

Brussels, 19 December 2014

COMMENTS ON THE FINAL ECOFYS REPORT ON THE EVALUATION OF THE ENERGY LABELLING AND ECODESIGN DIRECTIVES

In view of the Commission's further proceedings on the ECOFYS technical report evaluating the Energy Labelling (ELD) and Ecodesign Directives (ED), Orgalime would like to provide its comments and recommendations on areas of the report that we support as well as areas that we urge the Commission to reject.

Orgalime agrees with the ECOFYS report findings and recommendations that:

- **It is premature to revise the Ecodesign Directive.** Orgalime remains convinced that the identified shortcomings can be addressed through improved implementation of enforceable, measurable requirements and does not require an opening of the framework directive itself.
- **The Energy Labelling and Ecodesign Directives should not be merged.** A merger of the Ecodesign and Energy Labelling Directives should be contingent on practical and political feasibility, and does not seem conclusive at this stage.
- **Uniform market surveillance procedures are important.** Market surveillance is a horizontal issue, and rules should not be developed for the specific purpose of ED/ELD alone.
- **Transparency on planning of the regulatory process, including a target date for publication, is imperative.** Industry needs regulatory predictability.

However, contrary to the ECOFYS report, Orgalime recommends:

- **Not to establish a product registration database.** A product database is neither feasible nor appropriate from a cost benefit perspective. The database would entail significant legal obligations and administrative burdens for manufacturers, and is no replacement for proper market surveillance and physical checks.
- **To ensure that any further product requirements are measurable and enforceable.** Resource efficiency requirements in EU product policy should not be widely addressed at this stage through the Ecodesign Directive, as the necessary data, underlying methodologies and standards to ensure measurable and enforceable requirements are lacking.

Orgalime, the European Engineering Industries Association, speaks for 41 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 million people in the EU and in 2013 accounted for some €1,700billion of annual output. The industry accounts for over a quarter of manufacturing output and a third of the manufactured exports of the European Union.

- **To tackle the energy saving potential of product systems on a case-to-case basis.** We recommend caution in addressing systems savings through the Ecodesign Directive due to its inherent limitations. Potential system savings should be looked into on a case to case basis, with in-depth studies at the level of individual product groups.
- **Not to extend energy labelling to B2B products.** Orgalime finds that the Energy Label is not fit for B2B/installer-label purposes, considering that professional users have different information needs than what the Energy Label is designed for or able to give.

Orgalime acknowledges the efforts made by ECOFYS in setting up its final evaluation study and thanks the contractors for tabling an, in our view, widely comprehensive final report. We are especially appreciative of the transparent and inclusive consultation process. Nevertheless, we would like to point out that **Orgalime has been misquoted several times in the ECOFYS report, notably on pages 162, 164, 167 and 171. We request these quotes to be corrected (see page 12).**

We specify our comments in the annex.



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ANNEX: Detailed comments on the ECOFYS technical report

ECOFYS final assessment/recommendation (ED = Ecodesign Directive, ELD = Energy Labelling Directive)	Orgalime comment (ED = Ecodesign Directive, ELD = Energy Labelling Directive)
Chapter 2: achieving ELD and ED objectives	
1. The Energy Labelling and Ecodesign Directives are capable of generating substantial savings in a cost-effective manner. Overall, stakeholders support ED and ELD, seeing them as successful, relatively low cost policies to achieve energy savings and contribute to achieving the 2020 energy savings target.	We agree for the ELD. For ED, however, it is too early to draw any definite conclusions, as most requirements have not yet or just recently entered into force.
2. The level of requirements could be raised. Most stakeholder groups agree that, across product groups, the implementing measures and labels have shown ambition that was too low compared to what is technically and economically feasible.	Industry requests evidence of the claim that levels could be raised. There should be no generalisations – the draft report itself states that results vary between different product groups. We see a conflict of this statement with the above findings that both directives could be capable of generating substantial savings cost effectively. Overall, the concept of ED is about cutting off least performing products from the market.
3. The capturing of the full potential of savings is limited in several ways. In general, stakeholders believe the Energy Labelling and Ecodesign Directive have been successful. But there is missed potential as well, due to (1) a lengthy regulatory process (typically a sign of low ambition outcomes), (2) weak enforcement by Member States, (3) reduced energy savings by A+++ labels with lack of integration between ED/ELD and (4) the trend to larger, but more efficient products, can lead to higher consumption.	The concept of ErP is about cutting off least performing products from the market. The criteria of the ED secure overall sustainable results, including affordability of products. The Least Life Cycle Concept ensures a constant upwards trend of the market. We agree that enforcement is weak and should be strengthened for the purpose of ensuring the effectiveness of the ED and mitigating free riding. However, we disagree that the long rule making process per se impedes ambition, and by that same token, cannot identify with the statement that the process is susceptible to “delaying tactics”. On the contrary, lengthy procedures are not synonymous with low ambitions levels, but rather the consequence of the complexity of the product group in question. A case in point being boilers, where all stakeholders (according to the ECOFYS report) agree that the ambition level was correct, notwithstanding the time that it took to agree on the implementing measures.
4. Increased exploitation of the energy saving potential of product systems should continue to receive attention. Product systems are a very relevant case for energy efficiency policies, which could be better exploited (need clearer definition, potentials in general cannot be tapped by regulating the individual components of the system alone, extending the MEErP methodology, using the “extended product approach” and strengthening market surveillance). The conclusion is not to expand the scope of ED and ELD but to better explore existing potentials, coordinate them with other policy tools, and pay ample attention to market surveillance aspects.	We welcome the conclusion that “the definition of a product system is not straightforward”, as there are differences between Member States as to when a product is considered an integrated part of a system. The report proposes to define a product system “as a constellation of individual products where several individual products work together in order to perform a certain function” (examples used are heating, lighting and motor systems). Considering existing definitions of the New Legislative Framework related to systems (e.g.: fixed installation), we mind caution in setting up any new definitions.

