

December 13, 2002

JBCE position paper on the draft Commission proposal for a directive on establishing a framework for Eco-design of End Use Equipment

JBCE is pleased to be able to make its position known. It is nevertheless regrettable that stakeholders are only given an opportunity to express their opinion at very short notice and under unrealistic deadlines. Product manufacturers are after all the group of stakeholders that will have to implement in practice any legislative requirements that may ultimately be put in place.

On October 2, 2002, JBCE issued its position on a draft proposal for energy efficiency requirements for end use equipment. Our key concern focused on clarification of the relation between the draft EEE proposal and the draft EUE proposal. We pointed out the key coordinating framework role that the Integrated Product Policy initiative should play in making sustainable development work. We now welcome the fact that the Commission has agreed that there was a need re-assess the operational links between EEE and EUE.

We would like to ask commission to take further consideration for the following points:

1. Stakeholders should be actively involved.
2. This directive should be based on the “sustainable development”.
3. The product performance and price should be reasonable for users.
4. Business impact assessment is necessary.
5. Internal market should not be distorted.
6. Product groups, criteria and exemptions should be clarified.
7. The roles of standards should be clarified.
8. International standards and laws should be respected.
9. Other unclear points should be clarified.

Detailed comments on each point are described below.

1. Involvement of Stakeholders

While reserving its view on whether a committee procedure is the best possible way to lay down eco-design requirements, JBCE considers it necessary to point out that stakeholders are currently not normally and formally involved in committee proceedings. It does not seem feasible to determine workable, cost efficient and effective eco-design requirements without input from manufacturers that will have to implement them. JBCE is therefore calling upon the Commission to set up a formal, legally entrenched structure that will enable stakeholders to be fully involved in the process of determining eco-design requirements, whether that happens through a committee or otherwise.

2. Sustainable Development

For JBCE it is unclear how the new draft EUE framework proposal would fit in with the overall IPP/sustainable development effort. It seems difficult to take on board general principles of IPP policy, and regard them as the cornerstone of the framework, as long as these principles have not properly been spelled out and accepted.

3. Product Performances and Cost-Benefit Prioritization

Irrespective of whether EUE requirements are desirable or not, JBCE welcomes the inclusion by the Commission of the provision that EUE requirements should not have an adverse impact on health and safety. It also seems logical to expect that any requirements should not negatively affect the performance of a product. According to Article 14.3.6 of the draft proposal, however, decreases in product performance could be acceptable if they are just slightly less than significant. Performance decreases could damage the functionality and usefulness of a product. They can hamper innovation, and are likely to lead to a decrease in consumers' satisfaction.

JBCE shares the Commission's concern that implementing measures for particular product groups should not have a negative impact on lower income groups. It believes that this may be the case where design requirements are set that are disproportionately costly in terms of the environmental benefits they create, making such products inaccessible to consumers in lower income groups. This is an important point, bearing in mind that the scope of the draft EUE proposal is huge and covers all products with an energy input. Disproportionately costly requirements will defeat the purpose of making progress towards sustainable development because they will siphon off efforts, and financial resources, away from those areas where the biggest environmental impact advances can be made.

4. Business Impact Assessments

Business impact assessments need to be carried out at the earliest possible stage and should not serve to merely rubberstamp decisions that may already have been taken in principle. Needless to say that JBCE is prepared to contribute to this process with all the means that are at its disposal.

5. Internal Market

JBCE wants to emphasize and reiterate that if EUE measures need to be taken, they should not in any way damage the functioning of the internal market, and should indeed be based on Article 95 (EC Treaty).

6. Product Groups, Criteria and Exemptions

In order to allow manufacturers of products that will first be subject to eco-design requirements to be in the best possible position to implement legislative requirements, significant lead-times will be helpful and probably necessary to enable and prepare for implementation. It will therefore be required to get early indications as to which product groups may, under the current criteria, initially be considered to become subject to implementing measures. How swiftly would the Commission propose to come up with proposals for implementing measures? Could the Commission also give an indication as to which transitional periods it envisages will be necessary to allow manufacturers of product groups that will become subject to design requirements time to prepare implementation?

Utmost care is required in laying down and further fine-tuning the criteria that will govern the choice of product groups. Only carefully crafted and well-determined criteria will create the right structure within which sustainable eco-design requirements can be effective and will play a useful role in product and environment policy.

The Commission would need to indicate whether it intends to exclude, from the outset, certain product groups from the scope of the EUE framework. If this is the case, all product groups that are already subject to legislation that has a significant effect on environmental impact and design should consistently be excluded.

7. Standardization

The Commission should clarify, beyond what is to be found in the current draft proposal, the role that will be played by standardization bodies. Will the detailed eco-design requirements be determined by the legislator? Will they be agreed upon in a committee structure and will standards only serve a secondary role? Or will the legislator and a committee structure only lay down essential requirements and ‘skeleton’ implementing measures, while detailed standards are drafted by the classic standard setting bodies? Whilst reserving its judgement on whether the draft EUE proposal is the right way forward, JBCE would like to ask the Commission to elaborate on its current proposal and clearly substantiate the rationale behind the chosen policy options.

8. International Efforts

It would be appreciated if the Commission could clarify the importance it attaches to existing international and non-EU efforts that are already being undertaken. The Commission needs to set out how such efforts could be incorporated into the structure that it would ultimately like the draft proposal to establish. It would be counterproductive and undesirable to set up a structure that would negate the progress that is being made internationally. JBCE would like to draw attention to the Japanese Top Runner legislation that is in place since 1998 (see attachment to the October 2 position paper on the initial EUE draft proposal). The way in which the Energy Star Program has been incorporated as a voluntary EU instrument could also serve as an example.

9. Other Unclear Points

(1) Voluntary initiatives

This ties in with the role that voluntary initiatives may or may not be able to play. The Commission has stated at the recent stakeholder meeting that voluntary initiatives should be considered the preferred option over legislation that lays down (specific) eco-design requirements. Such a policy statement is not to be found in the current draft EUE proposal. JBCE would appreciate if the Commission could elaborate further on its statements, and could set out how it would seek to deal with free-rider behaviour and competitive distortions in the context of stimulating voluntary agreements without a proper back-up structure.

(2) Life-Cycle Assessments

Several elements in the draft proposal seem to indicate that Life Cycle Assessments (LCAs) may somehow be required. Although the Commission gave reassurances at the stakeholder meeting that it is not its intention to seek to mandate LCAs, it seems appropriate to clarify this in the draft proposal (for instance in the definition of ecological profile).