MINUTES

Meeting of the Consultation Forum under Article 18 of Directive 2009/125/EC on energy-related products

Horizontal matters

Brussels, 29 April 2015 (10.00 – 16:00)

Participants: See “Attendance List” in Annexes

EC Participants: Robert NUIJ (Chairman), Elisabeth HAMBOUCH (GROW), Ulrike NUSCHELER (ENER), Paolo TOSORATTI (ENER), Andras TOTH (ENER), Andreas WITDOUCK (ENER), César SANTOS GIL (GROW), Marcos GONZALEZ ALVAREZ (ENER)

1. WELCOME AND PRESENTATION

The Chair welcomed the participants and indicated that the purpose of the meeting was to discuss several horizontal topics regarding to Ecodesign and Energy Labelling.

The minutes of the previous Consultation Forum meeting on electric compressors were adopted without comments.

ECOS asked for an update on the state of play regarding the Ecodesign and Energy Labelling measures currently under development. The Commission services indicated that the update would be given under AOB.

2. REVIEW PROCESS OF THE DIRECTIVES

The Commission services (GROW) indicated that under the Circular Economy package high expectations have been placed on Ecodesign. In this context, the bundling the Ecodesign Working Plan 2015 – 2017 and a mandate on resource efficiency with the Circular Economy package is currently being discussed although no final decisions have been taken. The Circular Economy package (for which GROW and ENV are co-responsible) has two main elements; a review of waste legislation and a non-legislative part analysing the current barriers towards a more circular economy as well as sectorial initiatives. Member States and stakeholders are invited to take an active role in the process and participate in the stakeholder conference planned for 25 June.

The Commission services (ENER) added that the review studies on Ecodesign and Energy Labelling were finished last year and that under the 2015 Commission Work Programme a further review was taking place. The current thinking is that the Energy Labelling Directive should be
reviewed while the Ecodesign Directive is still fit for purpose but a final political decision on how to move forward with the review process still needs to be taken.

**DK** considered that the review of the Energy Labelling Directive should not be included in the Circular Economy package to avoid further delays. This was supported by **DE, ANEC/BEUC** requested further information on whether there will be a link between the EU Energy Labelling revision proposal and the circular economy goals.

3. **PRELIMINARY DISCUSSION ON “MARKET SURVEILLANCE OF BIG PRODUCTS”**

**NL** made a presentation on the challenges related to market surveillance for big products. It indicated that defining a big product needs to be done on a case by case basis and proposed different possible solutions (single test, on-site testing, etc.). A general approach should be discussed.

**EVIA** indicated that for big industrial fans, third party certification would add costs and that witness testing was already general practice. **BE** indicated that the preparatory studies should give more details about the testing facilities available in Europe. **IT** invited the *Commission services* to analyse how the issue is dealt with in other jurisdictions like AU or the US, adding that in the case of bigger products, if less products are going to be tested, to ensure a strong statistical basis maybe the product should be tested more than once. A specific study analysing the issue should be considered. **EPEE** mentioned that market surveillance is a general concern and that on-site testing for cooling equipment is not possible as the relevant ambient conditions cannot be ensured. **SE** supported **IT** and **EPEE**. **ORGALIME** asked for alignment regarding the market surveillance provisions between Ecodesign and other relevant pieces of legislation. **EUROPUMP** indicated that third party certification can lead to increased costs and longer times for putting new products on the market. **EHI** offered to share their experience regarding third party certification, which is mandatory under the heater regulations. **ECOS** wondered if a product registration database could help.

The *Commission services* summarized the discussion, indicating that a case by case analysis is appropriate and that a more detailed assessment of the issue would be considered.

4. **DISCUSSION ON “PRODUCTS IN PRODUCTS”**

The *Commission services* presented the discussion paper on “Ecodesign for energy-related products integrated into other energy-related products” that was submitted to the Consultation Forum before the meeting.

**IT** welcomed the discussion and suggested to split up the problem: i.e. what is the date of placing on the market and who is responsible for what? It also indicated that “double Regulation” (i.e. applying Ecodesign requirements to components integrated into products covered by other Ecodesign requirements) should be avoided and that using the most efficient components does not necessarily lead to the most efficient product. It also invited the *Commission services* to share the working document with ADCO.

