

*Joint concept paper from the Federal Economics Ministry (BMWi) and the
Federal Environment Ministry (BMU)*

Increasing energy efficiency and greater energy saving are among the key energy policy goals of both the European Commission and the German government.

Preventing unnecessary energy consumption not only saves costs, it also contributes to energy security, has less impact on the climate and environment and increases the competitiveness of our European economies by lowering costs and creating innovation.

An important and effective approach to achieving these goals is the EU top runner strategy, which supports the market penetration of efficient products. The key tools for implementing the top runner principle are available at EU level but so far they have not been applied in a way that ensures optimum use of existing potential for efficiency:

- Minimum efficiency standards pursuant to the Eco-Design Directive 2009/125/EC, which will enable inefficient energy-related products to be taken off the market in a step-by-step process.
- Energy labelling through Directive 2010/30/EU, which provides consumers with information about the energy efficiency of products and aims to shift the focus of purchasing decisions to highly efficient products.
- These regulatory instruments are supplemented by award criteria for public procurement - which has a model function and considerable influence on product design through its market potential - and voluntary eco-labelling for the most efficient products such as the EU ecolabel or the Blue Angel.

With its decisions of 6 June 2011 the German government is promoting the accelerated implementation of the Energy Concept for an ambitious implementation

and further development of the EU top runner instruments. In our opinion the framework directives on eco-design and energy labelling have fundamentally proven their worth.

However, against the background of the national and European targets for increased energy efficiency by 2020 we see potential in a range of areas for improvement in implementing and further developing these instruments - in the interests of optimum exploitation of efficiency potential. Our concrete proposals are as follows:

- Streamlining implementation activities by the European Commission Strict compliance with time schedules for implementing measures is crucial to the success of the directives. Manufacturers and consumers use these as the basis for investments. Delays lead to uncertainty among market participants. The worst case scenario is that investments in innovative technologies are postponed or even decided against due to uncertainty about planned requirements. Potential for efficiency and environmental protection remains untapped. This applies in particular to the product groups boilers (lot 1) and water heaters (lot 2), which hold by far the greatest potential for energy saving.

- Ambitious efficiency standards
In its energy efficiency plan 2011 the European Commission announced more stringent consumption standards for boilers, water heaters and other products. In its Council conclusions on the EU energy efficiency plan 2011 the European Council called, among other things, for more stringent consumption standards that reflect technological progress and cover an increasingly wide range of energy-related products.

The requirements of the Eco-Design Directive should correspond to an advanced level of technology and essentially be oriented to the most efficient technologies on the market whose use allows additional and considerable energy saving to be made in comparison with the standard level of minimum efficiency requirements to date. It is particularly important to define ambitious minimum standards that take account of

life cycle costs that are regularly reviewed in line with technological progress and are adapted to market development. This can mean that the life cycle costs of the product are above the life cycle cost minimum but are not higher than in the base case. The other criteria listed in Article 15 must be taken into account as before.

- Regular review of efficiency standards and the role of benchmarks

A regular review of minimum efficiency standards and labelling obligations is necessary to ensure that technological developments can be followed. The basis for this must be an analysis of the market development at regular intervals, taking special account of the criteria listed in Article 15 (4) of the Eco-Design Directive. Reliable timescales are crucial here to allow manufacturers and consumers to plan their investments.

We propose strengthening the role of benchmarks in eco-design implementing regulations in future. The quality and validity of benchmarks needs to be improved. The eco-design provisions should not only show the efficiency value of the most efficient product, they should also indicate that it is the target value for the next minimum efficiency standard which should essentially serve as a base value for defining the new standard. The nature of the product range, the structure of the manufacturers and the actual market development must all be taken into consideration.

- Adapt energy labelling to the dynamic and continuous improvement process

The current labelling system should be implemented in a swift and resolute way. Labelling should also be introduced for product groups not covered by the Eco-Design Directive's implementing regulations, for example because voluntary agreements with industry have been concluded in some areas in the framework the Eco-Design Directive. The goal must be to develop the current system, making it consumer-friendly and attractive to industry, and to create incentives for a wider use of particularly efficient products.

- Ensure transparency and consistency of instruments

Transparent decision-making processes are needed to ensure broad acceptance of product standards. A reliable data basis and impact assessments should therefore be made available to the representatives of member states and the groups involved as early as possible in the adoption process.

A transparent process must be ensured in particular in the new procedure of delegated acts pursuant to Article 290 of the Treaty on the Functioning of the European Union. It is especially important that adequate consultation takes place with the representatives of member states before the Commission adopts an act.

In the interests of the greatest possible effectiveness of the instruments, it is crucial that the acts on eco-design and consumption labelling are harmonised. However, this is only ensured once labelling acts are only adopted after the regulatory committee has approved eco-design requirements for the respective product group. This is why Germany and other member states have already called on the Commission to adapt its practices accordingly (cf. joint non-paper from Germany, Denmark, the Netherlands and the United Kingdom of 25 May 2011).

- Strengthen ties between public procurement and efficiency requirements for products

In order to strengthen the role model function of the public sector, procurement law in Germany was amended as part of the decisions of 6 June 2011 on the accelerated implementation of the Energy Concept. Energy efficiency was specified as the most important criterion for public procurement and significantly strengthened as an award criterion. At the same time, the principle of economic efficiency remains the fundamental principle of procurement law. German law already prescribes that the most economically efficient offer is awarded the tender. As well as the criterion of economic efficiency, the criterion of the lowest price can also be the deciding factor in exceptional cases. These changes should be secured at EU level through corresponding legislation.

- Ensure effective market surveillance

Implementing the product-related directives on eco-design and energy labelling requires effective market surveillance with options for sanctions to prevent competition distortions. As a consequence there are two requirements:

- It must be possible for surveillance authorities to review product requirements in practice. It is therefore essential that they are defined in a clear way and they must not be overloaded.

- Effective controls must take place at member state level. Through Regulation 765/2008, a coherent community legal framework has been in place since 1 January 2010 for market surveillance in the field of harmonised product-related legislation. The instruments required are still being established in many cases. In addition to intensified efforts by the member states, the Commission is also faced with the task of supporting the member states in their market surveillance activities (cf. Article 12 (3) of the Eco-Design Directive). We therefore expressly welcome the fact that an ADCO group on energy labelling will be set up in autumn 2011 and will work closely with the ADCO group on eco-design. We call on the Commission to further support the member states in improving market surveillance by establishing effective information and coordination instruments.