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COMMENTS ON THE STUDY FOR THE AMENDED ECO DESIGN WORKING PLAN

Executive Summary

As producers of all equipment regulated or currently assessed under the Eco design Directive, Orgalime industries are by far the most affected sector. Orgalime fully supports the cradle to grave approach of the Eco design Directive, which addresses all environmental aspects of Energy related Products throughout their whole life cycle. Given the experience that regulators have now gained with this instrument, the upcoming Working Plan should, in our view, be built upon the experience gained with the implementation of the Eco design Directive to date, taking into account the first Working Plan.

The following core principles should, therefore, be taken into account when issuing the Working Plan 2012-2014:

- The Working Plan establishes an indicative list of Energy related product groups but should not pre-empt the results of the study and impact assessment phases.
- Product group classification has to be more sensible, including a proper definition of product groups and a clear distinction between domestic and commercial products.
- Product groups already included in the first Working Plan or the Transitional Period should be excluded.
- Product groups should be considered independently from the energy source used.
- A very careful 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: it is only a truly holistic approach that will deliver sustainable solutions which will allow the EU economy to enjoy the benefits of its drive towards developing sustainable technologies.
- A coherent and consistent EU legislation is crucial to secure the competitiveness of EU industries.

We specify our comments on the draft report Study for the Amended Eco design Working Plan and the Working Plan 2012-2014 hereafter:

Orgalime industries fully support the Directive 2009/125/EC on Eco design requirements for energy related Products, 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.

Orgalime, the European Engineering Industries Association, speaks for 33 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.

The experience already gained with the implementation of the Eco design Directive, in particular with the first Working Plan, should in our view, be used to amend the Working Plan for the years 2012-2014. Therefore, Orgalime would like to underline the importance of a number of aspects and proposals related to the development of the future Eco design Working Plan.

- **Nature and objective of the Working Plan**

Orgalime would like to remind the consultant the nature of the Working Plan, which aims at establishing an indicative list of energy-related product groups. These products would, as a next step, be subject of 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. The Working Plan should therefore not seek to pre-empt the results of the study and impact assessment phases.

The outcome of these future studies and assessments has to remain open. The ongoing study for the Amended Working plan, especially Task 3 and Task 4, intends to carry out an analysis of the market, energy consumption and energy saving potential of products as well as an environmental analysis of the priority products groups identified. However, neither the Working Plan nor outcomes of the study can give results of these assessments to come to any conclusions for any product group.

- **Categorisation of product**

Regarding the classification of products, especially the interpretation of a product “that has an impact on energy consumption”, Orgalime welcomes the approach taken in the second draft report study (pages 20-21) that is based on the concrete energy consumption. Classifying products in two categories: “direct ErP” and “indirect ErP” is clearer and much more understandable than the division of Energy related Product in three groups (active, indirect and passive ErP).

Establishing a list of all Energy related product groups is a difficult task. The chosen approach of using the product categories of the PRODCOM 2009 list, in the study on the first Working Plan, results in a list of artificial and extremely broad candidate product groups. The cluster of very different products under one heading should be avoided as these have very different use patterns, technologies, energy consumption, materials or improvement potentials; as examples, 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 group: food preparing equipment. Experience shows that such a cluster results in problems at later stages of the implementation process, in fact as early as at the study level.

We therefore welcome efforts made in the current VHK study to address this core concern raised on the EPTA study, in particular to improve categorisation of products on basis of the primary product function and the assessment of the product group description.

A better and consistent definition of products is necessary to make easier the next steps of the implementing process as well as to result in an effective and enforceable legislation. The problem of "blurring scopes" as has been experienced with fans should be avoided as much as possible. For example, a product targeted started with fans in buildings in the Working Plan and leaf blowers ended up in the measure!

In addition, the first Working Plan mixed products for domestic use and products for commercial use. This aggregation resulted in problems at the first step of the implementation process that is the study level. Experience shows that the scope interpretation of such 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 and commercial products at the product grouping stage would be helpful in deriving effective legislation.

We therefore support the approach taken in the draft VHK study report in considering the context of use of product and, especially, identify separately products used in industrial processes from ones used in the tertiary / domestic sectors.

- **Scope of the Working Plan**
 - **Product already covered by IMs / ongoing studies**

At the present time, 35 preparatory studies have already been completed or are currently ongoing and further ones are already due to start in the coming months. Many of these preparatory studies resulted in policy measures, while others are ongoing and voluntary agreements are under discussion. The draft study report for the Amended Working Plan states (pages 35-43) that products excluded from the scope of the relevant study or policy instrument, as well as products not yet subject of preparatory studies will be eligible for further investigation. However, product groups already identified under the Transitional Period and the first Working Plan should, in our view, be excluded from further study in view of setting the Amended Working Plan.

