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Product-related top runner approach at EU level

Concept paper

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Product-related top runner approach at EU level

Concept paper

by

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1 ENVIRONMENTAL POLICY BACKGROUND

The current debate on environmental policy in Germany assigns high importance to strengthening environmentally sound product design (ecodesign) and establishing approaches which improve the energy and resource efficiency for the ecological development of the social market economy.¹

On EU level, too, there is wide agreement among Member States' environmental ministers that a new generation of environmental regulation with dynamic standards is needed, which will stimulate innovations in the field of resource efficiency.²

The German federal government has recognised the potential of this approach and supports the introduction of a top runner concept at EU level.³ Moreover, such a concept is also part of the German Energy Efficiency Action Plan.⁴

The top runner approach, i. e. a comprehensive system of incentives and requirements to boost the best and most energy efficient products available on the market, thus constitutes guidance for the product-related environmental protection efforts in Germany.⁵ However, no operationalised and detailed proposal for such a concept including measures for its implementation has been made to date.

This concept paper shall attempt to remedy the current situation by proposing starting points for measures for the implementation of a top runner approach at EU level.

¹ See, among others, the presentation of Federal Environment Minister Dr. Norbert Röttgen on 1 September 2010 at the conference „Ökodesign-Richtlinie: Chance für Umwelt, Wirtschaft und Verbraucher in Europa“ (“Ecodesign Directive: chance for the environment, economy and consumers in Europe”) at the Federal Environment Ministry in Berlin.

² Federal Ministry for the Environment, Nature Conservation and Nuclear Safety: Informal Meeting of the Environment Ministers on „Environment - Innovation – Employment“, 1-3 June 2007, Essen, Summary of the Presidency. See also: Council of the European Union (Environment), 28 June 2007.

³ Federal Ministry of Economics and Technology (BMWi), Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU): „Bericht zur Umsetzung der in der Kabinettsklausur am 23./24.08.2007 in Meseberg beschlossenen Eckpunkte für ein Integriertes Energie- und Klimaprogramm“ (“Report on the implementation of the cornerstones for an integrated energy and climate programme adopted at the Cabinet's conclave on 23/24 August 2008 in Meseberg” – in German), 5 December 2007.

⁴ Federal Ministry of Economics and Technology: „National Energy Efficiency Action Plan (EEAP) of the Federal Republic of Germany“, 27 September 2007.

⁵ See e.g. the press release of the Federal Environment Ministry:
www.bmu.de/pressemitteilungen/aktuelle_pressemitteilungen/pm/46381.php

2 REQUIREMENTS FOR A EUROPEAN TOP RUNNER APPROACH

The following aims and requirements are linked implicitly or explicitly to the discussion regarding a European top runner approach to date. They provide a framework for further development of the concept.

2.1 Overall aims

Opening up efficiency potentials for ensuring the achievement of the 2020 targets

An EU top runner approach shall ensure that the 2020 targets on energy savings and CO₂ emissions reduction will also be achieved in the field of energy-using products. The concrete target is an overall increase of energy efficiency by +20% against the trend.⁶

In order to achieve the absolute energy consumption reduction targets⁷ it is necessary to open up additional efficiency potentials.⁸

Make use of the dynamics of efficiency front runners

The EU top runner approach should incorporate the dynamic of pro-active market actors and make use of this to develop ambitious efficiency standards in the future. The regulatory concept should include incentives (e.g. market advantages) for those enterprises which develop and sell highly efficient products.

Strengthening (consumer) demand for the most efficient devices

Demand for the most energy efficient devices provides a core “pull” effect within the regulatory framework. It is to be supported and stimulated systematically in

⁶ See, amongst others, BMW/BMU 2007 (footnote 3), p. 31.

⁷ 20% according to the EU's climate and energy package adopted in 2008.

⁸ Among other things, to compensate for the “rebound effects” of the anticipated increase in sales within many relevant product groups (e.g. TVs, IT devices), see Oehme et al. „Umweltgerechte Gestaltung energiebetriebener Produkte – Der Beitrag der Ökodesign-Richtlinie zu den Energieeffizienzzielen der EU“ (“Environmentally sound design of energy-using products – the contribution of the Ecodesign Directive to the energy efficiency targets of the EU” – in German), UBA Texte 21/2009.

the field of private consumption as well as for corporate and public procurement.

