



Position of European Environmental NGOs on the endorsement of voluntary initiatives under the EU Ecodesign directive

1st March 2011

The [coolproducts](#) campaign and its members have strong reservations about the potential for using voluntary agreements (VAs) within the context of the Ecodesign of Energy-Related Products Directive. **We have a clear and unequivocal preference for legislation to implement this directive, which has already delivered promising energy saving regulations.** To move away from this mandatory approach could undermine the Directive and result in higher environmental impacts from products.

Voluntary agreements may be endorsed in place of legally binding measures to meet the objectives of the Ecodesign Directive. Four VAs have been proposed by industry so far (out of a total of around 25 product groups under the Directive) and the European Commission has approved the first one on Complex set Top Boxes on 11th February 2011. A second one may be endorsed for printing devices.

We have both general reservations about the use of voluntary agreements and industry self-regulation in all aspects of environmental policymaking, and specific concerns about their use in the Ecodesign Directive in particular. Our reservations on their use in general are founded on the last authoritative study from OECD (OECD Report Questions the Effectiveness of Voluntary Approaches for Environmental Policy 06/2003¹) and well-documented examples of voluntary agreements failing completely or having very limited impacts, such as vehicle efficiency standards. This is because a VA does not put sufficient pressure on individual manufacturers or an industry sector as a whole to make substantial improvements that go beyond a 'business as usual' scenario.

We also have specific concerns about the use of VAs to fulfill the requirements of the Ecodesign Directive. These focus both on the process by which a manufacturing sector agrees a VA with the European Commission, and the content of VAs proposed to-date.

VAs should be subjected to a well-defined and transparent process with adequate checks

In March 2010 the European Commission produced a four page guidance document on how VAs may be endorsed. This was in response to our concerns that the execution of important procedural requirements should not be delegated to industry in a haphazard fashion. However, the guidance document did not address several of our concerns and we believe that the process to assess whether a VA can deliver better and quicker results than a mandatory measure remains highly ambiguous.

We are particularly concerned about the fact that an independent preparatory study and an impact assessment analysis are not systematically required before a VA can be endorsed. Such studies are always prepared in the case of legally binding Ecodesign measures and must follow a common methodological and stakeholder consultation procedure. In contrast, manufacturers can propose a VA for their product group without a preparatory study being undertaken. This means that decisions about the effectiveness and appropriate ambition of the proposed VA would be taken in

¹ http://www.oecd.org/document/9/0,2340,en_2649_34487_2789257_1_1_1_1,00.html

the absence of robust, publicly scrutinised data. This lack of credibility combined with the absence of robust market and improvement data means that this approach to VAs is fundamentally biased.

The 2 first VA which EC is considering positively have followed so far the same process as regulation in terms of study and impact assessment. Nevertheless their definition has clearly showed a reduced involvement of stakeholders and MS with a poor consideration of comments performed by NGO's so far.

As long as the procedures to endorse and monitor a VA are not better clarified once and for all, we will remain against the use of these instruments. This does not mean that we will refuse to comment on the content of proposed VAs, however this is not an indication of any sort of support for this general voluntary option.

In addition, the content of VAs should follow more clearly defined criteria

While showing improvements in comparison to their initial formulation, the two proposed VAs that we have seen to-date are still questionable in a variety of other aspects, including their medium term level of ambition, the risk of insufficient market coverage, their report transparency, the genuine involvement of civil society and sanctions for non-compliant companies.

We would like to see the European Commission systematically applying the following criteria when assessing the content of a proposed VA (combined with a preparatory and impact assessment studies):

1. Voluntary agreements must add genuine value and demonstrate that on a long term they go not just beyond a business-as-usual scenario, but that they compete with the most ambitious improvement options suggested by the preparatory study and based on most advanced benchmark technologies.
2. Voluntary agreements must have high market coverage. This means that the vast majority of manufacturers should be part of the VA (at least 90 per cent of manufacturers and 80 per cent by market share), and all a signatory's product portfolio should be included. Exemptions significantly compromise the credibility of a proposed VA.
3. Product improvements should not be limited to energy efficiency but include all other significant environmental impacts of a product's lifecycle, such as recyclability and exclusion of toxic and hazardous substances. Products should also be designed to help consumers adopt greener habits.
4. A transparent monitoring, reporting and compliance system must be in place, which has provisions for third party market inspections and appropriately severe sanctions for non-compliance, including naming and shaming and financial penalties. If not, VAs will never put sufficient pressure on manufacturers.
5. Failing voluntary agreements must be quickly replaced with alternative mandatory regulations. The Commission must set out the ways in which an unsuccessful voluntary agreement will be identified and replaced with mandatory requirements.
6. Civil society should be closely involved in the drafting and monitoring of a voluntary agreement. A proposed VA should seek to engage civil society in a positive and constructive way and avoid tokenistic gestures that limit the impact of civil society's input.

Background notes

Coolproducts for a cool planet is a campaign launched in March 2009 by a coalition of environmental NGOs. The website www.coolproducts.eu reports on the campaign objectives and activities. Our petition asking for ambitious ecodesign requirements was signed by more than 140,000 citizens. Our Manifesto for greener heating and cooling equipment was signed by 36 organisations from European civil society, and 16 from businesses and other organisations.

The Directive 2009/125/EC on the Ecodesign of Energy-Related Products allows industry to propose self commitments (voluntary agreements) to escape legally binding implementing measures, if certain criteria are met (article 15). VAs transfer the responsibility of delivering the policy goals of the directive from the policymakers to industry sectors, and are considered as an option if they can prove that they will deliver better and quicker results than a regulation.

Our website for experts www.expert.coolproducts.eu gives a detailed overview of the implementation of the directive so far.