	<p>We also agree that product systems do show potential for further energy savings. However, as commented at an earlier stage, we doubt that there will be a “one size fits all” solution. Therefore, a case by case approach must be taken, considering different options, such as applying the “extended product approach” (for motors and pumps), alternative regulatory options (for machinery and other complex products), standardisation or voluntary agreements. We yet remain to be convinced about the appropriateness and effectiveness of the promoted “installer label”, for which experience still needs to be gained.</p>
<p>5. Other environmental impacts could receive more attention. Other environmental impacts, especially resource efficiency requirements, should be strengthened in future Ecodesign requirements, as large improvement potential exists. The conditions for defining Ecodesign Requirements in art. 15 of the Ecodesign Directive should not preclude a strengthening of non-energy aspects; even if such measures are not directly cost-efficient for individual consumers, they can be beneficial for society as a whole.</p>	<p>The study correctly points out that “other environmental impact” under ED has gained increasing attention from regulators and stakeholders. This includes reusability, recyclability, recycled content, use of priority materials, hazardous substances and durability. Orgalime supports the general concept of encompassing all environmental aspects of the whole life cycle. Furthermore, we acknowledge that ECOFYS emphasises the art. 15 ED criteria, namely substantial improvement potential and cost effectiveness, as any new measures must qualify against these criteria. Also, as the study points out, other regulations (e.g. WEEE, RoHS and REACH) already deal with “other environmental impacts”. As such, we do not agree with the finding, that regulation on non-energy aspects should be carried out “even if not directly cost-effective to individual consumers”, but “beneficial for society as a whole” as long as they are at least cost-neutral to the consumer. In this respect, the importance of the aforementioned ED article 15 criteria must be reiterated. Maintaining the balance of cost efficiency and environmental improvement of this Directive is a must for securing the global competitiveness of our sector. Resource efficiency requirements in EU product policy should not be widely addressed at this stage through the Ecodesign Directive, as the necessary data, underlying methodologies and standards to ensure measurable and enforceable requirements are lacking. Also, the assessment that “durability, reparability or recyclability” is “not necessarily” in the direct interest of manufacturers is erroneous. It disregards the continuous efforts of companies across sectors to continuously improve their products performances, including in this area. Moreover, we call for proof of the effectiveness and feasibility before including non-energy aspects into implementing measures or considering non-ErP, such as jewellery and wood and paper products.</p>
<p>6. A review and potential revision of the primary energy factor at the EU level is recommended. Further research and discussion into the use of PEFs within ED and ELD is recommended due to its controversial nature. Proposes to introduce “scale within a scale concept” to further specify the Energy Label.</p>	<p>We advocate for technological neutrality and non-discrimination of different technologies under ED/EL. The ED is a product tool and should not aim to influencing the overall energy policy and energy infrastructures of the Member States. The “scale within a scale” concept appears complex to us, and it risks weakening the objective of easy readability of the energy label.</p>

