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RECAST OF THE ENERGY LABELLING DIRECTIVE (COM (2008) 778)

The Commission recast proposal of the Energy Labelling Directive forms part of the SCP/SIP Action Plan¹. In its position paper on the Action Plan (October 2008), BUSINESSEUROPE endorsed the objective of striving for consistency and coherence between different policy instruments and legislation in place or under development. **The Energy Labelling Directive could bring the necessary coherence in the EU environmental labelling policy.** European institutions should however secure the following principles and elements for arriving at a workable and successful energy label for the future:

1) Scope of the Energy Labelling Directive

Energy efficiency is the “fairest” low-carbon policy measure as it reconciles the three pillars, namely environmental protection, energy security and competitiveness. The proposal to extend the scope of the Directive from ‘energy-using products’ to ‘energy-related products’ is a coherent step to further improve energy efficiency of commercial and consumer products.

However, the appropriateness of the instrument for a certain product category should be assessed on the basis of in-depth cost-benefit analysis and impact assessment involving all affected industries. If the extension to a certain product category is judged appropriate, then coordination between the Energy Labelling Directive and the Eco-Design Directive is needed for the preparation of implementing measures.

In addition, the “qualitative thresholds” in the Energy Labelling Directive to limit the range of affected products to those where significant effects are identified, should not be removed. First, it would lead to increased implementation costs without improving effectiveness of the Directive. Second, it would introduce inconsistency between the Energy Labelling Directive, the Eco-Design Directive and the Eco-Label Regulation.

2) Layout of the Energy Label

While the main elements of today’s label should be retained as the basis for the future label, a rigid A to G scale risks limiting the possibility of identifying top-end products available on the market. The recast should be a vehicle to provide consistent, meaningful information to the consumer, and should not act as a disincentive to proactive innovators in the market place.

Industry is also supportive of dynamic labelling requirements that evolve over time, on the basis of business impact assessments. However, stipulating at the level of a framework directive that the duration of labelling classifications must not exceed three years would not be in line with innovation and investment cycles for many product categories. The consequences, however, can be severe for the competitiveness of European manufacturers. BUSINESSEUROPE consequently insists that the framework directive should continue to require implementation measures for individual

¹ Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan (COM (2008) 397/3)



product groups to determine the precise period of validity based upon scientific, technical evidence and market realities.

3) Incentives and public procurements

Demand-side instruments can play an important role in stimulating markets for eco-products. Public procurement for example represents 16% of EU GDP.

The Commission proposes that only products attaining a certain level of energy performance can receive incentives or are procured by public authorities. This should stimulate the market, by harmonising “green” consumption policies in Member States. A level playing field through uniform rules is preferable to varying national schemes. However, the following elements of the proposal must be clarified or re-worked:

- Such labelling class thresholds need to be established at a reasonable level so that not only the very top-end products would be promoted. National market specificities should also be taken into consideration. If not well-designed, the expected demand-push effect will not be reached.
- In accordance with State aid rules, it must be up to Member States to decide whether and in what form to provide incentives (e.g. taxes, subsidies or others).
- In line with better regulation efforts, it is important to be consistent with existing and well-functioning legislation. With regard to public procurement thresholds, pecuniary levels should not be incongruent with those set out in the 2004 public procurement directives (2004/17/EC and 2004/18/EC), as regularly amended.

4) Market surveillance provisions

The Energy Labelling Directive must be properly implemented and enforced throughout the internal market with a view to avoiding misleading consumers’ buying-decisions and ensuring a level playing field. Actions against marketing of non-compliant products are needed.

It is however necessary to implement proportionate actions and sanctions where necessary. In particular, any recall of products where authorities ascertain that a label does not conform, may be warranted under certain circumstances only, but not as a first standard way to deal with non-conformity. The General Product Safety Directive itself introduces room for consideration of proportionality.

5) Advertising products’ energy performance

The Energy Labelling Directive obliges manufacturers to display a product’s energy performance. In other words, the desired information will be available to the potential purchaser. However, the decision to advertise such information should remain industry’s responsibility, since a product’s energy performance represents only one aspect of many product characteristics, including its functionality and affordability.

In conclusion, the Energy Labelling Directive is a framework directive and the deriving future implementing measures will be adopted under the Comitology process. It is therefore of utmost importance to ensure close consultation with all stakeholders throughout the process.