

Brussels, 12 October 2007

Commission Working Document on Possible Eco Design Requirements for Standby and Off Mode

In view of the meeting of the Consultation Forum established under Directive 2005/32/EC on 19 October 2007, Orgalime has the following comments and questions on the above mentioned Commission working document, for which it requests support and/or clarification:

1. Relationship horizontal and vertical standby and off mode requirements

In the interest of providing legal certainty and for avoiding overlaps and inconsistencies that are also arbitrary for achieving the environment objectives of the considered implementing measure, we support the inclusion of a clarification in the legal body of the horizontal implementing measure on standby and off mode, that any vertical implementing measure as “lex specialis” should take precedence over the horizontal standby implementing measure (“lex generalis”).

However, Orgalime seeks clarification should the situation arise that a number of sectoral implementing measures that may also address the aspect of standby and off mode losses for the targeted product group (e.g.: Lots 2, 3, 4, 5, 10, 14, 16), will not be in place at the moment of entry into force of the horizontal implementing measure.

For the sake of legal certainty, Orgalime suggests considering introducing a transition period for those running sector specific preparatory studies/draft implementing measures that also address sector specific standby and off mode requirements for a given product group. This would in our view be also undermined by the fact given in the explanatory notes that sectoral targets “would be stricter than horizontal requirements unless justified”.

2. Scope

The proposed wording regarding the scope of the possible eco design on standby and off mode losses is too ambiguous and risks free riding. This, in our view, becomes particularly evident in the following respect:

- The proposed Commission working document differs in several respects from the recommendations for the scope of eco design requirements on standby and off mode provided in the preparatory study report (task 8) of the consortium of Fraunhofer IZM (e.g.: specifying maximum operating voltages would not be needed except for ovens, which may require a definition of “mains as a voltage range of 100-400V or below 400 V”). What are the reasons for these differences?
- The working document states “*electrical and electronic household and office equipment intended for the end user dependent on energy input from the mains power source*” to fall within the scope of the implementing measure. This however contradicts with the proposed definition for such equipment in the same document, which would also include equipment “*when marketed for non-household or non-office use*”.

- The working document introduces for the scope of the envisaged implementing measure a reference to annex I.B of directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE). Orgalime fully supports the recommendation of the preparatory study (task 8) that in the context of implementing the Eco Design Directive, a reference to the WEEE directive is inappropriate. This is in our view particularly true for several reasons:
 - Considering the purely indicative nature of annex I.B WEEE that in practice results in diverging interpretations of annex I.B WEEE by the different member states, Orgalime is highly concerned that the scope of the envisaged implementing measure will be very differently implemented in EU member states and thereby cause a disruption to the functioning of the internal market. To date, since the WEEE directive is based on Art. 175 of the EC Treaty, member states still discuss what (grey area) products should be considered in or out of the scope of WEEE, which leads to very different products being covered by WEEE management requirements. Orgalime is concerned that the many unsolved border cases under annex I.B WEEE will easily translate into a non-harmonised approach on the possible implementing measure on standby and off mode. Considering the Eco Design Directive's legal base of Art. 95 of the EC Treaty a reference to an Art. 175 directive, would distort the functioning of the internal market.
 - Annex I.B WEEE only applies to equipment driven by electricity. Contrary to the Eco Design Directive, other energy sources (e.g.: gas or petrol driven) equipment does not fall under directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE).
 - Annex I.B. WEEE is broader than household and office equipment. While the present draft definition for “electronic household and office equipment” includes a reference that “equipment not corresponding to household and office equipment” included in annex I.B WEEE would not be in the scope of the envisaged implementing measure, is, to say the least, confusing, at worse, arbitrary for a clear and enforceable harmonised measure.
- The distinction between business-to-consumer (B2C) and business-to-business (B2B) equipment is in our view misleading. While on the one hand, the draft implementing measure references the WEEE directive, the last phrase reading “*when marketed for non-household or non-office use*” is exactly opposite of the approach taken by the WEEE directive, which includes the following definition of waste from private households. “*Waste from private households*” under the WEEE directive means “*WEEE, which comes from private households and from commercial, industrial, institutional and other sources which, because of its nature and quantity, is similar to that from private households*”. In principle, Orgalime doesn't consider it relevant to include B2B equipment in the scope of the considered implementing measure, since B2B equipment is destined for particularly trained and skilled professional users. Those products usually are designed for a specific system environment and therefore cannot be regulated by a horizontal approach.
- The terms “*office equipment*” and “*end user*” are not specified and therefore remain unclear. For example, would big internet servers at use for end users fall under the scope of the envisaged implementing measure? For that reasons the terms “*office equipment*” and “*end user*” have to be clarified.

In conclusion, Orgalime believes that the present proposal for the scope of the envisaged implementing measure is to a large extent unclear. Diverging interpretations, and different scopes for products that have to comply with the envisaged standby and off mode requirements, appear very likely to us and risk translating into a weakening of the implementation of the Eco Design directive.

3. Definitions

Orgalime welcomes and supports that the proposed definition of “standby” would not apply for “preheating functions”, “sensor based safety functions” and “network reactivation and network integrity functions”, such as Wake on LAN (WoL). However, we feel that the proposed definition of “*reactivation function*” as a “*function intended to switch the equipment by remote switch, internal sensor, or timer to a condition providing additional functions including the main function*” may benefit from some further specification. The industry sector targeted should be involved.