<p>Chapter 3.1 and 3.2: coherence with other policies</p>	
<p>1. The overall policy framework is coherent and mutually supportive</p> <p>In general, different policies complement each other by addressing different life cycle stages, impacts, actors, or employing different mechanisms. Still, there can be incoherencies for specific products or issues, and there may be losses due to double work in misaligned procedures.</p> <p>Overlaps do not automatically mean that there is double regulation or that the policies are necessarily incoherent. Real conflict occur when there are trade-offs between the objectives of different policies or when regulations are not streamlined. ED and ELD not always well aligned, e.g. timing of tiers (ex. TVs, lack of information sharing).</p> <p>Some stakeholders point out that future material requirements under RoHS and REACH or possible future requirements on resource efficiency (reusability, dismantlability, recoverability, recyclability) might lead to the ban of certain materials which in turn might hamper energy efficiency, however no concrete examples are given.</p> <p>In the EPBD, it could be envisaged to develop a unified European Buildings Certificate that would be coherent with the Energy Label format. The same is true for car labelling, which is currently in a different format in various Member states.</p>	<p>The Ecodesign and Energy Labelling Directives are generally coherent and work well together in terms of having led to the identification of the most significant environmental parameter (notably energy consumption in the use phase) and in addressing the energy efficiency potential of energy using products in the use phase. As regards their implementation, the tiers for ecodesign and energy labelling should be better synchronised to avoid misunderstandings by the consumer.</p> <p>However, other pieces of EU environmental legislation are not coherent with the Ecodesign and Energy Labelling Directives and continue to act in isolation from the (findings of the) Ecodesign Directive. This is especially true for the setting of further substance restrictions under RoHS and/or REACH, which may increasingly interfere with energy efficiency requirements of products. The link to substances and their impact on energy efficiency performance could be better taken into account, while duplication of regulation needs to be avoided.</p> <p>It is however also true for the implementation of the EU's Resource Efficiency Policy, which suggests the setting of additional resource efficiency requirements on products under Ecodesign Directive. Instead of such an approach, a thorough and sound implementation of the Recast WEEE Directive has in our view to be the priority for the implementation of the Resource Efficiency Roadmap. To improve WEEE management, the major challenge is to ensure a proper transposition and implementation of the Recast WEEE Directive (WEEE2), especially in the areas of collection and treatment standards. Improving collection matters significantly, as only about one third of WEEE is coming back in official WEEE management schemes today. The implementation of WEEE treatment standards also matters significantly to improve proper end of life recycling, recovery of WEEE in a fair, non-discriminatory, competitive level playing field. We cannot see the significance of the improvement potentials of the suggested additional resource efficiency requirements (such as on the recyclability, recoverability, dismantability or reusability of products) considering the reality of WEEE management and remaining challenges today, while being concerned about the possible negative impacts of such an approach, including to favour the use of certain raw materials in products against others. Considering that raw material input accounts for some 45% of input costs for manufacturing of engineering products, competitiveness impacts would be imminent.</p> <p>We also see the need for setting clear political priorities considering that different environmental parameters can influence and also conflict with each other, for example:</p>

	<ul style="list-style-type: none"> • Electric motors: the amount of copper used determines possible energy efficiency performance levels • Room air conditioners: the type of refrigerant used influences energy efficiency performance levels • Forcing the use of certain recycled contents (for example: recycled plastics) can conflict with product durability or RoHS substance restrictions • “Design for Recycling” as a priority per se risks undermining energy efficiency improvements (Recycling is an energy intense process which has an energy impact itself, which should be better taken into account, while the energy efficiency of products improves from one generation to the next) • Washing machines: energy and water efficiency levels influence each other <p>We urge to focus on technological product aspects in the sphere of influence/control of the manufacturer, which promise most gains in a cost efficient manner.</p> <p>Such a common understanding of priorities should be consistently implemented throughout different EU regulations.</p> <p>We support developing a unified European Buildings Certificate under the EPBD in coherence with the Energy Label.</p>
<p>2. A merger of Energy Labelling and Ecodesign should be made contingent on considerations of practical and political feasibility.</p> <p>ED and ELD could be merged on the grounds that they are thematically closely related. However, mergers are not so self-evident as legislation differs a lot with respect to scope, objectives, mechanisms. Mergers of policies may be a result of working towards more coherence, but are not in themselves helpful. The question whether to merge or not should be a practical one.</p>	<p>The ECOFYS report outlines different scenarios for merging the ED and ELD together, or even merging all energy efficient related legislation into one single “energy efficiency directive”. However, we concur with the statement that such a merger is not self-evident given the various objectives, scopes and mechanisms of the Directives in question. It follows that we agree that such a merger is not justifiable at the present time. For energy related products, the implementation of the Ecodesign and Energy Labelling Directives should continue to go hand in hand.</p>
<p>3. Integrated workplan, evidence base, and decision procedures.</p> <p>Officially and legally a common Working Plan and Preparatory studies for both ED and ELD could be established.</p> <p>A common evidence base other policies such as Ecolabel, RoHS, the F-Gas regulation, or Construction Product Regulation could be envisaged.</p>	<p>Orgalime does not see the Energy Label as fit for purpose in the area of B2B products, which any integrated work plan should take into account; nor indeed do we see the need of any other label.</p> <p>A unified evidence base for other policies could be helpful. Industry calls for a common understanding of regulators on political priorities and their consistent implementation throughout the different pieces of EU legislation.</p> <p>Article 15.6 of the ED rules that implementing measures may also providing that no Ecodesign requirement is necessary for certain specified Ecodesign parameters referred to in Annex I, Part 1.</p> <p>We advocate for applying this provision in future IMs for any parameter that has been studied but did not qualify for setting ecodesign requirements.</p>
<p>4. Identify potential overlaps early in the process of setting product-related requirements and develop a clear task sharing.</p> <p>Suggests making the Working Plan to be established under ED (art. 16), and the preparatory studies in Annex II, common instruments both for the ED and</p>	<p>Industry calls for a common understanding of regulators on political priorities and their consistent implementation throughout the different pieces of EU legislation.</p>

