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**Position of ECOS, EEB, Friends of the Earth Europe,  
WWF-EPO, INFORSE-Europe and CAN-Europe  
on the proposed Voluntary Initiative Agreements  
on Imaging Equipment and Complex Set Top Boxes**

*In the context of Directive 2005/32/EC establishing a framework for the setting of ecodesign requirements for energy using products.*

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# Position of ECOS, EEB, Friends of the Earth Europe, WWF-EPO, INFORSE-Europe and CAN-Europe

## on the proposed Voluntary Initiative Agreements on Imaging Equipment and Complex Set Top Boxes

### Introduction on voluntary initiatives under the Ecodesign policy

ECOS, EEB, Friends of the Earth Europe, WWF-EPO, INFORSE-Europe and CAN-Europe generally express **serious doubts about voluntary initiatives** to significantly improve the ecological performance of products.

Lessons from the past show that most of these industry self-commitments are either unambitious (very close to business-as-usual trends) or fail to deliver on their promises. Research has highlighted that the environmental effectiveness of such approaches is often questionable and their economic efficiency not obvious<sup>1</sup>. One iconic case study was the unsuccessful voluntary commitment from the European car manufacturers to achieve a CO<sub>2</sub> reduction target from their car fleet<sup>2</sup>. Another example could be the Eurovent voluntary initiative started in 2004 to remove some energy inefficient air-conditioners from the EU market. This scheme (openly designed to avoid an Ecodesign regulation<sup>3</sup>) was not particularly ambitious and way below what has been proposed for the Ecodesign Implementing Measure in 2009.

Our concerns are even stronger when such initiative is proposed to replace an Ecodesign regulation. We give a clear preference to mandatory legislation to quickly improve the environmental performance of products up to the best available techniques. A regulation is transparent, directly applicable, gives foreseeable results and creates a common playing field on the market. This is the top choice in the world where energy efficiency standards are implemented.

The Ecodesign directive specifies some safeguard criteria to assess whether a voluntary initiative may be considered as an alternative to a regulation (in its Annex VIII). However, some of these 9 criteria remain vague, unquantified and sometimes insufficient. As it is clearly indicated in the Annex VIII, this list of criteria is “*non-exhaustive*” and **we consider that these additional points should be included in the assessment of voluntary initiatives:**

- **Level of ambition (against the European Union’s environmental objectives),**
- **Independent assessment of the potential (compared to a business-as-usual trend),**
- **Sanction scheme for free riders,**
- **Safeguards on the revision processes** (e.g. to avoid the initiative being emptied of its substance or revised dramatically only after one or two years).

The European Institutions also need to be much more serious and explicit about what will happen if a voluntary agreement fails. We expect the early preparation of a bold and detailed alternative regulation, so that manufacturers have an idea of what is at stakes and are motivated to deliver. It would not be fair if the only consequence of a failure would be to restart consultations from scratch and lose additional time.

*In the context of a potential growing number of voluntary initiatives being submitted, we will work in the coming months on a more comprehensive position paper on self-regulation under the EU Ecodesign policy, in order to increase the political attention on this fundamental topic.*

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<sup>1</sup> *Voluntary Approaches for Environmental Policy. Effectiveness, Efficiency and Usage in Policy Mixes*, OECD (2003)

<sup>2</sup> “*the voluntary agreement did not succeed*”, see in Communication from the Commission on Results of the review of the Community Strategy to reduce CO<sub>2</sub> emissions from passenger cars and light-commercial vehicles - COM(2007) 19 final

<sup>3</sup> Statement in the Eurovent newsletter 101 – April 2008: “*Mandatory minimum efficiency has been introduced in many countries outside of Europe. This is the simplest way to eliminate low efficiency products from the market (...) In order to avoid such regulation the WG 6B [of Eurovent] has prepared a proposal on voluntary minimum efficiency.*”

Here are more specific early comments on the two voluntary initiatives submitted in September 2009 by the industry on Imaging equipment and Complex set top boxes.

## Imaging equipment

The proposed voluntary agreement on imaging equipment (*entitled “working document” and dated 8 September 2009*) is **obviously immature and clearly insufficient**. **We strongly oppose the adoption of this voluntary initiative as it is.**

Here are our main arguments:

- **Market coverage is vague**, only a list of companies “*involved in discussions*” is provided.
- **Scope is arbitrary limited** to certain products (e.g. scanners seem excluded).
- **Civil society is nowhere involved** (especially in the steering committee).
- Commitment to reach 50% of Energy Star products placed on the market in 2011 provides **little - if no - added-value** compared to business-as-usual trends. It is not challenging.
- **Commitment on duplex promotion is unconvincing** (i.e. a simple reminder in the user manual is insufficient).
- **Commitment on promotion of ecological paper is vague** and too lenient in scope.
- **Commitment on cartridges does nothing to promote and facilitate the use of recycled and refilled cartridges.**
- **Power management functions are not included**, whereas they can grasp a substantial potential of energy savings.
- **Information to consumers is not detailed**, and it is not specified where the information would be made available.
- **Several other Ecodesign aspects are not covered: use of resources and energy in the production phase** (40% of the life-cycle impact of a typical product, according to the EuP Preparatory study), **toxic chemicals, ozone emissions, noise, share of recycled content, reparability, upgradeability, etc.**
- There is **no visibility after 2011, nor staged objectives.**
- Overall potential of these (weak) proposals is even not assessed in terms of energy saving.
- **Monitoring and reporting on several of these commitments is not specified**, therefore it will not be possible to assess whether a company is fully compliant.
- **There is no sanction for non compliant companies**, thus there is no incentive to follow the commitments.
- Moreover, **annual progress report has no sense if it remains anonymous**. Transparency is needed to assess which companies are complying with the agreement and which are not.
- Independent audit is only considered as an option, whereas **it should be mandatory** (as the Annex VIII of the Ecodesign directive specifies, i.e. “*clearly identified responsibilities for independent inspectors*”).

