

## **Position Paper on the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan (COM (2008) 397/3)**

### **EXECUTIVE SUMMARY**

Aware of the challenges and opportunities of creating a more sustainable society, BUSINESSEUROPE supports the overall objective of the Communication on the Sustainable Consumption and Production (SCP) and Sustainable Industrial Policy (SIP) Action Plan. If implemented properly, the Action Plan has the potential to foster not only efficient framework conditions for boosting innovation, but also to pave the way towards a continuous improvement of production processes, a wide choice of sustainable products for consumers and new business opportunities for European companies.

BUSINESSEUROPE asks policy-makers to minimise administrative burden arising from the complex relationship between the different measures derived from the Action Plan and to avoid overlap or duplication of regulatory instruments. Therefore, it is important to choose carefully the most effective combination of policy instruments to bring about the desired changes in the market towards sustainability without creating collateral damage to EU industry's competitiveness and its ability to innovate in Europe.

### **FUNDAMENTAL PRINCIPLES**

To achieve successful implementation of the Action Plan, BUSINESSEUROPE strongly calls for full respect of better regulation and sustainability principles, by:

- Putting in place a coherent legislative framework without overlapping or even conflicting requirements, especially where specific (product) regulations already exist.
- Avoiding an increase of bureaucracy and administrative burden.
- Ensuring the cost efficiency of measures.
- Guaranteeing transparency and involving stakeholders representing the whole supply chain from the very beginning of the process.
- Promoting actions at an international level and ensure sustainability measures are not used as barriers to international trade.
- Embracing sustainability in its economic, environmental and social dimensions.
- Basing actions on sound scientific evidence.
- Applying lifecycle thinking encompassing all relevant environment aspects.
- Pursuing a voluntary approach to sustainable development wherever possible.

- Permitting flexibility in the way agreed policy goals are achieved.
- Leveraging innovation as a source of process, product and service solutions.
- Providing relevant communication to shape consumer behaviour towards sustainable choices.

#### SUSTAINABLE PRODUCTION

- The regulatory framework is already well in place to ensure that production processes in the EU meet high environmental standards. The added value of the Action Plan should be to that it further promotes the development of new sustainable production technologies through an active support to R&D and remove barriers hindering investments in particular.
- In the absence of a detailed assessment of the cost efficiency and relevance, BUSINESSEUROPE questions the value of some of the measures proposed such as resource efficiency targets or an EU wide environmental technology verification scheme.

#### SUSTAINABLE PRODUCTS FOR BUSINESS AND CONSUMERS

- The decision of whether or not to add a new “energy-related” group of products under Directive 2005/32/EC on Eco-design of Energy-using Products (renamed as “Eco-Design Directive”) should be taken following in-depth cost-benefit analysis and impact assessment, with full attention to all principles listed above. BUSINESSEUROPE has always stressed that legislating in the area of eco-design of products must be considered very cautiously because it can strongly affect industry.
- BUSINESSEUROPE supports the objective of establishing a stronger link and coherence between the Eco-Design Directive and the Energy Labelling Directive. However, the scope of the Energy Labelling Directive must not automatically be extended to all product groups covered by the Eco-Design Directive. We stress that the appropriateness for a certain product group should be assessed, and if judged appropriate, included in the respective eco-design implementing measures for that product group after consultation of the affected industries.
- Utmost attention should be paid to the development of scientifically sound and harmonised product assessment criteria, which can be applied consistently in the different eco-design and eco-label schemes as well as in consumption policies.

#### SUSTAINABLE CONSUMPTION

- Strengthened information towards end-users about the environmental characteristics of products can contribute to driving the desired changes in the market. All suitable means of communication should be fostered to raise awareness and inform consumers.
- It is disappointing that the Action Plan limits product information to labelling, without considering other means of communication. Through the parallel application of

different labels based upon different criteria, the Action Plan in its present form risks confusing consumers, rather than helping them to make informed choices.

