

17 November 2003

## The draft EU Directive on Setting the Eco-Design Requirements for End Use Products (EuP)

AeA Europe welcomes the opportunity to comment on the [draft EU Directive on EuP](#)<sup>1</sup> and calls on the European Parliament, Council of Ministers and the European Commission<sup>2</sup> to take up our key recommendations which we feel are needed in order to make the proposal more workable. The following sections provide an overview of our concerns. AeA Europe will provide the European Parliament with suggestions for amendments prior to the committee votes.

### Key Recommendations

1. Clearly identify those environmental problems the legislation aims to resolve
2. Do not base any eco-design requirements on life-cycle assessment/analysis (R&D tool), rather, disseminate life cycle thinking amongst all stakeholders
3. Re-write the definition of “component”
4. Re-write the Annexes to be high level guidance instead of prescriptive guidelines
5. Define “significant volume of sales”, “significant environmental impact” and “significant potential for improvement”, the criteria to be used to identify product categories subject to implementing measures
6. Allow international voluntary guidance measures already developed by industry and international standards equivalent to EMAS to prove conformity

### A) INTRODUCTION

#### i) Characteristics of high-tech products

Thousands of electronic and IT products and components are manufactured by AeA Europe Member companies. The ability to innovate and time to market are critical to the

<sup>1</sup> Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL On establishing a framework for the setting of Eco-design requirements for Energy- Using Products and amending Council Directive 92/42/EEC, Brussels, 01.08.2003, COM(2003) 453 final, 2003/0172 (COD)

<sup>2</sup> EuP Press release from the Commission (IP/03/1223) :

[http://www.europa.eu.int/rapid/start/cgi/guesten.ksh?p\\_action.gettxt=gt&doc=IP/03/1223|0|RAPID&lg=EN](http://www.europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/03/1223|0|RAPID&lg=EN)  
DG Enterprise website: [http://www.europa.eu.int/comm/enterprise/eco\\_design/index.htm](http://www.europa.eu.int/comm/enterprise/eco_design/index.htm)

competitiveness of the sector. By definition, each new generation of technology has a substantially enhanced environmental performance, for example, improved energy consumption and recyclability. Overall, the information and communications technology sector and the innovations the sector generates are drivers of sustainable development. The market facilitates these conditions. How a product is designed can undoubtedly have a profound impact on the way a product is used by end consumers during and its working life and at the time of disposal. At the same time, the role of the end user or consumer is also important as this can substantially influence the overall environmental footprint a particular product has.

ii) The volume of environmental regulatory measures already faced by the information and communications sector in Europe

AeA Europe would like to highlight the number of pieces of significant legislation and voluntary agreements already faced by industry sectors represented in our association. Current and proposed law governing the design and use of products already includes for example:

- Chemicals management (“REACH”<sup>3</sup>)
- Existing Chemicals Directives<sup>4</sup>
- Fluorinated gases legislation
- Restrictions on the marketing and use of certain dangerous substances and preparations<sup>5</sup> & RoHS<sup>6</sup>
- Waste electrical and electronic equipment (WEEE<sup>7</sup>)
- Directives which stipulate rules for cross-border waste shipments<sup>8</sup>
- Voluntary Agreements on external power supplies

We would therefore hope that the Commission considers other sectors as being candidates with greater potential for environmental improvement. We are convinced that the existing environmental laws as well as the new ones adequately protect human health and environment while still leaving room for the electronics sector to make continuous improvement through innovation.

iii) An Integrated Product Policy (IPP) approach?

The EuP Directive is being considered after the entry into force of two directives on Waste Electrical Electronic Equipment (WEEE) and on the Restriction of the Use of Hazardous Substances in Electrical and Electronic Equipment (RoHS). Both of which are

<sup>3</sup>Draft Regulation COM (2003) 644 final

<sup>4</sup>Directive 1999/45/EC and Regulation on Persistent Organic Pollutants

<sup>5</sup>Directive 76/769/EEC

<sup>6</sup>Directive 2002/95/EC

<sup>7</sup>Directive 2002/96/EC

<sup>8</sup> Framework Directive 75/442/EEC and Draft Directive COM(2003) 379

arguably design directives since WEEE specifies that dismantling and recyclability must be considered in the design phase, and the RoHS forces companies to develop a new lead-free technology before being able to design “next generation” lead-free products. Although AeA Europe considers the final outcome of these two Directives satisfactory and our Members are actively assisting governments in other regions (for instance in China<sup>9</sup>) to ensure consistency with the EU requirements, we are concerned that the new EuP Directive has the potential for imposing unnecessarily burdensome requirements. Unless the environmental problem is clearly defined from the outset it is very difficult to develop any implementing measures that would result in improvement of environmental performance of “energy using products”. Although aspirations and objectives of the EuP Directive are clearly highlighted in Article 1 we regret that the Directive is not based on sufficiently sound and solid scientific data.

AeA Europe still believes that IPP can play an important role in achieving a balanced and coherent approach for future environmental policy-making and regrets that IPP has come at this late stage. If IPP had come 10 years previously, then regulation in the EU would have clearly identified the environmental problems up front and focused primarily on the design of products instead of with the end of life. AeA Europe is keen to ensure that more weight is given to industry self-regulation where applicable and welcomes the intent of IPP and EuP to give more room to proactive and effective voluntary measures.

