

Brussels, 30 June 2014

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European Commission

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1040 Brussels

**Ref: Guidelines on the self-regulation measures concluded by industry under the Ecodesign Directive 2009/125/EC**

Dear Paolo,

Thank you for giving EuroVAprint the opportunity to comment on the revised draft Guidelines. We are writing to share with you our concerns and recommendations regarding the interaction of the Guidelines with the Voluntary Agreement on Imaging Equipment and its ongoing revision.

We understand that DG Energy intends to adopt the final version of these Guidelines before end of 2014. In light of our experience with our industry's VA, however, we fear that several elements of the Guidelines will pose a key challenge for the revision. We would welcome some clarifications and rectifications from the European Commission. The below points are fundamental to the continued successful operation of our Voluntary Agreement.

**Section 3: Legal framework of the ecodesign self-regulation measures**

In the nine specific and non-exhaustive criteria list the term "business-as-usual" should be deleted as it is not quantifiable. There is no commonly agreed definition of "business-as-usual" throughout the Guidelines. Further and there is no "normal" execution of operations within an industry that is highly competitive.

All requirements for the assessment of self-regulation measures should be measurable, specific and quantifiable.

**Section 5.3: Signatories and market coverage**

Our estimation of market coverage is currently based on existing confidential market analysis commissioned by some of the Signatories under contract with private market analysts (i.e. IDC, GfK, and InfoTrends). It shows that Signatories to the Lot 4 VA cover above 95% of the market, well above the threshold in the Guidelines.

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However, this calculation is not specifically tailored to the products in scope of the VA and to the EU 28 geography. This may cause problems when assessing the market coverage against the 80% threshold in case of changes in the list of Signatories (i.e. Kodak's withdrawal due to a change in its product portfolio).

We suggest that the European Commission's Competition department draws up a report to calculate the market coverage of the self-regulatory measure. We are of the opinion that the EC should only commission such a report under certain circumstances (i.e. withdrawal of one or several large market players) to avoid duplicative efforts and unnecessary costs for no added value.

Furthermore, there is no proper definition of "market coverage" throughout the Guidelines: should it be expressed in units or in value? How could the European Commission conduct this analysis for the specific scope of the VA on imaging equipment?

#### **Section 5.4: Scope**

*"The self-regulation measure must clearly state that its requirements apply to at least 90% of all product models covered by the self-regulation measure placed on the market and/or put into service by each signatory."*

To require that 90% of **models** put on the market by one Signatory should be compliant contradicts the logic and feasibility of the targets in the VA. As the number of units per model vary greatly, it is necessary to base this target on the number of **units** placed on the market so as to encourage the maximum environmental improvement for the sum of the covered products.

#### **Section 5.6: Independent Inspector**

As Signatories are responsible for funding the Independent Inspector's work, they need the freedom to establish selection criteria and to choose the Inspector without consulting the European Commission. Indeed, the VA Signatories would not object in principle to seeing the European Commission bear the costs of the Independent Inspector. However, we would be open to the idea of the Commission representative having a right of veto on the selection of the Independent Inspector in the context of the Steering Committee.

Signatories have the relevant expertise to designate an independent inspector, which has a deep understanding of the imaging industry and its product technology.

#### **Section 5.7: Compliance verification**

*"The signatories must provide market data allowing the Independent Inspector to assess that at least 90% their products comply with the commitments."*

The use of "comply" as applied to products is incorrect. Instead we suggest "*meet the commitments*". In our view, this requirement contradicts Section 5.4. It also runs counter to the staged approach of self-regulation as laid down in section 5.5 that "*at least two Tiers must be proposed in the self-regulation measure*". If a staged approach is required, 90% shall be **the ultimate target** (met in the second or third tier), not the starting point of the self-regulatory measure.

Moreover, the compliance target must take into account the level of ambition of the commitments and properly reflect a realistic schedule based on market demand, product design cycles, portfolio management and inventory turn-over. This is illustrated by the targets proposed for the revised VA, which are based on an ambitious standard, i.e. ENERGY STAR v2.0, which is effective since 2014. As we have had the opportunity to highlight at the recent Consultation Forum on 12 June 2014, certain product categories (TEC imaging equipment for instance) will not achieve a target of 90% in less than two-to-three years.

## Section 5.8: Compliance reporting

The Guidelines are overly prescriptive in requiring information about the compliance status of Signatories and of models covered by the self-regulation measure.

As regard the “list of the compliant models”, again, there is no such thing as a “non-compliant model”, only models not meeting the commitments. (The current VA allows for 10% of products to fall below the ENERGY STAR v1.1 threshold.)

EuroVAprint Signatories will not publicly disclose a list of models not meeting the commitments, as this will create a *de facto* **black list** and fuel misunderstandings as to a Signatory’s overall compliance. As part of the revision, Signatories agree to publish a table of models containing detailed, but **anonymized**, information about the commitments met (see template in Annex C of the VA version 5). This would be in line with Section 5.10 of the revised Guidelines on access to background data. Moreover, information can be provided on demand to Member State surveillance authorities.

Again, the requirement to publish the status of each and every model is not only going against the spirit of our Voluntary Agreement, but is also more burdensome than a regulatory measure.

In conclusion, the members of EuroVAprint believe that despite obvious efforts to take our comments on board since the previous versions of the Guidelines, there remain several requirements which we believe to be unnecessarily burdensome. All of this red tape is in breach of the spirit of Smart Regulation and of the cost-effectiveness of self-regulation. We are concerned that the Guidelines as they stand present **insurmountable obstacles** (especially the 90% model requirement of section 5.4) to the revision of our Voluntary Agreement, and will deter other industry sectors from developing SRIs under the framework of the Ecodesign Directive.

We look forward to your response and remain available to further discuss these points at your best convenience.

Yours sincerely,



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