Openness for the inclusion of (other) resource efficiency aspects

Besides energy efficiency, questions related to the efficient use and management of other raw materials or resources arise increasingly within the realms of politics and economy. Against this background, a top runner approach should therefore provide the option to address other resource efficiency aspects beyond energy efficiency alone.

Safeguard consistent requirements within the European Internal Market

With a view to a wide market for energy efficient products, ambitious product-related requirements should be implemented covering the whole internal market of the EU. This is of particular relevance to the strongly export-oriented front runner enterprises from Germany.

Short term feasibility within the political and regulative context

If a top runner approach is to make effective contributions also to the short and medium term climate protection targets,⁹ implementation in the short term is important. For this purpose, the concept should make use of existing product political regulations and, if necessary, additional instruments should be developed.

3 STATUS QUO

3.1 The existing regulatory framework in the EU

In light of both the EU's strong dependence on its exports and in the context of the international commitments for climate protection, the European "Action Plan for Energy Efficiency: Realising the Potential"¹⁰ contains reduction targets for energy-using products (2020 targets of -20% against the predicted energy use) and assigns these to the instruments in the field of product policy.

⁹ Or the aims of the Energy Efficiency Action Plan, respectively.

¹⁰ Communication from the Commission - Action Plan for Energy Efficiency: Realising the Potential. COM(2006) 545 final, Brussels, 19.10.2006.

In the Action Plan for „Sustainable Consumption and Production and Sustainable Industrial Policy“ (SCP Action Plan)¹¹ the intended interaction of the different existing product policy instruments is further elaborated and respective measures for the improvement of this interaction are outlined. The following figure illustrates the designated functions and interactions among the distinct instruments.

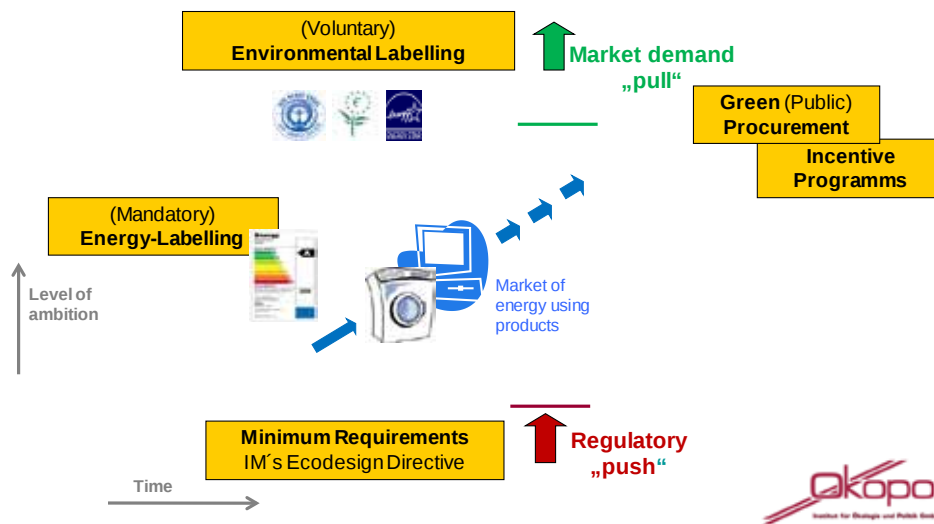


Figure 1: EU mix of policy instruments for energy-using products

Analyses show that this regulatory framework is comparable to those existing in other large economic regions.¹² Fundamental regulatory elements always include

- minimum efficiency requirements,
- energy consumption labelling schemes,
- labelling of efficiency front runners and/or
- requirements for public procurement

as well as incentives by market incentive policies.

However, the EU policy mix thus far does not represent a top runner approach which implements the aims outlined at the outset, and it does not offer a comprehensive system of incentives and requirements to boost the best and most energy efficient products available on the market.

¹¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan, COM(2008) 397 final, Brussels, 16.7.2008.

¹² In the main project the policy concepts of Japan, South Korea, Australia, Switzerland and the USA were evaluated and compared to the EU policy mix according to the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan (cf. footnote 11).