The proposed definitions of “standby” and “off mode” are neither in line with the Fraunhofer IZM report nor with certain relevant product specifications, either existing or currently under development (e.g.: IEC 62087, Energy Star or IEC 62301). Orgalime believes that only consistent definitions can provide a reliable basis for proper enforcement and implementation of the relevant legislation.

We would also appreciate a clarification on how the term “unit” (given under the heading of annex II: verification procedure for market surveillance purposes”, however, not defined in the working document) would be used if a targeted product is incorporated into a system.

4. Annex I – Eco Design Requirements

Orgalime notes a number of inconsistencies of the proposed standby and off mode requirements with existing instruments, and the Energy Star programme for office equipment more particularly. While under the Energy Star programme, a 2 Watt target is to be reached by mid 2008 (on a voluntary basis), the proposed requirements would establish a mandatory 1 Watt target as of September 2009. We propose that there is a proper impact assessment done on the proposal to move away from a voluntary to a mandatory level.

We also believe that the proposal to set the delay time to a value equivalent to the limit for off-mode seems very critical for several sectors. Delay Timer provides a function, therefore attributing to it the same limit attributed to off-mode (which is not a function) would not be correct. Orgalime suggests considering delay time and the benefit often provided by this function towards a better energy management. The Australian case where they decided to leave the energy consumption during the delay start mode out of the Energy Efficiency Index for washing machines is a good reference. Thus, we suggest that “timer” is added to the exclusion list and deleted from the definition of “reactivation function”.

Orgalime considers the proposed limits as ambitious, however, in the light of manufacturers having to clear highly complex global supply chains, finding potential alternative suppliers for components and for undertaking necessary quality checks of alternative components/products and their performance, the proposed transition period of 1 and 3 years for the given stand by and off mode requirements appear may in certain areas be too short. We suggest the upcoming impact assessment to look into this issue.

5. Annex II - Verification procedure for market surveillance purposes

In principle, Orgalime welcomes the flexibility considered for conformity assessment procedures in the discussed working document.

We generally agree with the use of **IEC 62301, first edition 2005-06, sections 4 and 5**, for the verification procedure for the purpose of market surveillance, however have some concerns:

- At present, this standard applies to household equipment solely. Introducing horizontal standby and off mode requirements in the future implementing measure may, however, require more flexibility for the verification procedure in order to reflect the specificities of the different sectors targeted by the envisaged implementing measure, i.e.: for PCs and monitors, the

proposals of the working document are inadequate since wake on LAN (WoL) has not been taken into account since IEC 62301 applies on household equipment. Measurement for PCs and monitors, however, are carried out in practice according to the Energy Star. We believe that the verification procedure for market surveillance purposes, including the role of standardisation, should be determined in the relevant vertical implementing measure.

- Orgalime is highly concerned with the proposed tolerance margin of 10% and 0% for the level of the requirements, but not on the measurement accuracy. It is a reality, that the different laboratories across Europe that would be involved in the verification procedure apply highly different practices and equipment when carrying out testing activities. While we believe that there should be a filter to check the quality performance of laboratories, we request regulators not to internalize this dispersion across laboratories on manufacturers, who have no control on the diverging capabilities of laboratories. Instead, we propose applying a 15% tolerance for measurement accuracy for the first tested product and applying a 10% tolerance for measurement accuracy for the average of the further three products tested in case the first tested product tested exceeds the measurement accuracy.

6. Conclusion

We thank the Commission for consulting industry on the working document for possible standby and off mode requirements. We would appreciate further clarifications being brought to the following areas of concern:

- The relationship between vertical standby and off mode requirements (that are discussed under a number of ongoing vertical product group studies) and horizontal requirements to be established and how to best solve differences in timing between sectoral and horizontal requirements in a way that any vertical implementing measure as “lex specialis” should take precedence over the horizontal standby implementing measure (“lex generalis”).
- The proposed scope, with the objective to safeguard the functioning of the internal market for targeted energy using products and which consequently should have no relation to directive 2002/96/EC on WEEE.
- The measurement accuracy for the verification of the proposed levels for standby and off mode.
- The consistency of the considered horizontal standby and off mode requirements with other existing instruments, especially the Energy Star programme for office equipment.

Considering that task 8 of the preparatory study on lot 6 has been published only recently without a stakeholder meeting having taken place to discuss this task 8 prior to the meeting of the Consultation Forum on 19 October 2007, Orgalime considers a proper impact assessment on the considered eco design requirements vital for achieving a consistent and enforceable implementing measure on standby and off mode that would reconcile the environmental objective with the economic and social aspects involved to secure the competitiveness of EU household and office equipment producers.

Orgalime will be pleased to further contribute to the development of the envisaged eco design requirements.

Speaking for European engineering, ORGALIME represents 3 industrial branches (electrical & electronic, mechanical engineering and the metal articles & metalworking) that manufacture over 27% of total EU manufacturing output and has 35 member trade federations in 23 European countries. The industry accounted for some 1,779 billion euro in 2006. The industry not only represents more than one quarter of the output but also a third of the exports of the EU's manufacturing industries.

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