## **B) DETAILED COMMENTS**

The following sections provide an overview of our concerns. AeA Europe will be providing the European Parliament with suggestions for amendments prior to the committee vote.

### **i) Definitions**

It is important that the following phrases are defined in order to determine which product categories are to be subject to implementing measures:

- “Significant volume of sales”
- “Significant environmental impact”
- “Significant potential for improvement”

Components are currently defined as *“parts intended to be incorporated into EuP, and which are not placed on the market as individual parts for end users or the environmental performance of which cannot be assessed independently.”* Nearly all

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<sup>9</sup> [http://www.aeanet.org/GovernmentAffairs/gajg\\_usitolink.asp](http://www.aeanet.org/GovernmentAffairs/gajg_usitolink.asp)



components can be purchased individually through hobby shops, electronic specialty stores, etc. Environmental performance can always be assessed at some level. But the real operating environmental performance of a component (for example a hard disk drive) depends essentially on the system (the PC and its operating systems) in which it is integrated. The definition of “component” needs to be re-written.

In addition, the EuP should always address “product category” instead of a single product.

#### ii) Legal Base

AeA Europe fully supports the Art. 95 as a legal base to ensure free movement of goods across the EU.

#### iii) Life-Cycle Approach

Article 12 also states that the entire life cycle of the product shall be considered. It is suggested that this requirement be amended with the words - “so far as they relate to product design” – to be consistent with the requirements in Annex I.

AeA Europe suggests that the Directive should only focus on areas of environmental impact that can be controlled by the designer. The entire life cycle is clearly beyond the designer’s scope.

The Directive must be clearer on integrating life cycle thinking into design in accordance with IPP guidelines, and not basing mandatory requirements on life cycle analysis (LCA) that would put a straightjacket on innovation. Although LCAs have proven to be useful as an R&D tool, it is not appropriate as a prerequisite for market access. The “Science” of Life Cycle Analysis is still too widely disputed, even among its many proponents, to be a settled method for regulating the design of products. The results of LCAs are far too dependent on the assumptions made at the outset to be a useful tool for regulation. AeA Europe believes that despite the fact that the Framework Directive does not impose any direct requirements on product manufacturers as such, we are concerned that the requirements outlined in Annex I indirectly place obligations on design since the designers of products subject to implementing measures would have to conform to these requirements.

#### iv) Conformity

Declaration of Conformity would be a self declaration (as provided for in the EU’s New Approach directives). The CE mark would be used as the conformity mark. These are to be welcomed. Conformity assessment can be performed either by internal design controls or by environmental management systems. This allows flexibility in the system and

should be endorsed. The technical file requirements, however, are lengthy and not clearly defined.

v) Implementing Measures

Implementing measures will be introduced following adoption of the Framework Directive. Such measures must be proportionate and applied to product categories defined by clear criteria. AeA Europe also wants to seek a guarantee that the Comitology process that is to be responsible for defining and introducing implementing measures is fully transparent with regard to consulting the key technical experts from industry alongside other stakeholders. It is fundamental that free-movement of products, which are not covered by an implementing measure, is guaranteed in the Member States. Any “locally decided” implementing measure should not be allowed.

vi) Method for setting eco-design requirements

Further clarification is needed to clarify the method whereby the eco-design requirements are set. On one hand the Annex 1 describes the method for setting generic eco-design requirements that doesn't impose compulsory limits to products environmental parameters. However, Annex 2 describes the method for setting specific eco-design requirements that impose compulsory limits to some of the products environmental parameters. The Parliament should clarify in which case and according to which criteria should one or the other method be applied.

vii) Voluntary mechanisms

AeA Europe applauds the Proposal's intent to consider voluntary industry measures that could replace implementing measures but acknowledges that there is no legal framework for such mechanisms and that acceptance would be more in the form of informal agreement as opposed to binding obligations between the contracting parties. The Framework must better acknowledge international voluntary guidelines that industry has developed to help designers improve the environmental performance of products, for example, the ECMA<sup>10</sup> 341 (“Environmental design considerations for electronic products”). It should also reference de-facto efficiency standards or labels adopted by the industry, such as Energy Star (“Energy efficiency requirements of office equipment”).

viii) Standards

Priority must be given to international standards as opposed to more localised schemes such as EMS and EMAS that are not recognized outside the region.

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<sup>10</sup> <http://www.ecma-international.org/>



## ix) Cost Impact

The Commission avoids the issue of cost by stating that the Framework Directive would not have cost impacts. The Proposal goes on to say that the implementing measures (which have not been written) would have cost impacts, ignoring the fact that the draft EUP would establish the framework for setting implementing measures and thus adding costs.

Extra costs and competitive burden we can expect from the application of an implementing measure as it is described in Annex 1 can result from longer design delays, managing information from supply chain and time to market delays.

## x) Exchange of Information

The Commission could establish a platform in order to promote the exchange of information on eco-design. This would be of potential benefit to designers in both large and small and medium-sized enterprises.

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*AeA Europe is a non-profit association of European operations of American-parented companies doing business of more than 100 billion Euro in Europe and employing approximately 500,000 European citizens. AeA Europe is part of the largest US high-tech Trade Association, AeA, established in 1943.*