- A number of fundamental questions remain regarding suitability and practicality as well as costs and benefits of CO<sub>2</sub> footprint labelling. Before any political decisions are taken, BUSINESSEUROPE calls for extreme caution.
- In development of any information tools, stakeholders representing the whole supply chain should be involved. In particular the proposed “retail forum” must involve manufacturers on an equal basis with retailers and consumers.
- Opportunities and risks of introducing mandatory EU-wide product performance thresholds (by means of a revision of the Energy Labelling Directive) for applying incentives and public procurement must be assessed very cautiously. BUSINESSEUROPE calls for further consultation to define the most adequate framework.

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## **POSITION PAPER ON THE SUSTAINABLE CONSUMPTION AND PRODUCTION AND SUSTAINABLE INDUSTRIAL POLICY ACTION PLAN (COM (2008) 397/3)**

This document presents an initial reaction to the Commission strategy supporting Sustainable Consumption and Production (SCP) and Sustainable Industrial Policy (SIP) in the European Union and internationally. Given the complexity of the issue and the fact that not all related legislative proposals have been adopted yet, BUSINESSEUROPE reserves the option to provide further comments, notably on individual legislative proposals, if appropriate.

BUSINESSEUROPE supports the overall objective of the Communication on the SCP and SIP Action Plan. If implemented properly, it has the potential to create not only efficient framework conditions for boosting innovation and new sustainable technologies, but also to pave the way towards a genuine win-win situation: the continuous improvement of production processes, a wide choice of sustainable products for consumers and new business opportunities for European companies.

However, in order to avoid distortions to competition and the functioning of the internal market, any measure implementing the Action Plan needs to comply fully with the principles of better regulation and sustainability.

A number of policy instruments are already in place and are delivering results to move towards sustainable production and consumption patterns in the EU. EU-wide policy actions in this area must ensure that it will not result in overlapping/duplication of regulatory instruments and increased administrative burden. It is crucial to choose the most effective combination of instruments to bring about the desired changes in the market without creating collateral damage to EU industry's competitiveness and its ability to innovate in Europe. In that respect, the plan's explicit emphasis on consumers' buying decisions, which do indeed hold the key to real changes in consumption patterns and thus product markets, is welcomed.

### **Fundamental principles**

The Action Plan needs to respect a number of fundamental principles in order to create a genuine win-win situation for the environment, the consumer and industry.

- Only coherent and consistent policies without overlapping legislative requirements or excessive bureaucratic and administrative burdens can be the basis for a positive legislative framework for investment in the EU. For example, the danger of conflicting and parallel legislation in the field of chemicals and construction products is very high and guarantees must be provided.
- Cost efficiency must be the guiding principle for identifying actions to promote SCP and SIP. In addition, prior cost-benefit and impact assessments should be complemented with analyses on the capacities of the economy as a whole and of companies to bear additional costs without having to relocate production outside Europe.

- The approach must take on board all relevant parties, stakeholders and actors in the supply chain in a transparent process and from the very beginning of the process.
- Any legislation governing requirements for the eco-design and labelling of products must not be used as barriers to international trade or put European products at a disadvantage vis-à-vis foreign providers. Therefore, actions should be promoted to ensure an open process towards negotiating standards on eco-design requirements and on eco-labels at an international level.
- All three pillars of sustainability – economic, social and environmental - must be considered in an integrated manner. Product performance should not be assessed against environmental criteria only, but should equally take into account other essential aspects such as quality, safety, affordability, functionality, health, convenience and other societal concerns. For consumers to embrace innovative products and services, those criteria must be delivered in parallel, not in isolation from or even contradiction with each other.
- Any action, especially on product labelling and base for consumption incentives, should be based upon sound scientific evidence.
- Lifecycle thinking, which incorporates all relevant environmental aspects that occur from cradle to grave of a product, must be fostered in order to promote overall continuous improvements of product performance.
- A voluntary approach to sustainable development should be pursued wherever possible.
- Industry must have sufficient flexibility to drive product development and to respond to market forces.
- Innovation as a source of process, product and service sustainable solutions should be at the heart of the policy, so as to reduce environmental impact while offering EU industries new business opportunities and wider choices of sustainable products to consumers.
- Provide relevant communication to shape consumer behaviour towards sustainable choices

### **Sustainable production**

As noted by the Commission in its Action Plan, policies are well in place to ensure that production processes in the EU meet high environmental standards, for example through the IPPC Directive. Regulation has been complemented with market-based and voluntary instruments, such as EMAS and the Community's greenhouse gas emissions trading scheme. European companies are continuously optimising production processes to improve environmental performance and cut costs for energy, resource (raw material) input and waste management.