<p>ELD. This could contribute to a stronger consideration of ELD-aspects in the choice of products. Furthermore, such preparatory studies could provide a common evidence base for other policies such as Ecolabel, RoHS, the F-Gas Regulation or Construction Product Regulation.</p>	
<p>5. When revising, scan existing Implementing Measures and Delegated Acts for specific products for inconsistencies. Every product-specific regulation should be scanned for inconsistencies with other policies, including incoherent requirements, documentation rules, calculation methods etc.</p>	<p>We agree.</p>
<p>6. In the same process issues not covered by the policy framework should be identified, and the extension of the Implementing Measure's coverage could be considered on these grounds</p>	<p>The criteria of article 15 need to be fulfilled for any Ecodesign requirement. Only product design related aspects in the meaning of technological aspects of the product that the manufacturer can control and influence that are measurable and enforceable should be subject to Ecodesign implementation. We ask for a proper application of article 15.6, last paragraph, in the future.</p>
<p>7. Working together to promote top performing products.</p>	<p>We agree.</p>
<p>8. Streamlined conformity assessment and documentation requirements.</p>	<p>Conformity assessments and documentation requirements are streamlined via the New Legislative Framework (technical files, declaration of conformity etc.). We do not see the added value of product passports. Also, we would like to stress the negative impacts of a product database, especially in terms of competitiveness and conflicts with IPR. Technical files contain confidential business data, which should not be made publically available. Article 8 of the Directive correctly establishes module A (self-declaration of the manufacturer) as the standard conformity assessment procedure, which we fully support. It should be maintained, considering the considerable experience with this conformity assessment procedure carried out by manufacturers, which is a core element of the New Legislative Framework and standard procedures, especially in the safety area. It limits economic and administrative burdens of manufacturer while adequately reflecting the fact that the producer remains legally liable for the product that is finally placed on the market. While module A has been set as the standard conformity assessment procedure, article 8 of the Ecodesign Directive furthermore acknowledges the specific case of certain product groups, for which another module than A has already been chosen before (for example boilers). This exceptional case is already acknowledged in article 8 when stating that "<u>Where duly justified and proportionate to the risk, the conformity assessment procedure shall be specified among relevant modules as described in Annex II to Decision No 768/2008/EC</u>". There is however, neither a need, nor a justification to change the standard rule of module A given in the</p>

	<p>framework directive, and especially not for making third party certification the rule instead.</p> <p>In any case, mandatory third party certification can by no means be a replacement for proper market surveillance and enforcement activities.</p>
9. United market surveillance procedures are important	<p>Since no merger is planned now, proposal seems redundant. The EU has general market surveillance rules in place. The remaining issue is practical market surveillance activities and enforcement on the grounds.</p>
Chapter 4: scope expansion	
<p>1. The inclusion of new products in the scope of the Energy Labelling and Ecodesign Directives should be evaluated based on three main issues: necessity, feasibility and added value.</p> <ul style="list-style-type: none"> • No expansion of Ecodesign DI to Non-ErP (is premature; main challenges lie in other phases, notably production phase) • No expansion of EL to Non-ErP • Reevaluation after end of PEF pilots on how it can inform handling Non-ErP • Expand scope of EL to B2B-ErP, but no new parameters to be added at this stage • Case by case decision for expansion to new environmental parameters for ErP (art.15): recommends an IM on mobile phones to tackle RE parameters (removeability at end of life to complement existing requirement of removeability during life time under Batteries Directive); set at least general information requirements and benchmarks on non-energy aspects. 	<p>We agree that an expansion of the scope of the ED and ELD beyond ErP remains premature. We also consider a scope expansion as a risk for the ongoing implementation on ErP.</p> <p>We do not agree with the recommendation to expand the EL to B2B energy related product. We strongly believe that labelling is not the most appropriate tool for providing information in the area of industrial products considering that professional users have different information needs than what the Energy Label is designed for or able to give.</p> <p>For new parameters in ED: we question that these draft recommendations are consistent with the confirmation given in the draft report that the use phase is by far highest impact phase for ErP. We recommend retaining the focus on technological aspects of the product that the manufacturer can control and influence that are measurable and enforceable. Requirements regarding the origin of raw materials should not be envisaged, since not enforceable (if a raw material producer certifies his raw material, control activities should be on him not on producers using certified materials; in case of non-compliance, liability and image damage would be on product manufacturer although he has no power to control claims).</p>
2. For impacts that cannot be verified on the product itself, methodologies for certification covering the entire supply chain would have to be developed.	<p>Any new parameters must not upset the ongoing implementation under the existing MEErP.</p>
3. Using the EcoReport tool for assessing the environmental impacts of non ErPs would require inclusion of more raw materials, their regional origin, and transportation.	<p>Any new parameters must not upset the ongoing implementation under the existing MEErP.</p>
4. For means of transportation by road the existing legal framework (Emissions and CO2 regulations) presents itself as a sufficiently effective option.	<p>No comment.</p>
5. Although measures could be implemented through the Ecodesign Directive, in some cases other existing instruments are better suited to tackle the environmental impacts of non-ErP.	<p>No comment.</p>
Chapter 5: appropriateness of the energy label	

