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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

on the voluntary ecodesign scheme for games consoles

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{SWD(2015) 89 final}

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the voluntary ecodesign scheme for games consoles

1. Introduction and the legal framework

Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (the Ecodesign Directive)¹ provides a legal framework for laying down ecodesign requirements for selected priority product groups.

According to Article 15(2)(a) to (c) of the Ecodesign Directive, a priority product group has to be covered by either a mandatory implementing measure (i.e. a Commission Regulation) or a self-regulation measure (e.g. a voluntary agreement concluded by industry), if it meets three conditions: (i) it represents significant sales volumes, (ii) it has a significant environmental impact and (iii) it has a significant improvement potential.

Furthermore, recital 18 of the Ecodesign Directive states that the priority product groups should be subject to alternative courses of action such as industry self-regulation or voluntary agreements rather than mandatory implementing measures, if such action is likely to deliver the policy objectives faster or in a less costly manner than mandatory requirements.

Voluntary agreements or other self-regulation measures can be considered as alternatives to implementing measures in the context of the Ecodesign Directive, provided that they comply with the criteria laid down in Annex VIII to the Ecodesign Directive.

2. Voluntary scheme proposed by the industry for games consoles

The Working Plan 2009-2011 under the Ecodesign Directive includes the product group sound and imaging equipment as offering a high potential for the cost-effective reduction of greenhouse gas emissions.

The Commission undertook a preparatory study for sound and imaging, including games consoles.

The preparatory study² confirmed that this product group meets the criteria listed in Article 15 of the Ecodesign Directive. In particular, it represents significant sales volumes, has a significant environmental impact and has a significant improvement potential. Consequently, sound and imaging equipment could be covered by an implementing measure or by a self-regulation measure.

The standby and off mode power consumption of video players/recorders and projectors is already appropriately covered by ecodesign Commission Regulation No 1275/2008 (so called

¹ OJ L 285, 31.10.2009, p. 10.

² EuP Preparatory study 'Building on the Eco-design Directive, EuP Group Analysis (I) ENTR Lot 3 Sound and Imaging Equipment. Final reports were published in November 2010. Study available at: http://ec.europa.eu/enterprise/policies/sustainable-business/ecodesign/product-groups/sound-imaging/files/lot3-sound-and-image-final_en.pdf

standby Regulation). The market for these products is likely to decrease in the coming years because of the increase in the use of streaming and media-less devices for consuming sound and video content. The only segment of this product market which is likely to increase in the coming years is games consoles.

Companies active in the games consoles market have proposed a voluntary agreement laying down specific ecodesign requirements for games consoles models placed on the EU market, which use more than 20 Watts in active game mode. The voluntary scheme was agreed by the signatories in April 2014.

It is estimated that the commitments undertaken by the signatories to the voluntary agreement will generate savings in 2020 of 1 TWh, corresponding to 0,494 Mt of avoided CO₂ emissions³.

The voluntary scheme proposed by the industry was subject to a full impact assessment by the Commission⁴ and stakeholder consultations in the course of the Ecodesign Consultation Forum⁵ established under Article 18 of the Ecodesign Directive.

The impact assessment concluded that the proposed voluntary scheme would achieve the policy objectives more quickly and at lesser expense than mandatory requirements. It also concluded that, as required by Annex VIII to the Ecodesign Directive, the proposed scheme complied with all provisions of the Treaty (in particular internal market and competition rules), international engagements of the EU (including multilateral trade rules), the objectives of the Ecodesign Directive, and the specific assessment criteria, i.e. (i) openness of participation, (ii) added value, (iii) representativeness, (iv) quantified and staged objectives, (v) involvement of civil society, (vi) monitoring and reporting, (vii) cost effectiveness of administering a self-regulatory initiative, (viii) sustainability, and (ix) incentive compatibility.

3. Elements of the voluntary agreement

The voluntary agreement concluded by the industry lays down specific ecodesign requirements for games consoles placed on the EU market.

As required by the Ecodesign Directive, the signatories to this voluntary scheme represent a large majority of the relevant economic sector. Under the agreement, each signatory undertakes that at least 90% of all games consoles that they place on the market would comply with the applicable minimum energy efficiency requirements.

In addition to laying down the ecodesign requirements, the agreement establishes two administrative bodies:

- the Steering Committee, consisting of representatives of the signatories to the agreement, which run the agreement, and observers, which may include representatives from the European Commission, EU Member States, environmental and consumer organizations, and

³ According to the 2014 DECC guidelines

⁴ The Impact Assessment Board gave its favourable opinion on the impact assessment on 27 March 2013.

⁵ The voluntary scheme for games consoles has been discussed by the Ecodesign Consultation Forum on 9 November 2012.

- the Independent Inspector, appointed by the Steering Committee, who assesses the compliance of individual signatories with the commitments set out in the agreement and provides the Commission with the compliance reports⁶.

The agreement also defines reporting obligations, specifying that each signatory must provide required information to the Independent Inspector, otherwise it will risk forfeiting its signatory status.

Furthermore, the agreement provides for a procedure allowing the Steering Committee to modify the provisions of the agreement, in particular to adjust the stringency of requirements to the situation on the market.