BUSINESSEUROPE supports the Action Plan's objective of boosting the development of new sustainable production processes. This is where it can bring a real added value to both the environment and EU's competitiveness and growth. Indeed, new markets for sustainable technologies and products are emerging in the EU and world-wide.

Investments in new sustainable technologies may therefore offer an attractive growth dividend.

Actions at the Community and national level in the field of sustainable technologies must be pursued and strengthened, marketing of sustainable products must be facilitated and the internal market must be effective and eco-innovation-friendly. In particular, it is important:

- To mobilise greater Community funds and national public investments to support and increase R&D in sustainable technologies. Public authorities must enshrine R&D in sustainable technologies as a budget priority and increase consequently the level of funding.
- To remove barriers hindering investments in sustainable technologies in Europe.
- To foster the implementation and strengthen the coherence and interaction of existing Community programmes and initiatives, such as the Strategic Energy Technologies (SET-) Plan, the Environmental Technologies Action Plan (ETAP), the technological platforms, the Lead Markets Initiative and the forthcoming Knowledge and Innovation Communities. Particular attention has also to be paid to carefully coordinating public actions at all level (local, national, European).
- To upgrade cooperation between R&D stakeholders in eco-innovation. Interaction should be developed between businesses, research centres and universities in order to facilitate the transfer of knowledge.
- To develop education, skilled people in this field.
- To establish conducive conditions for protection and exploitations of inventions.

In the absence of a detailed assessment of the cost efficiency and relevance of some measures to reach the objective of sustainable production, BUSINESSEUROPE questions the value of some of additional measures proposed, such as resource efficiency targets or an EU wide environmental technology verification scheme.

## **Sustainable products for business and consumers**

### PROPOSED EXTENSION OF THE EUP DIRECTIVE

Industry has long applied eco-design consideration as a tool to improve the environmental performance of products and to cut costs. There are increasing numbers of voluntary initiatives to improve the sustainability of particular products. Many individual businesses, branches and even national industry organisations have also made self-commitments.

The Commission proposes an extension of the Directive 2005/32/EC on Eco-Design of Energy-using Products (renamed as the Eco-Design Directive) to “energy-related products”, which have an impact on energy consumption during use.

BUSINESSEUROPE takes the position that the decision of whether or not to add a new “energy-related” product or group of products under the Eco-Design Directive should be taken very cautiously, following in-depth cost-benefit analysis and impact assessment. In this process, we call for the full respect of fundamental principles listed



above. In particular, it is a prerequisite to look carefully at other legislation that already exists – this is particularly pertinent in view of the REACH regulation on chemicals and the construction sector where specific products regulations already exist<sup>1</sup>. It is essential also that any amendment to the scope of the directive does not upset the implementation of the existing directive for energy-using products, for which the framework needs to continue to apply as it stands today to contribute to realisation of the EU's energy and climate change objectives.

In addition, the extension of the directive should apply only where a lack of voluntary initiatives has been proven. Very significant improvements can be delivered as a result of these types of voluntary initiative and the Commission and governments should continue to play their role in supporting and facilitating them.

Lastly, BUSINESSEUROPE supports the use of the 'New Approach' principles and notably the recourse to European harmonised standards in the implementation of the Eco-Design Directive. It enables business to choose the best technical solutions to meet mandatory essential requirements and makes it easier to provide consumers with products at competitive prices.

#### EXTENSION OF THE ENERGY LABELLING DIRECTIVE AND CONNECTION BETWEEN THE DIFFERENT SCHEMES

BUSINESSEUROPE could generally support a stronger link between the EuP Directive (renamed as Eco Design Directive) and the Energy Labelling Directive. The EU energy label in its present form already harbours the potential to operate as an "eco-design label" since it provides the basis for including information on product performance other than energy consumption such as water consumption. However, it should not be extended horizontally or applied automatically to all product groups covered by the Eco Design Directive. We stress that the appropriateness of the instrument for a certain product group should be assessed and, if judged appropriate, included in the respective eco-design implementing measures for that product group after consultation of the affected industries.