With view to a top runner concept further modifications need to be made among other in the following areas:

- Regulatory “push”
Increased level of ambition for minimum efficiency requirements and strengthening the dynamic of their continuous adaption.
- Information instruments
Mandatory and meaningful communication of the energy efficiency of all products including a mechanism for clearly highlighting frontrunners
- “Pull” instruments
Strengthening the different incentives and unambiguous coupling to efficiency frontrunner status
- Overall coordination
Efficient coordination among all mentioned instruments and provision of a transparent statistical market data for their further development.

3.2 Need for action from a quantitative perspective

Besides the view from a more systematic-regulatory perspective, the present need for action to modify the existing policy mix in order to create a European top runner system is also backed by a quantitative analysis of the anticipated effects of the current policy instruments.

Due to systematic limitations, methodological inconsistencies and a lack of transparency, a reliable and product group independent assessment of the quantitative effects of the current policy implementation is problematic.¹³ Despite these limitations, all the assessments provided to date reach the following conclusions:

Without regulatory intervention, the energy consumption of energy-using products will increase significantly until 2020.¹⁴ Because of the present implementation of the Ecodesign Directive and the mandatory energy labelling scheme, significant reductions can be achieved compared to this trend. Nevertheless, electricity consumption in particular will increase in absolute terms despite gains in energy efficiency due to the “rebound effect” and other independent growth effects of the different product groups.

¹³ Given the relatively significant efforts to analyze the product groups covered by the Ecodesign Directive this is regrettable, especially since some aspects of the problem could be resolved rather easily by the EU Commission.

¹⁴ For the first 20 energy-using products, for which minimum efficiency requirements are assessed and established under the Ecodesign Directive, the preparatory studies predict an increase in energy use of 29% between 2005 and 2020, without regulatory intervention. The relative reduction due to regulatory intervention compared to the trend is estimated as between -18% and -5%. Compared to the status of 2005, this results in an increase of 6% to 22%.

Significant reductions in energy use are predicted in the preparatory studies for boilers and water heaters only. The trend between 2005 and 2020 already describes a reduction in primary energy use of -8%. Due to the regulatory measures this absolute reduction shall be increased by -24 to -38%.

Therefore, we can conclude that significant additional efficiency improvements, e. g. through the implementation of a top runner approach, and further measures to limit rebound effects also are necessary from a quantitative perspective.

4 STARTING POINTS FOR THE IMPLEMENTATION OF A EUROPEAN TOP RUNNER CONCEPT

4.1 Using the existing mix of product policy instruments

The existing mix of product policy instruments in the EU with its different “push” and “pull” elements is, in principle, an appropriate regulatory framework for the energy efficiency of energy-using or, respectively, energy-related products. It is also comparable to the regulatory schemes in other large economic areas.

Against this background, the consultants propose to advance the existing policy mix through the purposeful modification and amendment of particular regulative elements and suggest additional measures to improve the interaction of the instruments in order to create a top runner system.

These specific starting points and amendments are outlined below.¹⁵

4.2 Strengthening the regulatory “push” of the Ecodesign Directive

Establish more ambitious minimum efficiency standards

Within a top runner concept the definition of minimum efficiency standards (and other ecodesign requirements) must be aligned more clearly with the best available technical solutions.

For this purpose, in particular the “standardised assessment methodology” applied by the European Commission is to be modified.¹⁶ This methodology emphasises the principle of “least life cycle costs” (LLCC) in the selection of efficiency options, which influence the regulation drafts.¹⁷ However, if only the

¹⁵ A more detailed justification and description of the top runner elements as proposed by the consultants is contained in the final report to the underlying environmental research project.

Directive's "no deterioration principle"¹⁸ would be applied as a standard, additional efficiency potentials could be opened up.¹⁹ This would require according changes in the text of Annex II of the Directive.

The ambitious definition and continuation of minimum efficiency standards should relate to the function of a product and avoid the differentiated definition of standards which merely serve to protect less efficient technologies (technologically independent requirements). This relates to the concrete definition of requirements in implementing measures as well as to the differentiation between the distinct implementing measures.

Dynamisation of revision dates of minimum requirements

The Ecodesign Directive stipulates that product group specific implementing measures contain a date for their review. With perspectives between three and six years this has been realised for the implementing regulations adopted so far.