To provide all stakeholders, particularly potential signatories, with correct and updated information about the requirements applying to games consoles in good time, the most recent version of the voluntary agreement will always be published together with the impact assessment and this Report on the Commission's Europa website dedicated to ecodesign policy⁷ and on the website dedicated to this scheme⁸. This dedicated website will also contain information about the technical specifications and feature of each console model placed on the EU market by each of the signatories.

4. Acceptance of the voluntary scheme

As the voluntary scheme proposed by the industry for games consoles will achieve policy objectives more quickly and at lesser expense than mandatory requirements, and as it complies with all the criteria specified in Annex VIII to the Ecodesign Directive, the Commission recognises that games consoles placed on the EU market are subject to the voluntary ecodesign scheme established by the industry. The conditions for the scheme are set out in the voluntary agreement concluded by the industry.

The Commission considers this voluntary scheme a valid alternative to an ecodesign implementing measure. Consequently, the Commission will abstain from establishing mandatory ecodesign requirements for games consoles placed on the EU market, as long as the voluntary agreement and any subsequent versions concluded under the proposed voluntary scheme will, in the opinion of the Commission, meet their objectives and the general principles defined in the Ecodesign Directive.

In particular, the voluntary scheme must continue to comply, throughout the period of its application, with the general principles defined in the Ecodesign Directive, including: contribution to the policy objectives of the Ecodesign Directive; openness to participation by all companies active on the games consoles market; coverage of a large majority of the relevant economic sector⁹; clarity and unambiguity of its terms and conditions; transparency; well-designed monitoring system; and no disproportionate administrative burden.

Furthermore, any specific ecodesign requirements for games consoles placed on the EU market which are defined in the voluntary agreement and any subsequent versions concluded under the voluntary scheme should deliver added value in terms of the improved overall environmental performance of the products covered.

⁶ Compliance reports are made available to and discussed with stakeholders.

⁷ http://ec.europa.eu/energy/efficiency/labelling/agreements_en.htm.

⁸ www.xxx.eu

⁹ At least 70% of the products placed on the market.

Moreover, as requested by the Commission and stakeholders, the signatories to the voluntary scheme are required to:

- continuously assess progress in the application of the scheme,
- cooperate with the Commission services, Member States and stakeholders to continuously improve the environmental performance of games consoles, in particular by continuously reviewing the energy consumption targets defined in the voluntary agreement, and to include other relevant environmental aspects where appropriate,
- cooperate with the Commission services, Member States and stakeholders to improve the reporting mechanism and the monitoring and auditing rules ,
- provide, by the deadlines stipulated in the voluntary agreement, relevant data to allow the Commission and stakeholders to monitor achievement of the objectives of the agreement, whereby each signatory commits to providing information on all games console models it has placed on the EU market and information about the energy consumption and other environmental characteristics addressed by the voluntary agreement (e.g. information requirements) for each model subject to the voluntary agreement, and
- make efforts to ensure the active involvement of potential signatories in the scheme.

5. Monitoring of the voluntary scheme

As required by point 6 of Annex VIII to the Ecodesign Directive, the Commission, assisted by the Ecodesign Consultation Forum and the Committee referred to in Article 19(1) of the Ecodesign Directive, will monitor the application of the voluntary scheme, in particular its compliance with the general principles, as well as the appropriateness of the ecodesign requirements specified in the voluntary agreement and any subsequent versions.

The Commission will give special attention to the reporting obligations and monitoring rules set out in the Ecodesign Directive, in existing Commission guidelines and in the agreement itself. In particular, the Commission will check whether the provisions of the agreement and their application by the signatories allow the Commission and stakeholders (including the national authorities) to effectively monitor the effectiveness of the agreement and how well it meets its objectives.

If the Commission concludes that the objectives and general principles of the Ecodesign Directive, as reflected in the voluntary scheme, will not be met and/or the signatories to the voluntary scheme will not continuously reduce over time the energy consumption targets, improve requirements concerning non-energy related aspects as specified in the voluntary agreement or include, where appropriate, new relevant environmental aspects in subsequent versions, the Commission will adopt ecodesign requirements for games consoles by means of a mandatory implementing measure.

6. Conclusions

The voluntary ecodesign scheme proposed by the industry for games consoles complies with all provisions of the Treaty, international engagements of the EU and specific assessment criteria, so is considered valid under the Ecodesign Directive.

Commission assessment has revealed that this voluntary ecodesign scheme will achieve the policy objectives more quickly and at lesser expense than mandatory requirements.

The Commission recognises that games consoles placed on the EU market should be subject to the voluntary ecodesign scheme. The conditions for the scheme are laid down in the voluntary agreement concluded by the industry.

The Commission considers this voluntary scheme to be a valid alternative to an ecodesign implementing measure, so will abstain, for now, from establishing mandatory ecodesign requirements for games consoles placed on the EU market.

The Commission will continuously monitor the application of the voluntary scheme. Should this reveal that the objectives and general principles of the Ecodesign Directive are not being met, the Commission may establish ecodesign requirements for games consoles in a mandatory implementing measure.