<p>1. The label scale needs to be revised but all options entail rebasing of the current efficiency classes.</p>	<p>We generally agree, however, any such revision must not result in a requirement to re-label products that have been legally placed on the market. Although a rebase of current efficiency classes cannot be avoided, downgrading should take place as “frequent” as possible, since it is confusing for the industry and consumers.</p>
<p>2. Consumer understanding should be the chief concern for future label revisions</p>	<p>One of the EU energy label’s strengths lies in its simplicity: it shows a limited number of key pieces of information in a way that can be very quickly and clearly understood by consumers. The DG Energy study on EU product label options (http://ec.europa.eu/energy/efficiency/studies/doc/2012-12-research-eu-product-label-options.pdf) concluded that the use of an A-G scale is an effective means of communicating different performance ratings. While we support the Energy labelling scheme, we believe that the current energy label framework should be improved to provide sufficiently strong incentives for best performers. The Energy labelling scale needs to be reviewed to be more dynamic and flexible, but also to create the conditions for industry to further invest in innovative technologies.</p> <p>The open scale option needs to be further explored, since it may provide the necessary openness to further technological developments. At the same time, it must not end up in relabeling requirements for products that have been legally placed on the market. Overlaps in the market between old and new classes, such as old ‘A’ and new ‘A’ label, should also be avoided, since this risks confusing consumers.</p> <p>Finally, a sufficient number of classes need to be maintained to differentiate between products and provide clear information to consumers. It is of the utmost importance to ensure comparability, but also sufficient differentiation between the functionalities of products. The label scale should be defined in a way that significantly differentiates products both in terms of energy efficiency and its other key functionalities.</p>
<p>3. There is ample opportunity to build on the success of the present label and further improve its design and scale.</p>	<p>The ELD has been a successful tool. Any changes need to be carefully assessed and tested, including the testing of the understanding of consumers during any transition period from the current label layout to any possible next one, and for further future upgrades under the same layout.</p>
<p>4. It is recommended that the ranking of individual products on the label scale rewards (1) low absolute energy consumption; and (2) the provision of information on low energy user behaviour.</p>	<p>The focus on energy efficiency is one of the strengths of the Energy labeling Directive. Indeed, a focus on energy efficiency allows the taking into account of technical specificities related to the functionality of the product, such as volume and size. This guarantees a balanced and fair way of ranking appliances. On the contrary, absolute consumption would provide a limited range of information about the different performance and characteristics a product can offer, while risking leading to unfair competition and discrimination of larger appliances against smaller ones.</p>
<p>5. The possibility to display additional (environmental and/or cost) information on the energy label should be maintained.</p>	<p>We agree that the possibility to display additional environmental information should be maintained: Identifying additional parameters that could be relevant for a product group requires a case by case approach.</p>