All these reasons make us believe that the imaging equipment industry is not seriously engaged in a process to propose a credible voluntary initiative, which would respond to the Ecodesign Directive and successfully replace a mandatory regulation.

**We recommend to the Commission to prepare in the next 3 months a draft regulation based on the EuP Preparatory study**, and in the meantime leave the chance to the industry to come up with a substantially improved proposal correcting all the weaknesses listed above.

## Complex Set Top Boxes

The proposed voluntary agreement from the complex set top box industry (*entitled "Proposal from the industry group, Version 2" and dated 12 June 2009*) looks more elaborated and detailed. Involving service providers in order to grasp a larger potential of energy savings and improve the distribution of efficient products (as compared to a simple product-based regulation) seems a sound idea, provided **the voluntary agreement is improved on several key aspects:**

- The promoters of this agreement assume that in the end more than 90% of the complex set top box market will be covered. However, so far they have provided a list of interested companies that only represents 70% of the market, and it seems that several big service providers (e.g. Orange / France Telecom) are not there. **Representativeness is therefore not yet ensured.**
- In order to comply with the criteria "*involvement of civil society*" from Annex VIII of the Ecodesign directive, the paragraph on the composition of the steering committee should clearly state that **some seats will be provided to representatives of civil society organisations** (consumer organisations and environmental non-profit organisations). The legitimacy of applicants for these seats shall be decided by the European Commission alone, not by the steering committee. These seats shall in no way be left empty (unless of course there is no interest from any civil society organisation to participate).
- The **rules of the steering committee should be more balanced**, so that industry signatories do not necessarily always have the final word. The weight of the European Commission should be much more prominent. This is in particular crucial since the revision process outlined in point 5.3 appears risky (any revision of the agreement's substance and objectives would in the end be decided mostly by the companies).
- The sanction scheme for non-compliance is vague and insufficient. A free rider will have several ways of staying in or gaining time, which is not acceptable. For transparency reasons, **defaulting companies should be known to the steering committee members** (confidentiality clauses may be relevant for the detailed performance of companies, but the statements of non-compliance shall be made explicit to civil society representatives). Also, more substantial sanctions should be defined for failure to meet the commitments.
- The general and specific objectives (annexes A and D) only refer to energy consumption in the use phase. This is an insufficient coverage of Ecodesign aspects. **Signatories shall also commit to reduce the toxic content, improve the recyclability and recycled content, ensure an effective scheme for collection and end-of-life treatment and apply smart design options for the reparability and upgradeability of their products.** Even if compliance with these criteria may include some flexibility so as to avoid too complex monitoring procedures, we insist on the importance of these aspects as part of relevant and applicable Ecodesign practises.
- Manufacturers should commit to put **100% (not 90%) of compliant products on the market** after the staged objectives enter into application. We do not see a robust reason to allow space to non-ecodesigned products.
- If the proposed Tier 1 on energy performance mirrors the one suggested in the EuP Preparatory Study (which is positive), **the 2<sup>nd</sup> one is far less ambitious and does not appear challenging enough.** In 3 years time, we expect manufacturers to be able to do better than just a 11 or 12% improvement on the basic energy performance of their products.

Moreover, according to our calculations, manufacturers could comply with Tier 1 and Tier 2 just by adding the Auto-Power Down function and making the standby mode more efficient on current average products. **This is no incentive to redesign the on-mode functions and promote innovative solutions.**

We also **question the need to keep such a high allowance for high-definition** in the 2<sup>nd</sup> tier. We suggest to copy the approach for the Ecodesign measure on televisions (where the 2<sup>nd</sup> staged requirements do not discriminate anymore between high and standard definition).

- **We oppose the following provision in point A.4 on auto-power down:** “*The APD function may however be able to be overridden by a user through a special menu option*”. If the user can deactivate the APD function, then manufacturers should not get any bonus in the calculation of the annual energy requirement for this function.
- Point A.7 on software download is not detailed enough about what an “*additional functionality*” provided by a software is. We are of the opinion that a software download is meant to upgrade/improve the existing functionalities of the product, and therefore can and should be designed to maintain the product in compliance with the commitments. **No loophole should be created here for additional energy allowances.**
- The **commitment on consumer information should be more detailed**, specifying what “*where relevant and possible*” exactly means. The points of sale where consumer information will not be made available should be listed, with the reasons why this would not be possible. The content of the consumer information should be better specified in the voluntary agreement (i.e. annual electricity consumption, standby power, recycled content, toxic content, etc.)

END.