It seems questionable whether these frequent reviews can be implemented with sufficient detail as it is necessary for an appropriate revision of the content given the high required resource input²⁰ and with a view to the time required for the necessary coordination processes.

For a top runner approach, as an alternative the revision cycles could be extended and additional and more ambitious tiers of requirements (i.e. a total of three or four) could be defined within each implementing measure. The date from which the next tier of requirements becomes effective should then be linked to the market development, i.e. it enters into force after a percentage defined in the implementing measure of devices put on the market (pieces or models) reaches a certain efficiency level.

Definition of target standards mandatory in the medium term

As stipulated in the Ecodesign Directive,²¹ almost all implementing regulations adopted thus far contain benchmarks for energy efficiency. These benchmarks,

¹⁶ This so-called MEEuP ("Methodology study Ecodesign of Energy-using Products") was developed on behalf of the EU Commission and has to be used for all preparatory studies. See [www.eup-network.de/fileadmin/user_upload/Produktgruppen/MEEuP Methodology Report 051128.pdf](http://www.eup-network.de/fileadmin/user_upload/Produktgruppen/MEEuP_Methodology_Report_051128.pdf)

¹⁷ Cf. Annex II Ecodesign Directive: "Concerning energy consumption in use, the level of energy efficiency or consumption must be set aiming at the life cycle cost minimum to end-users for representative product models, taking into account the consequences on other environmental aspects."

¹⁸ In Article 15 (5c) of the Ecodesign Directive it is stipulated as a requirement for implementing measures: "there shall be no significant negative impact on consumers as regards the affordability and life cycle cost of the product".

¹⁹ All evaluations undertaken to date of the preparatory studies and the first adopted implementing measures clearly show that with more ambitious minimum efficiency requirements, which could be characterised as "life cycle cost neutral", relevant additional efficiency potentials could be opened up.

²⁰ Especially the resource input of all parties involved in the creation of implementing measures has to be considered.

²¹ Annex I Part 3 Ecodesign Directive.

referring to the most efficient products available on the market, can have an important function within a top runner concept if they are interpreted as medium term target standards, i. e. if they are used to preset the new minimum efficiency standards to be determined for the next revision of a regulation. This would correspond to the target efficiency standards contained in the Japanese and Korean regulatory systems and would provide a clear and mandatory medium term target pathway for all stakeholders.

To take into account the changes in technology and market development effectively there should be an option to deviate from these target standards if necessary when implementing measures are revised. However, especially deviations in the direction of less ambitious requirements would have to be well justified in a top runner concept.²²

If the benchmarks are to have this central function, the procedure for defining them – using the most efficient devices available on the market as their reference point – must be prescribed clearly (e. g. in the standardised methodology).²³ This function of the benchmarks would also have to be incorporated into the text²⁴ of the Ecodesign Directive during its next revision.

More specific requirements for self-regulation initiatives

In principle, the Ecodesign Directive contains the option of industry self-regulation initiatives (SRI) as alternative to mandatory implementing measures. In the context of a top runner approach, clear requirements have to be imposed on such SRI to ensure equivalence in terms of the complete regulatory concept and the overall regulatory aims.²⁵

The function as an effective and dynamic “push” instrument requires the following in particular:

- SRI have a clear, and in the medium term, constant scope to allow for differentiation from other regulative measures.
- SRI contain quantified and, if applicable, staged minimum efficiency requirements for all covered products.
- Any product of the signatories within the scope of a SRI is destined to fulfil the requirements to allow for an independent external monitoring.
- SRI establishes a clear mechanism to consider efficiency frontrunners when defining the next generation of requirements.

²² This would, in fact, result in a “shifting of the burden of proof”, for which only significant technical limitations, significantly higher costs or relevant negative impacts on other environmental aspects would be valid as a justification, but not the reference to the average product on the market etc.

²³ MEEuP, cf. footnote 16.

²⁴ Or into the annexes to the Ecodesign Directive, respectively.

²⁵ Article 15 (3b) and Annex VIII of the Ecodesign Directive contain some basic principles, the verifiability of which, however, is unclear.