<p>Nevertheless, currently it is suggested not to add new environmental information, monetary information or whole life cycle impacts information on the energy label unless net benefit from doing so. In general, it should be possible to adjust the number of parameters on the label to the needs for individual product groups</p>	<p>In general, we see the potential that the energy label can serve as a tool for providing information on environmental parameters beyond energy efficiency, as already done for a number of areas and product groups. However, this requires a sector by sector approach and must not result in a “one size fits all approach” of trying to converge all environmental information on all parameters into “one overall environmental product performance figure/symbol/label”, as this would be misleading. A parameter that matters to a consumer in one Member State may not necessarily be as relevant for consumers in another Member State.</p> <p>The DG Energy study on EU product label options (http://ec.europa.eu/energy/efficiency/studies/doc/2012-12-research-eu-product-label-options.pdf) shows that consumers’ choices can be affected by other parameters, such as adding a carbon footprint symbol to the current Energy Label. However, the study highlights that a key driver of purchasing decisions is still likely to be the product performance characteristics.</p>
<p>6. ICT offers an interesting potential to convey additional information, and would need to be further explored and tested. For instance, QR codes.</p>	<p>We agree.</p>
<p>7. While the current energy label is clearly understood and highly effective, several options to improve on the current design would be worth investigating.</p>	<p>The given alternative design options require further testing before a conclusion can be drawn.</p>
<p>Chapter 6: effectiveness of the regulatory process</p>	
<p>1. Transparency on planning of the regulatory process, including a target date for publication, is much needed.</p>	<p>We agree.</p>
<p>2. Guidelines for the preparation of ED and ELD measures would support the regulatory process, and would need to be updated frequently to take account of lessons learned.</p>	<p>Such guidelines could perhaps be helpful.</p>
<p>3. Data collection may be improved by timely assessment of data availability, the possible use of engineering analysis whenever empiric data are absent, and a comprehensive product database. database with Ecodesign and Energy Labelling product specification could be established based on information requirements from existing legislation for all regulated products. It is recommended to make it mandatory for manufacturers to supply the required information to the proposed product registration database.</p>	<p>We oppose to the suggestion to create an “EU-wide mandatory product registration database”. This option would be very costly and would cause significant administrative burdens for companies. Such a proposal would run counter to the drive for a simplification of the regulatory environment. In addition, it would not solve the issue of free riders. Although registers are used under EU legislation, notably the Waste Electrical and Electronic Equipment Directive (however for a different purpose than discussed in the draft report for ED/ELD), such an instrument is inappropriate to secure the functioning of the Directives and their enforcement. The suggested database cannot address the key issue, namely that physical market surveillance and enforcement activities need to be carried out.</p>
<p>4. There is a clear need for more and better tools that may help to establish sufficient ambition levels, and several options have been identified in this respect.</p>	<p>Setting the proper level of ambition in our view is an issue of implementation rather than of the framework directive, which in our view is appropriate in terms of results at the level of sustainability.</p>
<p>Taking into account the price and efficiency effects of</p>	<p>Orgalime does not see the need to change the method</p>

<p>technological learning in the Life Cycle cost analysis in a preparatory study, and making better use of benchmarks.</p>	<p>of setting specific eco design requirements. The concept of cutting off least performing products on the basis of LLCC ensures a constant upwards trend of the market. LLCC, as such, also ensures affordability of products for consumers and fair competition. The criteria of the ED/ELD today pursue overall sustainability results, which we support.</p> <p>Overall, the concept of ErP is about cutting off least performing products from the market.</p> <p>Speeding up the process by including mechanisms to automatically adapt the efficiency requirement for a product group is not supported by us. Firstly, assuming a specific path for technology progress and making these assumptions the basis for automatic adaptation risks precluding technology developments, which could not be foreseen. Often it is not possible to determine the level of best not yet available technology. Technology-neutrality would be compromised by limiting the freedom of a product designer to predefined efficiency assumptions.</p> <p>By going beyond the least life-cycle cost, the initial rationale of the Directive, namely to cut off the least performing products in terms of environmental impact from the market, would be questioned. The current status of the Ecodesign Directive already pushes the market in terms of incentivising technology development. If this path was changed, the cost-benefit ratio would possibly lose its balance.</p> <p>Identifying the “Break Even Point” involves also a clash with competition law requirements.</p>
<p>5. For future new products preparatory studies should pay more attention to non-energy aspects. If these aspects do not get regulated in one go, it should at least be considered to define general information requirements in the area and to define benchmarks on those aspects.</p>	<p>Any new aspect tackled for implementation must not undermine the ongoing energy efficiency implementation.</p> <p>We question in how far information requirements could satisfy the criterion of “significant potential for improvement without entailing excessive costs”.</p> <p>Maintaining the balance of cost efficiency and environmental improvement of this Directive is a must for securing the global competitiveness of our sector.</p> <p>In addition, we also see a risk of real duplication of already existing information requirements, in particular article 33 REACH and articles 14 and 15 WEEE.</p>
<p>6. The availability of standards needs be considered early in the process, and market surveillance authorities could have a greater role in their development.</p>	<p>We fully agree.</p>
<p>7. Voluntary Agreements (VA) can be maintained as a policy option, but do not need to have precedence over regulations. Transparency in monitoring is a key factor to evaluate the validity of recognition of the VAs compared to implementation measures. Therefore, it is recommended to finalise Guidelines for Voluntary Agreements and update them when necessary, based on on-going experience with VAs.</p>	<p>VA can provide a more rapid and flexible answer to product performance challenges than regulation and should be maintained as the preferred route, even though only few such agreements are under way under the ED today. Many of the product groups subject to implementing measures today were preceded by effective and successful VAs. This confirms the positive impact of voluntary agreements to drive a market change before legislation may come in place.</p>
<p>Chapter 7: Market surveillance</p>	

General remarks

Before going into the substance of chapter 7, we would like to point out that here are several Orgalime misquotes in this chapter, which we request to be deleted.

- Page 162 §4:

Similarly, more and more internet shops, offering regulated products to EU customers, may be based outside of the EU, making it even more difficult for authorities to reach them. Such cross-border communication with foreign manufacturers and internet shops, possibly through industry associations, should be exercised, possibly (by ORGALIME 2012) including campaigns to inform consumers that there is a risk if they buy products from non-EU/EEA based web sites, which do not indicate whether or not such products comply with EU legislation. The MSA Package (European Commission, 2013, d) highlights that “there must be effective market surveillance along the entire length of the Union’s external borders” and that “Market surveillance authorities shall provide the authorities in charge of external border controls with information on product categories in which a risk has been identified” and plans to facilitate the implementation of “Guidelines for import controls in the area of product safety and compliance”.