Further to the Eco-Design Directive and the Energy Labelling Directive, the Eco-label Regulation is the third policy instrument addressing eco-design and product labelling that is proposed for revision in the context of the Action Plan. Rightly, the Commission aims to achieve a stronger connection between the setting of assessment criteria under these instruments. This is welcomed as this would increase consistency and provide a coherent framework for assessment criteria and for environmental information system where assessed necessary. BUSINESSEUROPE thus believes that utmost attention should be paid to the development of scientifically sound and harmonised product assessment criteria and methodologies, which are supported by the whole supply chain and can be applied consistently in EU consumption policies such as labelling, Green Public Procurement or incentives.

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<sup>1</sup> For example, Energy Performance of Buildings Directive (EPBD), Construction Products Directive (CPD) and standardisation work on sustainable construction in CEN TC 350.

## **Sustainable consumption**

Product requirements alone will not bring the desired changes in the market. Eco-design requirements need to be coupled with support measures that allow the consumer to choose for sustainable products when he takes his buying decision.

### ENVIRONMENTAL INFORMATION TO CONSUMERS, INCLUDING ENVIRONMENTAL LABELLING

There are many suitable channels to inform end-users about the product characteristics, including their environmental performance. Information can be provided on websites, leaflets, etc., BUSINESSEUROPE calls for exploration and promotion of all suitable means of communication to raise awareness and inform consumers.

Eco-label is one of many tools for providing product information to end consumers. Although a number of parameters have to be considered<sup>2</sup>, it can be an effective and clear way of conveying messages especially when they are linked to sector-wide benchmarks or standards. To be successful, it needs to be simple, concise and easy for the consumer to understand. It should be based on sound scientific evidence. A set of detailed principles that should apply in the revision of the Eco-label Regulation is presented in Annex 1. Eco-label needs to remain voluntary.

Although labels have a role to play in providing environmental information to consumers, it is worrying to see the strong focus put on this means of communication whereas other types of information should be promoted as well, e.g. Self-declared Environmental Claims and Environmental Product Declarations. In its present form, the Action Plan results in parallel application of the eco-label, the energy label, a possible eco-design label as the CE mark (for products that are regulated under the EuP Directive). This multiplication of labels, which are based upon different criteria, risk confusing not only business but also consumers rather than helping them make informed choices. In view of bringing more coherence and under the conditions outlined above, BUSINESSEUROPE could agree with the existing energy label being used to bring the necessary coherence for the future labelling of products.

### CARBON FOOTPRINT LABELLING

It would be desirable to carefully analyse whether CO<sub>2</sub> labelling is a suitable indicator to measure the environmental impact of products and to study which are those indicators which can provide consumers with proper environmental information. It is questionable whether emissions of CO<sub>2</sub> should be communicated to consumers through the label of the products because consumers can misunderstand this information and it can negatively influence the choice of products. The question of a reliable and harmonised methodology for the calculation of products' CO<sub>2</sub> footprint is also critical.

A number of fundamental questions remain regarding suitability and practicality as well as costs and benefits of CO<sub>2</sub> footprint labelling. Before any political decisions are taken, BUSINESSEUROPE calls for extreme caution.

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<sup>2</sup> For example, type of product, underlying assessment method, ease of comprehension and relevance for the consumer, overall amount of information supplied to the consumer including other labels, its support by producers and retailers, etc.



#### WORKING ACROSS THE SUPPLY CHAIN WITH MANUFACTURERS, RETAILERS AND CONSUMERS

The Action Plan contains a proposal for a “Retail forum” which emphasises the strong position retailers have to influence more sustainable consumption. Given the multi-level nature of the supply chain it is critical that all players take responsibility for their own activities in order to ensure an effective outcome. Focusing primarily on one stakeholder in such a structure risks creating distortions in the market and ineffective policy responses.