In order to have a clear “driver” for participating in ambitious SRI, the first acceptance of a SRI²⁶ and the revised minimum requirements should in each case be subject to the reservation of a regulation (i. e. assessment of the added value of the SRI against the concrete alternative of a mandatory measure). The bodies which participate in the process for implementing regulations should also be involved for SRI.²⁷

When compared to a “classic” implementing regulation, SRI can offer visible added value when they besides minimum efficiency standards also stipulate an absolute energy consumption target for the covered devices and provide evidence for their fulfilment through transparent monitoring.

Support for harmonised and effective market surveillance

The intensity of enforcement by state authorities influences the effects of regulatory “push”-instruments to a large extend. To avoid distortion of competition a harmonized approach in all areas of the European market is important.

Large numbers of non compliant products on the market contradict the aim of the Directive and have negative impacts on front-running companies. Therefore, an effective top runner concept demands further efforts from the EU-Commission and the Member States to establish harmonized and effective measures of market surveillance. This might include e.g.:

- Timely provision of guidance documents narrowing the room for interpretation of the specific requirements laid down in the product regulations
- Agreement and coordination of EU wide market surveillance action plans
- Establishment of a comparable level of sanction mechanisms in all Member States
- Naming and allocation of sufficient resources to the market surveillance bodies in all Member States
- Making sure that mechanisms exist for announcing irregularities and violations also for consumers and competing companies.

²⁶ As an alternative to a mandatory measure.

²⁷ I.e., with a consultation process for involved parties and respective right of objection for the Member States committee and the European Parliament. The proposal presented by the EU Commission to date realises this requirement only partially. See European Commission: Working Document: Voluntary agreements under the Ecodesign Directive 2009/125/EC, 12 March 2010.

4.3 Mandatory and meaningful communication of energy efficiency

Transparent and meaningful information on the energy efficiency of products is crucial for making rational purchase decisions, but also for the consistent linkage of the distinct policy instruments in the EU.

With the recent recast of the Energy Labelling Directive²⁸ the scope of the mandatory energy efficiency label is extended to energy-related products in general. Within a top runner approach, the broad implementation of this directive through respective concrete implementing measures is of high priority. The energy label should be implemented in consumer relevant product segments and also when mandatory ecodesign requirements are not (yet) in place. The same applies for product groups which are subject to a self-regulation initiative.²⁹

Basically, the recast Directive contains a review clause to adapt the classification system ("re-scaling") to a relevant increase in the energy efficiency of the devices on the market,³⁰ as to countervail the decreasing informative value of the label in some product groups in recent years.

To offer incentives for efficiency frontrunners within a top runner concept and make them "visible" to consumers, two things have to be taken into account during the definition of energy efficiency classes:

- The upper labelling classes have to be narrow enough so that significant energy efficiency gains of a product are reflected in a higher efficiency class.
- At the upper end of the products on the market, unused, so-called "empty" classes should be reserved so that efficiency frontrunners become visible in a higher class without waiting for a re-scaling process.

The label should indicate not only the efficiency class but also the absolute energy consumption of the respective product and the absolute gap to the best performing products on the market.

²⁸ Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products, OJ L 153, 18.6.2010, p. 1.

²⁹ At least for consumer-relevant product groups, own and/or voluntary labelling systems should not be used within a SRI as an alternative to the mandatory and uniform labelling of all devices.

³⁰ Article 10 (4d) Directive 2010/30/EU, cf. footnote 28.

4.4 Linking incentives (“pull” instruments) to the status of efficiency frontrunners

The recast of the Energy Labelling Directive³¹ incorporates the option proposed by the SCP Action Plan³² to link the energy labelling scheme and public procurement and other incentive systems. These options are to be implemented obligatorily.

Public procurement of efficiency frontrunners

In terms of an effective “pull” instrument, within a top runner concept Member States must make use of the option provided explicitly in the Energy Labelling Directive to use “green” public procurement to procure products which are in the respective highest energy efficiency class only. Possible additional costs are to be interpreted as a market incentive. They might be object of respective financial support programmes. However, it should be considered that even efficiency frontrunners can lead to cost savings over the whole product life cycle.

Eco-labelling only for efficiency front runners

Governmental eco-labels for energy-using products, e. g. the European Eco-Label or the German Blue Angel, should only be awarded for products that are in the highest (not “empty”) energy efficiency class. This energy efficiency feature and the other environmental advantages which are related to a comprehensive “best of” labelling scheme should be communicated more clearly than at present (e. g. for the Blue Angel with the aim “protects the climate”).³³ In this regard, it should also be assessed whether only the better part of the products in the highest efficiency class is awarded with the eco-label.

