

EVIA – Position on the Final Draft Phase 1 Report of the Ecodesign preparatory study for product specific measures on scarce, environmentally relevant and critical raw materials and on recycled content

EVIA welcomes the opportunity to provide comments on the Final Draft Phase 1 Report on the Ecodesign preparatory study for product specific measures on scarce, environmentally relevant and critical raw materials and on recycled content that was presented by the consultants Viegand Maggoe at the stakeholder meeting on 1 July 2024. In particular, EVIA would like to highlight the importance of the following:

- Maintaining a ‘vertical’ product-by-product approach to setting ecodesign requirements;
- Alignment and consistency with the Critical Raw Materials Act (CRMA);
- Considering prioritisation of ‘Electric Motors’ in alignment with the review of ENER LOT 30: Electric Motors;
- Proportionality when considering recycled content requirements.

Introduction:

EVIA strongly supports the vertical product-by-product that has been at the heart of the success of the EU’s Ecodesign framework. Establishing a horizontal methodological approach to the consideration of the relevance CRM and Recycled Content requirements could be envisaged, in essence as an extension/addition to the Methodology for the Ecodesign of Energy-related Products (MEErP). Such a horizontal methodological approach can then be applied product-by-product in the review studies of existing Ecodesign implementing legislation and in the development of preparatory study for new Ecodesign implementing legislation.

EVIA believes that the consultant’s summary of stakeholder’s ‘caution’ on the balance between a vertical product-by-product approach verses a ‘horizontal, cross-category’ approach is insufficiently nuanced in Section 6.1.8: ‘Study approach and expected results’. For example, in the following: “The suggested alternative is a swift definition of material-specific recycled content requirements, followed by product-specific definitions”.

Horizontal application of CRM or Recycled Content requirements should be avoided, particularly for existing Ecodesign implementing legislation. Consideration of “product-specific definitions” is necessary but is insufficient to ensure that product-specific requirements are proportionate, suitable and relevant for specific products. For instance, consideration of the relevance of including post-consumer waste and or post-industrial waste must be product-specific, in particular in respect to the presence of chemicals that may negatively impact the availability of post-consumer recycled content for application in the specific-product; the presence of such chemicals in products is inherently product-specific.

One-size-fits-all solutions are inappropriate for Ecodesign implementing legislation covering ErP. Horizontal ecodesign measures on recycled content and CRMs should therefore not be imposed. Consideration of the appropriateness, relevance and form of such requirements must be evaluated in the product-specific Ecodesign implementing regulations, using the horizontal methodological approach. This is particularly important to ensure that various trade-offs between European Green Deal (EGD) and safety objectives are carefully considered.

To further underline its position EVIA would like to reiterate the need for caution in drawing sweeping conclusions from the Phase 2 report’s assessment of the five ‘Priority-material bins’ that have been identified for further study in Table 3. The diversity of products under ‘ICT/electronics,’ ‘industrial and/or business to business,’ ‘white goods,’ and heating and cooling’ is too large to apply any findings to the full range that would fall under those terms. For example, a personal computer (GROW LOT 3), identified as a priority, is very different from a data server/storage product (GROW LOT 9), although both can be considered ‘ICT/electronics’. This is also the case for electric motors (ENER LOT 30) and other ‘industrial and/or business to business’ products. Positively, the ‘Comments’ column in Table 3 states that “No other industrial/B2B are relevant”, if this is interpreted as an acknowledgement that such findings cannot be automatically applied to other ‘industrial and/or business to business’, then EVIA welcomes the acknowledgment but would appreciate further clarity.

Prioritisation & Alignment with ENER LOT 30 Review:

EVIA recognises that the Phase 1 report identifies Electric Motors as a ‘priority-material bin’ for a further mini-study in Phase 2. (Please see the below table, which also includes other product groups within EVIA’s scope).

Product Group	Ecodesign LOT	Ranking for Environmental impact per year of lifetime							Rating for Supply Risk
		All Materials	Plastics	Ferrous Metals	Non-ferrous Metals	Coating/Plating	Electronics	Miscellaneous	
FAN Industrial Fans	ENER LOT 11	13	16	13	4	10	12	13	17
VU Ventilation Units	GROW LOT 6	18	16	13	17	10	12	13	27
MT Electric Motors	ENER LOT 30	6	12	1	1	8	12	13	13

Table 2: Survey of product groups with the highest rankings (1 is ranked highest) for annualised environmental impacts from the production phase, per material category, and ranking for CRM content for year 2030
 Green Fill indicates selection as a priority-material bin for further study in Phase 2, see Table 3.

EVIA understands that in addition to ‘environmental impacts’ and the ‘supply chain risk’, the prioritisation of the ‘priority-material bins’ utilised ‘legislative feasibility’ as a qualitative criterion. In this respect EVIA supports the prioritisation of Electric motors, in terms of aligning with the review of ENER LOT 30: Electric motors.

The legislative review deadline for ENER LOT 30 expired in November 2023, and it is now understood that the review is indicatively to start in Q4 2024 and that it will be carried out under the new Ecodesign for Sustainable Products Regulation (ESPR), thus requiring assessment of the relevance of setting ecodesign requirements on the sustainability parameter listed in Article 5(1) of the ESPR. Significantly, this includes considering requirements on ‘recycled content’, and from a CRM perspective, on the ‘possibility of recovery of materials’, the ‘expected generation of waste materials’ and on ‘resource use or resource efficiency’.