Industry experience has demonstrated that best results are delivered when manufacturers and retailers set the agenda together and then work on joint projects. One objective of the Commission’s strategy is on promoting more sustainable products. Producers are uniquely placed to meet this objective.

BUSINESSEUROPE thus believe that the Forum must treat retailer and manufacturers as equal partners. Equally there may be value in the participation of scientists, researchers, consumer organisations and independent third party experts as well as NGOs.

#### INCENTIVES AND PUBLIC PROCUREMENT FOR SUSTAINABLE PRODUCTS

In a number of areas, market-based instruments – comprising taxes and charges, positive tax incentives and tradable emission permit schemes – offer an important potential, compared with traditional “command and control regulation”, for lowering the cost of achieving environmental objectives. As they may have powerful consequences however, they need to be designed and used with great care, in particular in view of rising energy prices. The BUSINESSEUROPE response to the Green Paper for Market-Based Instruments for Environmental and Related Policy Purposes (COM (2007) 140) includes a reference to specific design and test criteria that should be used to test market-based instruments before they are introduced (see Annex 2).

BUSINESSEUROPE welcomes that the Commission is reflecting on possible approaches for encouraging more sustainable consumption and investment decision, in particular in the domestic and public sector. In parallel to product performance requirements and relevant information, incentives and modernised public procurement approaches may help to foster the desired market changes towards sustainability.

The Commission proposal to establish a common approach for the use of incentives and public procurement, based on mandatory EU-wide product performance thresholds (by means of a revision of the Energy Labelling Directive), must be assessed very cautiously. It is vital to evaluate this strategic orientation from all angles, and to draw up an appraisal of the opportunities and possible risks linked to this approach. Regarding public procurement, BUSINESSEUROPE would like to remind the Commission of the advantages of the 2004 Legislative Package on Public Procurement which greatly clarified how public purchasers can include environmental considerations in their procurement processes and procedures.

On the opportunities side, the approach could, if organised effectively, create powerful incentives for eco-innovation and improve the division of the burden of efforts to reduce the environmental footprint within European society.

On the risks side, overly restrictive and mandatory EU-wide thresholds for the application of incentives and public procurement could, notably:

- Create high compliance costs.
- Reduce the demand-push effect of the approach.
- Run counter to the goal of optimal deployment at national level of advanced technologies.

One possible option could be giving a degree of flexibility to Member States through the introduction of indicative product performance thresholds.

With regard to green public procurement, the Action Plan also refers to strengthening green public procurement by voluntary measures<sup>3</sup>. BUSINESSEUROPE welcomes, in principle, the development of voluntary common green public procurement criteria for some products and services. It is important that business is consulted fully on the development of any voluntary measures given their de facto importance and the Commission's proposal to formalise this process in the member states. Furthermore, we believe that a clarification is needed from the Commission on the link between the voluntary and mandatory measures on green public procurement.

BUSINESSEUROPE calls upon the policy-makers to lead an intense consultation with industry to establish the most adequate common approach for the use of incentives and public procurement. The European business community is keen to contribute to the discussion in an ambitious and constructive way.

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<sup>3</sup> More information relating to these voluntary measures can be found in the annex 3.

## Annex 1

### Principles for eco-labels:

1. Eco-label schemes need to **be voluntary**
2. Be **based on sound science**:
  - All forms of environmental labels must be supported by scientific evidence, using methods accepted widely across the scientific and technical community
  - There must be a traceable basis for verifying the claim made by the eco-label.
  - Environmental impact assessments should be easily repeatable and therefore easily measured.
3. Be **transparent**: the criteria or basis for claims or environmental labels should be clear and publicly available.
4. Be based on **lifecycle thinking**: environmental assessments and communication must cover of the most significant environment impacts along the product lifecycle
5. Pursue defined goals with **flexible means**: the underlying criteria for awarding an eco-label should define the desired direction for improvement, but not the means to get there.
6. Promote **innovation**: labels, claims, seals, or “trust-marks” that have criteria based on an evaluation of products that exist in the marketplace today tend to reward current technologies and may represent a barrier to future innovation if they do not holistically examine the product and contributions from all its life cycle phases. Approaches we would take or support should promote innovation.
7. Be **non-discriminatory**: environmental labelling schemes must not favour local products without scientific justification, nor deny equivalent competitive opportunities to imports.
8. Be **truthful**: environmental labels/claims must not be presented in a manner that overstates the environmental attribute or benefits, expressly or by implication.
9. Be **meaningful to consumers**: the information provided must be non-trivial and relevant to both the consumer/stakeholder and to environmental protection.
10. Promote **dialogue**: in designing eco-labels all parties must work towards solutions with all relevant stakeholders.
11. Safeguard **international trade**
  - Eco-labels should not deny equivalent competitive opportunities to imports.
  - Eco-labels must not favour national production without scientific justification.