Regarding products listed under the Working Plan 2009-2011, but not yet assessed which will, as a next step, be subject of preparatory studies and impact assessment, the outcome of these future studies and assessments has to remain open and the study for the Amended Working Plan cannot therefore draw conclusions.

Some products have been excluded from the scope of the relevant study or policy instrument during the policy process, such as ice cream makers, since the energy improvement potential is too low. Descriptions of product scope in the Working Plan are indicative and are fine-tuned during, first, the study phase and, second, the decision making process. Eco design requirements are coupled with review dates, which are often planned at excessively short intervals. We can therefore reasonably expect that where scope is reduced, those products that are left out of scope during this process may eventually be included after a future revision of the implementing measure or remain out forever for good reasons, i.e. a too low energy improvement potential. Fans with an input power <125W are examples; these products are currently out of scope of Lot 11, but it has already been stated in the approved regulatory text, that consideration will be given to bring these products into the scope of the revised regulation. On the other hand, the draft report cites computer servers, which in fact have been brought into scope of Lot 3 PCs and Displays with respect to internal power supply requirements. In this case, one can reasonably expect that this product group has been dealt with in the expanded Lot 3. The Amended Working Plan should not anticipate outcomes of the revision process of implementing measures. 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.

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.

For the next steps of the study, we would therefore suggest focusing only on product groups that have not been previously addressed and still have a significant potential for improvement.

- **B2B products**

While important efforts have already been made by European manufacturers to improve energy efficiency, for example through the implementation of eco design requirements on motors and

pumps, there is still room for improvement. However, we would recommend a very careful approach when investigating the best means to realise energy savings in the area of professional goods.

B2B equipment has different characteristics than products that end up in the consumer market. The relationship between equal business partners, where agreements play a fundamental role, has a significant impact, for example, on the take back at end of life of an appliance or energy performance, water consumption or other product characteristics of ordered equipment. Industrial equipment and technologies more often than not represent tailor-made solutions, rather than standard solutions manufactured as mass products, which the Eco design Directive aims to target. To derive standard applications (“base cases”) will not be possible in many cases.

The draft report suggests product groupings for the Amended Working Plan (Table 8, page 63-68), including standard industrial equipment, such as “movers”, compressors, pumps, fluid distribution and end-use equipment. In addition, the draft report lists industrial processes such as industrial /process heat for distilling, drying, welding, soldering, brazing.

This raises Orgalime’s concerns since “distilling, drying, welding, soldering, and brazing” are industrial processes and not products. These can therefore not be placed on the market as such and it will usually not be possible to identify one responsible manufacturer for a process. Consequently, it will remain unclear who would be responsible for meeting the eco design requirement, as well as whom to target when enforcing a potential requirement.

The draft report also mentions aluminium production as active Energy related Product. However, as above mentioned industrial processes, aluminium plants are not products and cannot therefore be placed as such on the market. If the requirement were to apply at the level of the industrial installation, however, the Eco Design Directive would tread into the area of the Industrial Emissions Directive (2010/75/EU), for which a particular BREF on energy efficiency has been developed. The Eco design Directive is not the right instrument, since it would thereby creating overlaps and risks of conflicting requirements with other regulatory instruments (i.e. IED).

In addition, this is contradictory to other statements of the draft report specifying that “to be considered an energy-related product; the product must “be placed on the market / put into service” (page 18).

- **“volume of sales and trade” criteria**

Article 15 of the Eco design Directive (2009/125/EC) set criteria for products to be covered by an implementing measure or by a self-regulation measure, such as a significant volume of sales and trade (200 000 units / year). Industrial equipment and technologies are often custom made products produced in small series, which are not mass market products but specific solution design for particular need. For these tailor-made solutions, the volume of sales and trade criteria set in the Directive will therefore not be met in many cases.

However, even if the target is not reached for some industrial equipment, different types of product should not be aggregated just to meet the objective of 200 000 units / year. A clear distinction between domestic and commercial products is of essential, since the volume of sales and trade criterion is to avoid applying requirements designed for mass market products to industrial applications that would not lead to significant benefits. Regulating products which does not lead to real benefits is clearly in contradiction to the principal of better regulation.

