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ENER C3 PL/PH

Report from the European Commission to the European Parliament and the Council on the voluntary ecodesign scheme for imaging equipment

Explanatory document: Summary of main points

➤ **Legal basis**

Article 15 of the Ecodesign Directive (2009/125/EC, hereinafter 'the Directive') states that the priority product groups (i.e. product groups considered priorities for the undertaking of preparatory studies and adoption of implementing measures) should be covered by either a mandatory implementing measure (i.e. a Commission Regulation) or a self-regulation measure (e.g. a voluntary agreement concluded by the industry).

Recital 18 of the Directive encourages the Commission to give priority to a self-regulation measure over a mandatory measure, if the former is likely to deliver the policy objectives faster or in a less costly manner than the latter.

Annex VIII to the Directive states that a valid self-regulation initiative should comply with:

- all provisions of the Treaty (in particular internal market and competition rules), international engagements of the EU (including multilateral trade rules) and nine specific criteria: openness of participation, added value, representativeness, quantified and staged objectives, involvement of the civil society, monitoring and reporting, cost-effectiveness of administering a self-regulation initiative, sustainability, incentive compatibility.

The provisions of the Directive relevant for self-regulation initiatives are: Recitals 18-21, Articles 15(1) and 17 as well as Annex VIII.

➤ **Role and nature of the Ecodesign voluntary agreements**

A self-regulation measure can be considered a valid alternative to an Ecodesign mandatory implementing measure. In that case, as long as the voluntary scheme meets its objectives, the Commission may refrain from adopting an Ecodesign implementing measure. However, if the monitoring and reporting performed under the voluntary agreement, or Member States or stakeholders, indicate distortions in the functioning of a voluntary scheme, the Commission should consider proposing an Ecodesign mandatory Regulation.

This position has been confirmed by the Legal Service of the EC¹.

➤ **Acknowledgment of Ecodesign voluntary agreements**

¹ Note of 2 December 2010 (sj,h(2010)988242 – EK/KH/had)

As recently confirmed by the Legal Service of the EC², the most appropriate form for the formal recognition of Ecodesign self-regulation measures concluded by the industry is a Commission Report to the European Parliament and the Council (i.e. non-legislative act). The main objective of that Report is to explain to the Parliament and the Council the reasons for which the Commission has decided to abstain from proposing a mandatory measure.

➤ **Background information on the voluntary scheme on imaging equipment**

The voluntary scheme on imaging equipment is the second (after complex set top boxes) self-regulation measure proposed by the industry under the Ecodesign Directive to be formally recognised by the Commission. The scheme complies with the Treaty, international engagements of the EU and meets all criteria specified in Annex VIII to the Directive.

The main aspects of the voluntary scheme are as follows:

- **Entry into force:** the agreement was signed on 1 February 2011. The first set of ecodesign requirements came into force on 1 January 2012.
- **Savings potential:** according to the impact assessment, between 2011 and 2020 the voluntary scheme will generate savings of in total 130 TWh corresponding to 36 Mt CO₂ emissions.
- **Scope:** the voluntary scheme applies to imaging equipment including standard-size copiers, multifunctional devices, printers and fax machines that use electrophotography, solid ink and high performance ink jet marking technologies. Definition of imaging equipment covered by the voluntary scheme is identical to the equipment covered by the requirements of the ENERGY STAR programme.
- **Signatories:** currently there are sixteen signatories to the voluntary scheme, including Brother International Europe, Canon, Dell, Epson, Hewlett Packard, Konica Minolta Business Solutions Europe, Kyocera Document Solutions Europe B.V., Lexmark International, Murata Machinery Europe, Oki(UK) Ltd., Panasonic Europe Ltd., Ricoh Europe PLC, Samsung Electronics Europe, Sharp Electronics Europe GmbH, Toshiba TEC Germany Imaging Systems and Xerox³.

It is estimated that the current signatories to the voluntary scheme account for more than 90% of the total EU market for imaging equipment⁴.

The EU 27 market is dominated by five producers including Hewlett Packard, Canon, Epson, Lexmark and Brother. There are no independent EU-manufacturers of the products covered by the scope of this voluntary scheme.

² Opinion of the SJ expressed in the framework of the ISC on the voluntary scheme on CSTBs (reference CIS-net: ENER-C3- 385644)

³ Originally, there were seventeen signatories to the voluntary scheme. However, Kodak Company decided in October 2012 to withdraw with immediate effect from the agreement. This decision follows the recent announcement made by Kodak that it would no longer market in the EU imaging equipment covered by the scope of the scheme.

⁴ The Directive requires that signatories to the agreement must 'represent a large majority of the relevant economic sector'. In its explanatory document on voluntary agreements concluded under the Ecodesign Directive (EDWB 2010 Doc03), the Commission specified that to consider an agreement as valid, the proven market share must be at least 70%.

As required by Annex VIII to the Directive, the voluntary scheme remains open to the participation of other companies.

- **Requirements:** The requirements of the voluntary scheme are based on the requirements of the ENERGY STAR programme⁵. Each signatory to the agreement committed itself that at least 90% of its imaging equipment placed on the EU market after 1 January 2012 (regardless of their origin) would comply with the minimum efficiency requirements formulated in TEC (typical energy consumption) and OM (operational mode).