## Annex 2

### Design and test criteria for environmental market-based instruments<sup>4</sup>

#### 1. Environmental effectiveness and economic efficiency criteria:

- Aimed at sound and transparent environmental objectives
- Effective in achieving the environmental targets
- Economically efficient, based on cost-benefit analysis
- Easily introduced, and then adjusted on the basis of careful monitoring
- Provide predictability and legal certainty for business investments
- Reflecting the shared responsibility concept.

#### 2. Policy coherence criteria:

- Consistent with the internal market, so not raising barriers to trade
- Compatible with the principle of balance inherent in sustainable development
- Not overlap with other Community and Member-State policies and instruments (no double burden).

#### 3. Subject to Regulatory or Sustainability Impact Assessment:

- Impact assessment must be an integral part of designing a major policy proposal

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<sup>4</sup> Source : Comments on the Green paper on market-based instruments for environment and related policy purposes – COM (2007) 140, BUSINESSEUROPE, 30 July 2007; Market instruments for sustainable development, UNICE, September 2002

### Annex 3

#### Comments on voluntary measures for green public procurement as set out in the Communication 'Public Procurement for a better environment'

BUSINESSEUROPE very much welcomed the Legislative Package on Public Procurement established in 2004, which as the Commission stresses in its Communication on Green Public Procurement, has clarified how public purchasers can include environmental considerations in their procurement processes and procedures. The Package also maintains that the use of environmental criteria must be in line with the basic principles of non-discrimination and transparency which are essential for any kind of public procurement in the Internal Market.

Given the advantages of this sound legal framework, which was only finalised in 2004, a well considered policy on green public procurement should concentrate on deepening the practical understanding of how to handle green public procurement within the scope of the existing comprehensive EU Directives on public procurement.

BUSINESSEUROPE recognises, in principle, that the development of voluntary common green public procurement criteria for some product and service groups could be beneficial. In this context, although the creation of the "Training Toolkits" on green public procurement is a non-legislative approach, the de facto importance of these toolkits and the Commission's proposal to formalize this process in the member states, makes it indispensable for business to be more extensively consulted by the Commission in the development of common green public procurement criteria. Such toolkits should also take into account the specific characteristics of some sectors to avoid suppliers being excluded from public procurement markets, which would be detrimental to the objective of getting better products for the public purchaser and for the tax payer.

We recognize the Commission's efforts in aiming to simplify GPP criteria and developing criteria documents which can easily be used by public purchasers. A precondition for any envisaged referencing of eco/energy-labels for purposes of public procurement will be that the relevant eco/energy-label criteria are drawn up and adopted on the basis of scientific information and are not overly prescriptive. Furthermore, it is crucial for the contractor to have the flexibility to present other appropriate means of proof. This means that, in future, the contracting authority needs to have the skills to verify on a case by case basis, from a technical/legal perspective, whether the submitted proof can be considered appropriate. The envisaged references to eco/energy-label criteria should not result in a situation whereby public purchasers call for as many labels or common criteria as possible instead of asking for the criteria relevant for the specific purchase.

BUSINESSEUROPE looks forward to further cooperation with policy-makers both on the proposals rolled out in the Communication on green public procurement and in connected subsequent initiatives, which will have important implications for green public procurement (e.g. revision of Energy Labelling Directive).