the past, the plan is in our view still too ambitious to be realised in the given time, as implementation on some 25 product groups is still pending and some 11 final implementation measures should soon be subject to a review.

We also therefore do not understand that some products have been included in the priority list, notably smart appliances/meters, although they have not been analysed in the study on the Amended Working Plan.

- **Conditional product groups**

The Amended Working Plan should neither anticipate the outcome of the revision process of implementing measures, nor the results of the ongoing preparatory studies and policy measures. Possible parallel processes related to products that could be considered during the revision of existing or upcoming Eco design measures and new product groups should be avoided.

We therefore welcome the intention of the Commission to await the outcome of the ongoing regulatory processes and reviews before launching preparatory studies on products included in the conditional list. Coherent and consistent Eco design measures without overlapping legislative requirements are the basis for a positive and enforceable legislative framework. On the contrary, overlaps may lead to inconsistent or even contradictory requirements, which become an unbearable burden to manufacturers.

### III. Specific comments on product groups

- **Smart appliances /meters**

We criticise the inclusion of smart appliances/meters as candidate products in this Draft Working Plan as they were not analysed in the study on the Amended Working Plan and as it is consequently unclear what kind of products would be targeted in this group and how their energy savings and environmental improvement potentials has been estimated. Linking smart meters to smart appliances is predicted to bring about energy savings in use; however this is a smart grid *communications* issue for which the Ecodesign “Lot” implementing measure approach is unsuited. Appliances and smart meters cannot be treated in the same group because smart meters are part of a regulated infrastructure and are not purchased nor installed by consumers.

- **Lighting Controls**

It is not clear whether the targeted products are installed controllers or more generally light management overall. The latter is where the real potential lies.

- **Fractional horse power motors under 200W**

Possible parallel processes related to products that could be considered during revisions of existing or upcoming Eco design measures and new product group should be avoided. Therefore, Orgalime requests the Commission to coordinate any possible new activity in the field of motors, especially Fractional HP motors <200W, with the activities already launched on this issue.

In particular, the Commission has launched a standardisation mandate in the field of motors (M/470) currently fulfilled by the standardisation committee CENELEC TC2 until 2014. In addition, the Commission has recently launched new lots, including lot 30 on products outside the scope of the Regulation 640/2009 on electric motors, such as special purpose inverter duty motors, permanent magnet motors, motors cooled by their load (fans). Any new activity in the field of motors, such as Fractional HP motors (<200W), should therefore be postponed until the outcome of the preparatory study and policy measure on lot 30 are available.

*For further information, please contact:*

Sigrid Linher, Environment Manager: [sigrid.linher@orgalime.org](mailto:sigrid.linher@orgalime.org)  
Anne-Claire Rasselet, Adviser: [anne-claire.rasselet@orgalime.org](mailto:anne-claire.rasselet@orgalime.org)