

4 June 2014

## **BUSINESSEUROPE comments on the revision of the National Emission Ceilings Directive and proposal of a Directive for Medium Combustion Plants**

### **KEY MESSAGES**

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- 1** Industry supports the general approach of seeking cost-effective solutions to address predicted future air pollution across the fullest range of contributing sources.
- 2** The proposed revision of the National Emission Ceilings Directive (NEC) must ensure cost-effectiveness by considering technical and economic feasibility in setting the emission ceilings. Furthermore, the insertion of a “safeguard clause” should provide for fair burden sharing between industrial and non-industrial sectors.
- 3** Full consistency between the proposed Directive on Medium Combustion Plants (MCP) and existing and up-coming legislation must be ensured. Particularly the difference in scope between the Industrial Emissions Directive and MCP must be made much clearer and unequivocal.
- 4** The feasibility of the proposed Emission Limit Values (ELVs) for MCP should be better assessed from a technical and economic perspective. The ELVs must be compatible with the use of primary techniques and must be cost-effective.

### **WHAT DOES BUSINESSEUROPE AIM FOR?**

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- Industry has been largely committed to improving air quality in Europe having reduced its emissions to air more than any other sector. Thanks to significant investments in advanced emissions abatement techniques, emissions are expected to decline further until 2020 and beyond.
- While industry will continue to contribute to further improve air quality in the future, a proportionality of measures to achieve this must be ensured. Industry cannot be forced to go beyond what is technologically and economically feasible.
- In line with industrial competitiveness mainstreaming as endorsed by the European 2014 Spring Council legislative proposals as part of the Clean Air Package must not go against the aim of boosting industrial competitiveness.



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Industry has been largely committed to improving air quality in Europe and supports the general approach of seeking cost-effective solutions to address predicted future air pollution across the fullest range of contributing sources. In recent decades, industry has significantly reduced its emissions to air implying significant investments in advanced emissions abatement techniques, more than any other sector. In addition, clean air technologies developed by industry have helped to reduce emissions both across the EU and abroad.

It is essential that the legislative proposals within the Clean Air Package do not impose a disproportionate cost on industry, ultimately leading to production cuts in Europe. With this in mind, BUSINESSEUROPE has particular concerns about elements of the revision of the National Emission Ceilings Directive (NEC) and the proposal for a Directive on Medium Scale Combustion Plants (MCP).

### **Industrial Competitiveness**

The importance of competitiveness of European industry has been highlighted by the Commission in its Communication on an Industrial Renaissance, published on 20 January 2014. Furthermore, the European Council commits to systematically mainstreaming industrial competitiveness across all EU policy areas in its Conclusions of March 2014. It is vital that this is also recognised in this legislative package and that thorough competitiveness proofing is carried out throughout the entire process.

#### **- Revision of National Emission Ceilings Directive**

### **Cost Effectiveness**

Industry cannot be expected to go beyond what is technically and economically feasible and already required under the Industrial Emissions Directive (IED). The text of the Directive should state clearly that improvements must be achieved in the most cost effective manner possible. The transitional provisions in the proposal are, in view of the investment cycles, too short.

Additionally, a number of important uncertainties around the baseline scenario used in designing the policy call for deeper investigation. The model is based upon only one energy scenario, which may not occur in reality. It also makes a number of key



assumptions about the baseline emission reductions on which the policy scenario related targets are based, making it vulnerable to a large degree of uncertainty. As such, there is a significant risk that the targets proposed will actually be unachievable, or only met with additional technical measures that are not cost-effective or even affordable for industry.

### **Fair Burden Sharing**

Fair burden sharing is necessary, taking into account the principles of better regulation and robust impact assessment that recognises the costs all industries will face to comply with future targets. Industry should not be forced to take additional steps beyond the Industrial Emissions Directive (IED) including BREFs (BAT) requirements even if reductions from non-industrial sectors are not achieved. There must be some flexibility written into the Directive which allows for the situation whereby targets are not met for reasons outside of industry's control. BUSINESSEUROPE would support the addition of a "safeguard clause" to address this. Hence, industrial installations that are applying BAT and are complying with their air pollutants emission limit values as set out in their IED permits shall not be forced to implement additional measures in that case.

The text of the Directive should guarantee the correspondence between the source responsible for the deterioration of air quality levels and the source that will be subject to restrictions. This is important to avoid that only sources that can be easily monitored and targeted will be subject to reduction requirements.

#### **- Medium Scale Combustions Plants**

### **Ensuring full consistency between existing and up-coming regulation**

The difference in scope between IED and MCP must be clear and unequivocal, for reasons of legal certainty. Industry must not be left wondering which legal regime applies. Any perceived overlaps in the proposal must be addressed and there should be a clear exclusion of sites already regulated under IED and subject to BREF (BAT) requirements.

The text of the MCP proposal is not sufficiently clear. Sites which have an IED permit should not be included in the scope of the MCP. The exemption for Chapters III and IV in Article 2 of the proposal should be extended to include Chapter II of the IED. Furthermore, any overlaps between the MCP and the Ecodesign Directives must be avoided. The application of both directives to the same product must be mutually exclusive to avoid negative trade-off effects concerning the regulatory objectives.



### **Emission Limit Values**

The feasibility of the proposed ELVs for MCP should be assessed from a technical and economic perspective. The ELVs must be compatible with the use of primary techniques and must be cost-effective. The economic feasibility of making the required additional technical measures for existing medium scale combustion plants remains questionable and this issue is not addressed adequately by the impact assessments of the Commission.

Furthermore, as a matter of proportionality and economic feasibility, emission limit values and monitoring requirements should be differentiated according to plant sizes. Within the scope of the directive there are extremely different power ranges (1-50 MW) and smaller plants should not be subjected to the same regime as bigger ones. Therefore, a lighter regime should apply to plants, for instance between 1-5 MW. Additionally, reserve and peak load boilers with lower operating hours (<1,500 h/y) should be exempted.

### **Small Isolated Sites**

The specificity of islands and outlying areas outside of the national grid and small isolates systems must be taken into account within the MCP text. These sites provide an essential service and therefore should be excluded from the scope of the Directive.

### **Zones not complying with air quality standards**

The provision requesting that Member States shall set stricter ELVs in zones not complying with air quality standards shall be removed since it goes beyond the subsidiarity principle and overlaps with the provisions laid down in the directive 2008/50/EC on ambient air quality and cleaner air for Europe (article 23 - air quality plans). In addition, further restricting measures set by Member States must be based on an assessment clearly demonstrating that a medium combustion plant is responsible for deterioration of air quality in a zone not complying with air quality standards.