- **Eco design implementation measures should be energy neutral**

The Eco design Directive should, in our view, target products independently from the energy source used. This should be fully respected in the working plan and along the implementation process, which should not promote specific energy source switching. We therefore support the conclusion 3 of the draft study report (page 45) stating that “*Product function must remain energy neutral (no distinction between electricity and fuel as energy carrier for identical function)*”.

In addition, Orgalime strongly emphasises that, regardless which environmental aspect is regulated, the legislator should only prescribe the aim and leave the manufacturers decide on how to reach this general goal. Implementing measures must neither discriminate, nor forbid a particular technology, but they must be neutral with regard to different technical solutions.

The current Primary Energy Factor (PEF) of 2.5 that is used as the conversion factor from electricity to primary energy in the preparation of some implementing measures, such as boilers, water heaters, ovens, raises questions. Such a fixed PEF discriminates electric product against gas sourced products and is not always compatible with the energy mix in some European countries. This would undermine the objectives of a low-carbon economy, particularly on reducing greenhouse gas emissions and on the promotion of renewable energy sources. We would therefore recommend a careful approach when regulating specific product group.

- **Additional environmental aspect**

We fully support the life cycle approach that considers all environmental aspects of a product from cradle to grave. The Eco design Directive already addresses environmental aspects in addition to energy efficiency: for example implementing measures cover water efficiency for washing machines or noise for vacuum cleaners, which we support.

In view of next steps of the study, especially the environmental analysis for selected product groups, Orgalime would like to reiterate that any parameter of the environmental performance of a product should, however not be taken in isolation from other environment aspects related to the product (for example energy efficiency, substance use or waste generation). While we acknowledge that resource efficiency is considered increasingly important, focusing on resource efficiency could lead to unforeseen environmental results. For example, the amount of copper used in electric motors immediately impacts the energy efficiency performance of the motor. Action on resource efficiency of products should also take into account further relevant product performance and in particular safety characteristics to guarantee the fitness for purpose of the product. Therefore, when improving resource efficiency of products, a life cycle approach is most important to avoid adverse environmental effects. Likewise, all three pillars of sustainability including socio economic considerations need to be considered in order to avoid disproportionate negative consequences on the economy or society.

- **Consistency of Eco design Implementing measures and the EU legislative environment**

Consistence and coherence of the EU legislative environment is necessary to avoid overlaps and legal uncertainty that penalise manufacturers, as well as to secure the competitiveness of EU industries. Gaps and overlaps between, and also within, the expanding EU legislative environment, in particular the Energy Performance of Buildings, Energy Labelling and Eco design Directives and the draft Energy Efficiency Directive, are a matter of concern and may become an unbearable burden on manufacturers. The even more complex EU legislation is increasingly of concern,

The European Engineering Industries Association

especially for integrated multifunctional products, which may be subject to several inconsistent or even contradictory regulations.

We therefore welcome the intention of VHK to assess the legislative environment of selected product groups for the next Working Plan in the Task 4 of the study, in particular taking into account how the scope of these products is applied in other policy measures such as Energy Labelling, Eco label, Green Procurement (page 26).

The Eco Design Directive addresses all environmental aspects of products throughout their whole life cycle, which we support. Nevertheless, there is in addition, the REACH Regulation which provides Europe with a harmonised framework for the EU wide management of chemicals, which also applies to products regulated under Eco design Directive. It is therefore of utmost concern to our industry that these regulations should be consistent with each other. The amended Working Plan study has identified the use of hazardous substances during use, manufacturing and end-of-life treatment as an area of concern for many product groups, i.e. thermal insulation products for buildings, lighting control equipment, and windows. If the implementation process to the Eco Design Directive confirms the first findings of the amended Working Plan Study and demonstrates that the use of a specific substance in a given product category is of significant importance and needs to be restricted, the relevant substance restriction should be adopted only under the REACH Regulation or, where relevant, under the Recast RoHS Directive in full coherence with the REACH Regulation.

In conclusion, therefore, there should be a strong and full cohesion and convergence of the Eco design implementing measures with other EU legislation, in particular legislation related to product and energy, that is the Eco Label Regulation, and the Energy Labelling Directive. However, we feel that further improvements are still necessary for securing the synergies between the different EU legislative initiatives. Indeed, only a coherent and consistent policy without overlapping legislative requirements or too much bureaucratic and administrative burden can be the basis for a legislative framework for investment in the EU which underpins the development of sustainable technologies and a sustainable manufacturing base in Europe.



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