Furthermore all printing products should offer the 'N-up printing' capability⁶ as a standard feature and should comply with the requirements on cartridges⁷. All new products should also comply with the requirements on recycling⁸.

Finally, the signatories committed to comply with the specific information requirements.

- **Administrative bodies:** The voluntary agreement establishes two administrative bodies:
 - The **Steering Committee** (hereinafter 'SC') consists of representatives of the Signatories to the agreement and the European Commission. The representatives of the EU Member States, EFTA/EEA countries and NGOs participate in the SC meetings as observers. The main role of the SC is to manage the application of the voluntary scheme, to discuss current and future developments that may influence energy consumption of imaging equipment and to propose future targets. The SC meets twice per year. The SC is to seek to achieve agreement by consensus at all times.
 - The **Independent Inspector** plays a crucial role in the process of monitoring the application of the agreement. The Inspector in particular:
 - assesses the compliance of individual signatories with the commitments laid down in the agreement on the basis of the data provided by the signatories,
 - drafts and submits to the Commission and stakeholders reports on the compliance of the signatories with the agreement,
 - can carry out audits of information provided by signatories.

'ERA' has been chosen to act as the Inspector for the agreement on imaging equipment.

- **Reporting:** Each signatory must provide to the Independent Inspector information required under the agreement. On the basis of the received data, the Independent Inspector will generate reports that will be distributed, for assessment, to the Commission and other Members of the Steering Committee. Reporting will be done by the signatories on an annual basis in the format

⁵ ENERGY STAR programme v.1.1. The agreement will be revised in 2013 to be brought in line with the new version 2 of the ENERGY STAR programme requirements that is being finalised at the moment.

⁶ Capability to print several pages of a document on one sheet of paper, when the product is managed by original software provided by a manufacturer.

⁷ Any cartridge produced by or recommended by the OEM for use in the product should not be designed to prevent its reuse and recycling. Moreover the equipment should not be designed to prevent the use of a non-OEM cartridge.

⁸ Commitments on recycling were drawn from section 4.3.1 of the IEEE 1680.2 Draft Standard for Environment Assessment of Imaging Equipment (EPEAT criteria).

specified in the voluntary agreement. A company that has failed to comply with its commitments under the agreement will risk forfeiting its signatory status.

- **Monitoring:** The Commission, in cooperation with Member States and stakeholders, will monitor the application of the scheme and will consider whether it meets its objectives.
 - To properly monitor the progress and results achieved under the agreement, its management has been handed over to the Steering Committee.
 - The monitoring of the agreement will be performed by the Commission mainly on the basis of the annual reports produced by the Independent Inspector⁹.
 - As required by the Directive, the effectiveness of the scheme will be regularly assessed by the Consultation Forum established under Article 18 of the Directive (consisting of representatives of the EU Member States, the industry and NGOs)¹⁰.
 - Finally, the effectiveness of the agreement will be assessed in the process of reviewing the Energy Labelling Directive and specific aspects of the Ecodesign Directive (intended to take place in 2014).

If the monitoring indicates distortions in the functioning of the voluntary scheme, the Commission will consider proposing an Ecodesign mandatory Regulation.

- **Revisions:** Functions provided by imaging equipment placed on the market are quickly evolving what requires a flexible approach in terms of defining the relevant parameters and establishing applicable requirements. The agreement obliges the signatories to start the revision of the agreement either on 1 January 2013 or 3 months after the publication of a new version of the ENERGY STAR programme for imaging equipment.

➤ **Preparatory procedure (main steps)**

The scheme:

- was presented to and discussed with stakeholders at the meetings of the Consultation Forum held on 12 October 2009 and 9 October 2012,
- was subject to a full impact assessment. The Impact Assessment Board gave its favourable opinion on the impact assessment on 21 September 2012. The impact assessment concluded that the self-regulation measure was the most suitable of all considered options and ensures the biggest savings,

⁹ The Independent Inspector has already submitted two compliance reports under the agreement on imaging equipment. The first report covers the period of January – June 2011 and the second report covers the period of October 2011 – March 2012. Both reports were presented and discussed with stakeholders at the Consultation Forum meeting of 9 October 2012. Each new report will be produced by 31 March and will cover products placed on the market during the previous full calendar year.

¹⁰ On 9 October 2012, the Consultation Forum meeting dedicated to the ecodesign self-regulation measures was held in Brussels. At that meeting, stakeholders agreed that the Commission would proceed with the recognition of the voluntary scheme established for imaging equipment, while requesting further changes in the operation of the agreement (e.g. a new set of requirements, audits, and access to the background data). The signatories committed to start working on a new version of the agreement that would incorporate requests of stakeholders expressed at the CF meeting.

- does not have to be notified to the World Trade Organisation as it is neither a mandatory 'technical regulation' nor 'conformity assessment procedure',
- will be recognised in the form of a Commission Report to the European Parliament and the Council (i.e. non-legislative act).

➤ **Other relevant initiatives on imaging equipment**

The known initiatives on imaging equipment other than the proposed voluntary scheme are: EU and US ENERGY STAR programmes, EU Ecolabel, Nordic Swan, Blue Angel, Japanese Top Runner, and Australian Voluntary Environmental Labelling Standard GECA.