- Page 164 §2:

Simplification of procedures and facilitating compliance: One important recommendation (CSES, 2012), despite not mentioned often in the literature, is to negotiate the results of activities with the headquarters of the manufacturer or the supplier chain, asking to undertake remedy actions on a larger scale – for the family of products, for all shops involved, or internationally. Manufacturer associations (eg. ORGALIME 2012, ELC and CELMA 2011, CECED 2012, EPEE 2012, EHI position paper) are asking to be involved in surveillance activities, to provide intelligence, and could be asked to share results of negotiations, if applicable to more members.

- Page 167 § 3:

Product databases are a very practical way of monitoring product specific surveillance activities undertaken by individual authorities. Most stakeholders acknowledged the need for the surveillance database to be available and running (Ecopliant 2013, EPEE b, MSC 2012, ORGALIME 2012). as well as by two member state representatives interviewed, an environmental NGO, and a (heating) industry association’s position papers. This need is also acknowledged by the relevant literature (CSES 2012, CLASP 2011, IEA 2010, ATLETE 2010, Olesen 2013), In addition, over one half of the questionnaire survey respondents would consider such database as very

- Page 162, §4:

Orgalime has not suggested that cross-border communication with foreign manufacturers and internet shops should be exercised. We request this quote to be deleted.

- Page 164, §2:

Orgalime have not asked to be involved in surveillance activities, to provide intelligence nor asked to share results of negotiations. We request this quote to be deleted.

- Page 167, §3:

Orgalime neither endorses nor recognises the need for a surveillance database to be up and running. We request this quote to be deleted.

<p><i>effective or effective, mainly the environmental interest groups, but also the government and surveillance bodies and energy agencies and also one quarter of industry interest groups which have responded to this question.</i></p> <p>- Page 171 §2: <i>Harmonizing penalties: the size of penalties among countries varies substantially, and so does the methodology of determining its size, from the size of the company to the amount of energy lost. The MSA Package proposal (European Commission, 2013, d) states that Member States shall notify the provisions on penalties to the Commission, including any amendments, and shall have regard to the size of the undertakings, and be possibly increased if the relevant economic operator has previously committed a similar infringement. The recommendation made by industry groups (CECED, DIGITALEUROPE, ORGALIME, TechAmerica Europe 2013) is not to define the penalty by the size of the company or its general turnover, but by the seriousness of the infringement, possibly, as other stakeholders put it, by the turnover of the specific product at stake, or the energy lost due to the sale of non-compliant product.</i></p>	<p>- Page 171, §2: Orgalime has not commented on harmonising penalties, and requests this quote to be deleted.</p>
<p>1. Scarce resources are a fundamental obstacle to effective market surveillance activities with Member States and the European Commission. it is recommended to ensure sufficient funding e.g. EU joint enforcement activities aimed at greater harmonization of market surveillance activities, and national government funded programmes recovering the costs of testing from manufacturers of noncompliant products or manufacturers' obligation ("as done for WEEE").</p>	<p>Industry is indeed concerned about the failure to follow up the adoption of IMs through proper market surveillance. This undermines industry's effort. The reference to WEEE is erroneously made in this chapter (see article 23.3 WEEE, which refers to "shipments of used EEE suspected to be WEEE" but does not establish a general financing obligation of market surveillance activities on manufacturers).</p>
<p>2. National market surveillance needs clear rules and precisely planned outcomes and strategies Market Surveillance Package fully applicable to the Energy Label and Ecodesign legislation. Surveillance could be facilitated by simplifying compliance procedures to a "one step procedure" (vs. testing 3 units). Recommended to maintain the option of third party certification for individual product groups, to be evaluated in individual product related legislation processes.</p>	<p>We support the suggestion to define a minimum level of national market surveillance activities in IMs. Improving market surveillance is a horizontal issue beyond ED and ELD and needs horizontal solutions. The one-step procedure is to be further evaluated while 3rd party certification cannot be a replacement of market surveillance. It is an issue of conformity assessment procedure before placing product on the market. Orgalime supports article 8 of the existing ED.</p>
<p>3. EU coordination and cooperation between Member States needs to be enhanced to maximize synergies from individual activities. greater exchange of surveillance plans and results by Member States is recommended. Member States could participate in concerted EU projects. Non-participating (or all) countries could be obliged to at least publish their surveillance results. High level participation of individual authorities in ADCO Energy Label and Ecodesign groups. An EU-wide full use product surveillance database is supported and recommended.</p>	<p>We fully agree concerning EU coordination and cooperation between MS and the aim to have High level participation in ADCO. The Market surveillance Regulation 765/2008 provides national authorities with adequate competences and powers to carry out market surveillance activities. There is room for improving the cross-border cooperation of authorities, as well as the cooperation at the external border of the European Union. Better use of available databases RAPEX and ICSMS would add to effectiveness, too. These are positive elements of the proposal currently under negotiation. Furthermore, more resources are needed to staff market surveillance authorities adequately in order to render market surveillance effective.</p>

