



**EEB preliminary comments for
Stakeholders' meeting for discussing a working paper on a draft
Directive on establishing a framework for Eco-design of End use
Equipment**

14th November 2002

As it stands, this proposal for establishing a framework for Eco-design of End use Equipment **cannot be supported by the EEB.**

The setting of specific eco-design requirements, involving LCA, with guidelines on environmental aspects and evaluation parameters (see article 14.2 and annex II) **IS** a step in the right direction. Unfortunately, this mechanism is completely undermined by the procedural framework outlined in the Commission proposal. This draft proposal sets **no framework of binding targets, deadlines and benchmarks, and is completely absent of stakeholder involvement.** It makes impossible any form of evaluation and access to relevant information and explicitly blocks any possibility of large-scale market transformation.

The WEEE and RoHs directives have already triggered a new cycle of innovation in the electronics industry. The next step is to generalize this positive trend by introducing **binding benchmarks** for the EEE sector that would give them guidance in which direction jointly to go, on the most relevant environmental aspects – beyond mere EPR for EEE waste and the substances covered by ROHs. Unfortunately, we fear that the kind of self-regulation envisaged in the working paper on will not meet this objective.

The current working paper on the merger of the proposal on Impact on the environment of Electrical and Electronic Equipment (EEE) proposal with the proposal on Energy efficiency in End use Equipment (EEEuE) is generally counterproductive, implying a huge burden on all stakeholders in terms of resources necessary to improve it. With no clear commitment from the Commission on clear mechanisms and binding objectives towards protecting the environment at the end of the tunnel we find it hard to justify investing more time on this initiative. Hence the EEB advises to withdraw it and **return the competence of EEE to the IPP discussion framework.**

Some key comments

1. The EEB finds it unacceptable that this **proposal is not based on environmental aims** but purely on the free movement of goods. Both the EEE and the EuE initiatives should have as their primary objective the protection of the environment and human health.
2. The key element of this initiative, the “implementing measure”, **has no environmental guidance framework.** There is no credible process for selection of the significant environmental aspects or indeed any process leading to the setting of the environmental priorities for the framework directive. Furthermore, the criteria to

be applied for adopting the implementing measure (14.3 and Annex II part3) are inappropriate and would prohibit any significant changes in production.

3. The proposal foresees the **exclusion of the European Parliament** from anything beyond the initial formulation of the framework directive. As proper regulation is vital to the process of defining environmental protection the EEB insists that the parliament be informed and given the right to react on anything from comitology or under the definition of the implementing measures
4. Furthermore we find **no provisions or clear specifications on stakeholder participation** within the procedure of defining the 'implementing measures'. Article 14.1, 18 and article 8 are clearly inadequate in provision of balanced stakeholder participation.
5. The option to leave initiatives to the individual manufacturers (Article 14.2 a)) on eco-design requirements, makes impossible any input of other stakeholder opinions and any form of independent (ie third party) evaluation of the performance of the individual products through the eco-design actions taken. Furthermore **coordination of data to enable evaluation** of the global performance of the products and product sectors through the eco-design actions taken **will be impossible**.

On the tools to be used to develop the eco-design requirements (the LCA, that informs in its turn the eco-profile) it is only the manufacturer that decides the specifications and the depth of LCA. This implies that the LCA and eco-profile data are not a) credible or b) comparable This **perpetuates the situation we have today**.

6. This proposal is based fundamentally on **manufacturer self-declaration and self-regulation**, both through the way that the declaration of conformity is set up and with regard to the LCA and ecological profiles are used to set the eco-design requirements. As refers to the declarations of conformity we fail to see how a Competent Authority in each Member State can verify the multitude of self-pronounced, uncertified declarations that this procedure implies, and what actions could be taken on this information.
7. On the information to the consumer the individual manufacturers choice of the "environmentally significant characteristics" would be **impossible** to coordinate to enable **information to be comparable for the consumer**.
8. On **environmental performance**, something that should be a key issue of this initiative, the parameters and the **methodology for assessment and driving improvement are insufficient**.

In the first place environmental performance is defined as merely the results of the manufacturers management of the environmental aspects of the product, as reflected in the ecological profile of the product. This predefinition of environmental performance is inappropriate in a legislative framework.

Whilst some parameters are given in annex 1 part 2, these are insufficient in terms of environmental issues and ambition. Two example would be the lack of attention to greenhouse gases (one of the original objective of the energy efficiency in EEEuE directive) and the phase-out of hazardous substances that go BEYOND the ROHs directive.

Once again, there are no mechanisms for stakeholder involvement of setting the parameters for the global evaluation of performance, furthermore there are no mechanisms and no provisions and responsibilities given for action necessary in the case of unsatisfactory performance.

9. **Article 5.1 is an unacceptable restriction of national initiatives** to go beyond the baseline that should be set by this initiative. The objective of this directive should be aim to phase out the worst performers, by setting a minimum environmental baseline and allow freedom for member state initiatives go beyond the benchmarks set.
10. In cases of non-conformity **the burden of proof is on the authorities** not the manufacturers and the data is confidential “where appropriate”. This puts unrealistic demands on the member states resources and violates the right – to –know principal that is vital to balanced civil society participation.

On language

The language of this draft is, we feel, overly complex. The inter-linkages of the articles are tortuous, the numerous references to other directives merely by number with no brief text on what is being referred to or implied in the legislation in question (even in the footnotes) makes it extremely difficult to understand the implications of such cross-references.