Efficiency frontrunners as subject to market incentives

The Energy Labelling Directive addresses explicitly the option to set incentives for products above the highest efficiency class within the framework of market incentive programmes.

If incentive programmes are used systematically in a way that helps to make products market-ready, establishing new efficiency standards in the market in

³¹ Cf. footnote 28.

³² Cf. footnote 11.

³³ The “Climate Angel” (cf. the “Blue Angel” in Germany) with the lettering “Protects the climate” and the additional remark “because energy efficient” is a concrete step towards this direction. It is too early to assess whether this will attract a relevant section of consumers and gain wider acceptance among manufacturers, and so result in an effective “pull” effect for energy efficiency.

conjunction with the other outlined top runner elements, this can contribute to the dynamic development of minimum requirements and the efficiency classes of the energy label.

In the context of market incentive policies it could also be considered whether promoting marketing of devices which fulfil the highest efficiency requirements (as outlined above) could be acknowledged as energy saving measures within a system of “white certificates”.³⁴

4.5 Overall structural and institutional coordination

An effective top runner concept consisting of the modification and supplementation of the existing EU product policy mix of instruments as outlined above, requires close and continuous cooperation between the distinct elements. More specifically, the consistent and if possible, synchronised revision of the requirements set out in the different instruments is also crucial.

Against the background of hitherto fragmented competences for different instruments in this policy field on EU as well as on Member States level, coherent overall coordination is missing so far. Of particular concern is the mismatch in the timings of the revisions of the different instruments. Inconsistent definitional boundaries and material requirements also confine the potential and dynamics of the regulatory framework.

For this reason, it seems necessary to reduce the fragmented competences and establish clear procedural rules for the periodic adaptation of all relevant instruments.

4.6 Guarantee a rational information basis

Many of the outlined (dynamic) elements of a top runner approach³⁵ require reliable information on the status and development of the respective market for their appropriate implementation. A meaningful, reliable and transparent data basis is therefore essential for a rational overall coordination of the implementation of a top runner concept.

The preparatory studies elaborated during the implementation of the Ecodesign Directive provide an excellent starting point for such a data basis. To make this material effective and usable for future revision processes and for the other elements of a top runner, electronic documentation of the main facts on the analysed product examples and efficiency options, that should be as uniform as

³⁴ White certificates are systems in which market actors, mainly energy supply companies and network operators, are obliged to achieve a specific energy savings target within a certain period in time and realize energy efficiency measures for consumers. The certificates serve as a proof for the measures regarding the amount of energy saved and the time span. The actor obtains certificates for the energy savings achieved, which he can use to achieve his own obligation or sell them to other obliged market actors. If an obliged energy supply company or network operator collected no or too few certificates, it has to pay a fine.

³⁵ Such as, e. g. market driven revision cycles, benchmarks, re-scaling of efficiency classes or voluntary labels.

possible, should be created. In addition, the information on product stock (product amount, age, efficiency classes) and replacement behaviour used in trend scenarios in the preparatory studies, but also in the EU Commission's impact assessments, should be documented transparently.

This initial documentation is to be continued through appropriate reporting routines of the market actors, which should be a mandatory part of the implementing regulations or SRI, respectively. The complexity and effort involved can be limited and presumably even reduced compared to the otherwise necessary periodic basic research activities if only the necessary data on amounts and efficiency classes are required, information on manufacturers and particular devices are excluded, and possible links with other reporting routines are used, e.g. in the field of association or sector statistics or waste electronic equipment regulations.

4.7 Remark related to national policy-making

Implementing measures within the framework of the Ecodesign Directive are (so far) adopted as directly binding EU regulations. Thus, for environmental aspects which are regulated explicitly as well as for those that are explicitly not regulated, these regulations legally block the adoption of stricter requirements on Member States' level.

Bearing this in mind, the proposed product-related EU regulations should be checked thoroughly also with regard to the explicitly unregulated aspects in the interest of national policy-making and be influenced, where appropriate. Here, the harmonising effects of such legal blocking for the internal market should be balanced with the limiting effect for more ambitious national requirements.