<p>4. Energy Label and Ecodesign regulations could better address market surveillance and enforceability.</p> <p>Legal texts should leave little room for misinterpretation and include requirements that are measurable and enforceable. All (new) parameters required to be displayed or documented need to be reasonably practical to measure and verify for Authorities and possible to enforce.</p>	<p>Improving market surveillance is a horizontal issue beyond ED and ELD.</p> <p>No specific rules should be developed under ED/ELD/ for the purpose of ED/ELD “alone”.</p>
<p>Chapter 8: a product registration database</p>	
<p>1. We recommend to establish a product registration database, starting with the elaboration of a detailed feasibility study and programme of requirements for the database.</p> <ul style="list-style-type: none"> • Lessons learned from similar projects in Europe as well as abroad should be taken into account. • It should be discussed and decided if all product groups covered by an energy label and Ecodesign • regulation should automatically be subject to compulsory registration, • The nature and level of detail of the information to be stored will need further consideration, • The scope, targeted user groups and level of access per use group of the database will need • further study. <p>All processes for uploading documents should be as easy as possible for suppliers.</p>	<p>We strongly oppose to the creation of an “EU-wide mandatory product database”. This option would be very costly and would cause significant administrative burdens for companies. Such a proposal would run counter to the drive for a simplification of the regulatory environment. In addition, it would not solve the issue of free riders. Although registers are used under EU legislation, such as the Waste Electrical and Electronic Equipment Directive, such an instrument is inappropriate to secure the functioning of the ED/ELD and their enforcement.</p> <p>A product registration database cannot replace the need for physical market surveillance activities to be carried out.</p>
<p>Chapter 9: Market effects</p>	
<p>1. In general, benefits from Energy Labelling and Ecodesign are perceived to outweigh costs, both for organizations and for society as a whole.</p>	<p>Orgalime has the following general reservations:</p> <p>Implementing ED and EL comes at a cost: Companies: they need to adjust product design, development cycles, production lines, prepare all underlying technical documentation, clean supply chains. Companies are already dedicating resources for the implementation work on some 46 product groups, which also represents a cost.</p> <p>The cost-benefits ration will be more positive:</p> <ul style="list-style-type: none"> • when product requirements are harmonised in the EU AND properly controlled by market surveillance AND, the harmonised standards are adopted, take into account the international perspective of an industry that acts globally. • Current standard conformity assessment procedure (Module A) is a positive element • When the market responds properly (we get signal that market transformation is much slower than estimated, are rebound effects etc.). <p>The cost benefit ratio will however be negatively impacted:</p> <ul style="list-style-type: none"> • when several regulations do not properly interact with each other (for example: WEEE, RoHS, REACH, IED, ED: EL, EED, EPBD)

	<ul style="list-style-type: none"> when political objectives and priorities conflict with each other (EE,-Re-use of certain substances) <p>When the same product group is targeted under several IMs and therefore confusion arises (for example: motors).</p>
2. Overall, Energy Labelling and Ecodesign have had little perceived impact on overall market sizes, market structure, or product choices.	For ELD, we agree. For ED, it is too early to draw a final conclusion.
3. The impact of Energy Labelling and Ecodesign on competitiveness was perceived as positive, in particular for Energy Labelling.	For ELD, we agree. For ED, it is too early to draw a final conclusion.
4. The impact of Energy Labelling and Ecodesign on innovation is perceived positive across product groups.	The science based approach of the framework led to the identification of the real environmental benefit areas in application of life cycle thinking, namely the focus on the use phase and mass standalone products. This supported manufacturers' own innovation efforts in improving energy efficiency performance of products.
5. The impact of Energy Labelling and Ecodesign on small and medium enterprises is mixed.	Generally, it is too early to evaluate the impacts on the competitiveness of SMEs considering the early state of implementation. However, SMEs can certainly be significantly affected by ecodesign measures given their limited human and financial resources to follow, underpin and implement as complex and demanding a process as ecodesign. As the efficiency standards can have a large impact on the product design and its production process as well as availability of parts (for example. more efficient electric motors not fitting into installations / machines requiring updates of the entire machine), it is important for SMEs to be informed and involved early in the process of any upcoming measure. It is practically impossible for SMEs to follow all on-going ErP product regulation due to capacity restraints, especially where products come within the scope of an implementing measure without prior involvement of the industry or industry representation because of late changes in the regulatory process or unintended consequences (for example 1194/2012 special purpose lamps).