**DE** shared the interpretation of the Commission provided in the discussion paper. **BE** supported this comment and added that the explanatory memorandum accompanying the current Regulation on fans already indicated that fans integrated into other products need to be covered in order to avoid loopholes.
NL also shared the interpretation given in the discussion paper but asked to be careful when comparing the “Blue Guide” with the Ecodesign Directive as the language is not always the same. The interpretation provided was positive for market surveillance authorities as it would allow them to address the original equipment manufacturer. Products covered can be tested independently and if the products integrated into other products would be exempted large loopholes would be opened. DK and SE supported this comment. ANEC/BEUC said that, as nobody can tell where a product will end up, if integrated products are not covered market surveillance would be hindered. ECOS also agreed on the importance of avoiding loopholes.

CECED said to be against overlapping Regulations for components integrated into other products. It claimed that it is not possible to carry out market surveillance for these components. Moreover, the current interpretation leads to additional work for assembling technical documentation as well as for the testing and measurements to substantiate this. For instance a motor into a washing machine would need to be tested twice, once alone and another time when integrated into the washing machine. Improving the efficiency of a part has in many occasions only marginal impacts and the effort to achieve these gains could have been placed somewhere else. They added that they do not see a loophole when exempting components intended to be integrated into an ErP regulated product, because it is also not considered a loophole to exempt a component intended to be integrated in a product that leaves the EEA. They asked the Commission to assess this point and substantiate the possibility of a loophole by evidence. EPEE and DIGITAL EUROPE also considered that products integrated into other energy related products covered by Ecodesign should be exempted from minimum requirements and that using the best components does not necessarily lead to the least life cycle cost for the whole product. ORGALIME said it was important to provide legal certainty to the market and asked for flexibility for innovation. EPEE also asked for an alignment of dates for the coming into force of the requirements within different regulations.

EVIA said that multiple Regulations are a reality, fans also use components such as bearings, cables, etc. that are covered by other pieces is legislation.

The Commission services concluded that while most Member States supported the interpretation given in the discussion paper, most industry stakeholders expressed different views. A case by case analysis is in any case needed based on the least life cycle cost as prescribed by the Ecodesign methodology. Further comments are welcome within one month after the meeting.

5. UPDATE ON REVIEW OF THE EPS REGULATION

The Commission services gave an update on the proposed approach for the review of Regulation 278/2009 on External Power Supplies. An updated working document had already been sent to the Consultation Forum for written comments.

The Commission services propose to align the first tier with the ruling of the US government that was adopted in 2014 and to add a second stage in line with the second tier of the European Code of Conduct (timing January 2017 and July 2018). Moreover, the results of the additional assessment requested by industry and several Member States in the context of the EPS-Consultation Forum in April 2013 were presented.

In their comments, ANEC/BEUC and ECOS expressed their disappointment about the delay in the process. DE enquired about the MoU for a common charger and ongoing standardisation activities in this field. The Commission services pointed out that the MoU was foreseen to
continue and that, if deemed necessary, legislative action could be considered under the Radio Equipment Directive. Digital Europe challenged the results of the impact analysis and criticised the Commission for proposing a second tier in line with the EU CoC instead of developing a common policy with the US. In response to this, NL stressed that the EU had made an important step in that direction but that the processes were entirely different and a fully harmonised policy would be difficult to achieve. The Commission services agreed with this and, in reply to Digital Europe's criticism on the impact analysis, emphasised the efforts that were made by the consultants to validate the data. On request, the deadline for written comments was extended to end of May. The next steps are the Impact Assessment and a Regulatory Committee by the end of 2015.

6. AOB

The Commission services gave an overview of the state of play of the different Ecodesign and Energy Labelling files.

The Chair ended the discussion, thanked participants and requested any further feedback and data from stakeholders by 29 May 2015 at the latest.
**ANNEX – Attendance List**

**Commission Services**

Austria  
Belgium  
Czech Republic  
Germany  
Denmark  
Finland  
France  
Hungary  
Ireland  
Italy  
The Netherlands  
Portugal  
Sweden  
Slovakia  
The United Kingdom  
Norway  
Switzerland  
AMCA  
ANEC/BEUC  
CECED  
CECIMO  
CEN/CENELEC  
CLASP  
DIGITAL EUROPE  
EEA  
ECOS  
EEB  
EED  
EHI  
EHPA  
EPEE  
EPTA  
EUNITED CLEANING  
EUROCOMMERCE  
EUROFUEL  
EUROPUMP  
EUROVENT  
EVIA  
HKI  
LIGHTING EUROPE  
ORGALIME  
PNEUROP  
VHK