

Comments of the European Commission staff on the consultation paper 'Enhanced Program Plan for ENERGY STAR Products'

Thank you for having consulted us on the 'Enhanced Program Plan for ENERGY STAR Products'. Since 2000 the US and the European Community have cooperated on the ENERGY STAR Programme as part of the Agreement on the coordination of energy-efficiency labelling programs for office equipment. In line with the Agreement the two Parties apply common specifications, use a common logo and the registration of a program participants by the Management Entity of one Party is recognised by the other Party. In that context it has to be indicated that any changes introduced by one of the Parties in the Programme will have to be part of the Agreement and will have a deep impact on its functioning on the territory of the other Party.

While we agree that options for ensuring that registered products meet the declared values need to be considered, the introduction of a requirement that all products be tested in an accredited laboratory would mark a fundamental shift in the functioning of the Programme. The following possible impacts of such a shift should be considered:

- Third-party verification will create substantial costs and could lead to a dramatic decrease in the number of products registered. The EU has been operating for a number of years the Ecolabel which is a voluntary environmental labelling scheme requiring third-party verification. The scheme has had only a very limited success so far, and one of the main reasons of that are the costs associated with the granting of the label. This has generated a vicious circle- as few products bore the label it was not widely recognised by consumers giving manufacturers even less incentives to apply for the label.
- Third-party verification will create unequal conditions for the different market operators. While big companies will be able to afford it on models sold in big volumes, this will not always be the case for small and medium-size enterprises which today constitute a significant part of the Programme's participants in the EU. It is essential to avoid creating such distorting effects as the Programme is linked to provisions on public procurement.
- In order to be in conformity with mandatory energy efficiency requirements market operators in the EU need to ensure that their products comply with the applicable requirements before placing them on the market. It is however up to the market surveillance authorities to check whether these products comply once they are placed on the market. The envisaged changes in the Energy Star Programme would lead to a situation where the burden of proof is heavier in the case of voluntary requirements than in the case of legally binding ones.

In light of the above it is suggested that a better approach would be one centred on the second element identified in the consultation paper, which is 'off-the-shelf' verification. This would allow avoiding the possible negative impacts outlined above while increasing the level of

compliance. A participation of the Programme participants in the verification costs could be considered, in particular where a product proves not to comply.

We believe that the above as well as other new elements, such as the possible introduction of a 'Super Star' should be discussed and agreed in the framework of a new Agreement between the US and the EU due in 2011.