In addition, the review clause of the current ENER LOT 30 includes consideration “of adding other types of motors to the scope, including permanent magnet motors”; see Article 9(7). Permanent magnet motors are an increasing share of the market for electric motors due to their increased energy efficiency. They contain CRMs, non-exhaustively including neodymium, boron, samarium, aluminium, nickel and cobalt. EVIA notes that as the Phase 1 report utilised the Ecodesign Impact

Accounting (EIA) the CRM impact of permanent magnet motors is not addressed in the report, as such magnets are not currently in scope of ENER LOT 30. When including consideration of permanent magnet motors the ‘environmental impacts’ and the ‘supply chain risk’ will likely be more acute; in this respect EVIA would suggest that the rating for supply chain risk for electric motors is an underestimate, and notes that this was highlighted as a limitation by the consultant at the 2nd stakeholder meeting on 2 July 2024.

Therefore, EVIA agrees that Electric motors fulfil the ‘legislative’ feasibility criterion given the complementary between the timeline for the preparatory study and the review of ENER LOT 30. In this respect, EVIA considers it important that the conclusions/recommendations from the Electric motor ‘priority-material bin’ mini-study feed into the review of ENER LOT 30, as this review is the vehicle for framing a revision of ENER LOT 30 to establish such requirements. Given that DG GROW is responsible for the preparatory study and DG ENER is responsible for ENER LOT 30, EVIA highlight the need for strong inter-service cooperation within the Commission.

Alignment/Consistency with the Critical Raw Materials Act (CRMA):

Despite seeking to address the same objections, improving the sustainability of the EU’s CRM use and mitigating risks in the CRM supply chain, the Phase 1 report makes only passing reference to the CRMA as merely ‘political context’ rather than as an issue of legislative/regulatory alignment/consistency. EVIA believes that alignment/consistency between the CRMA and the application of a methodological approach to addressing CRMs in product-specific Ecodesign implementing legislation is extremely important, especially set against the actual ‘political context’ of the Commission’s commitment to reduce duplicative reporting/administrative burdens by 25%.

The CRMA’s Article 28 introduces product-level information/disclosure requirements for a number of final products containing permanent magnets, including permanent magnet motors integrated in final products, in the form of both a label and a data carrier. Through the labelling requirement information is to be provided on the presence of permanent magnets and the type, whilst the data carrier is to provide access to information on dismantling to facilitate CRM recovery/recycling. Article 28 would indicatively apply from Q4 2028.

Article 28 is complemented by Article 29 which establishes an information requirement to declare the % share of recycled content in permanent magnet motors indicatively from Q2 2028; the Commission is to adopt a calculation and verification methodology via Delegated Act.

As EVIA noted at the time, these are Ecodesign style requirements that conventionally should be introduced in product-specific Ecodesign implementing legislation. This is confirmed in both Article 28(8) and Article 29(4) include the following *lex specialis* safeguard, that is in essence a safeguard for product-specific Ecodesign implementing legislation:

“Where information requirements relating to the recycling of permanent magnets are established in Union harmonisation legislation for any of the products listed in paragraph 1, those requirements shall apply to the products concerned in place of this Article”.

This mechanism, that is fully supported by EVIA, is a legislative invitation/instruction towards Ecodesign, and thus the preparatory study. It is pertinent as ‘Electric motors (industrial /B2B) / Ferrous & non-ferrous metals’ - i.e. ENER LOT 30 Electric motors - has been selected as a ‘Product-material bin’ that is recommended to be prioritised for more detailed analysis in Phase 2 of the preparatory study. Thus, it is concerning that no explicit mention of this mechanism is made in the Phase 1 report.

Again, given that DG GROW is responsible for the CRMA and DG ENER is responsible for ENER LOT 30, EVIA highlight the need for strong inter-service cooperation within the Commission.

EVIA would point to the approach taken under the CRMA in the form of labelling/information requirements on presence of CRMs, provision of information on dismantling, and on % of share of recycled content, as a practical approach to addressing the sustainability/circular economy contribution of CRMs, as a means to stimulate the market for recycled CRMs. Transferring these information requirements in ENER LOT 30 would be considered sufficient at this stage. Consideration of minimum requirements on recycled CRM content are premature given uncertainties on the availability of such supply in the market to fulfil a minimum requirement.

Proportionality on Recycled Content:

Maintaining a vertical product-specific consideration of recycled content requirements is equally important. The ability to use and thus to comply with a post-consumer recycled content threshold is significantly impacted by the technical quality of the recyclate and most significantly the availability to recycle of the required technical quality; for instance, arising from chemical composition of recyclate, for which there may be REACH or RoHS implications.

Requirements setting minimum recycled content thresholds can only be introduced if a stable supply of high grade recyclate is available for the specific group of products that is being regulated. Recycling technology bottlenecks include lack of technological innovation and/or lack of scale for such technologies, as well as the impact of supply chain disruptions beyond the control of the manufacturer. Additionally, there is a need for the generic material efficiency standard EN 45557 – ‘General method for assessing the proportion of recycled content in energy related products’ to be translated into product-specific standards a basis for compliance and verification before any recycled content requirements can be considered to be appropriate.

Pragmatically, EVIA would again recommend that a step-by-step approach is taken, starting with labelling/information requirements on % share of recycled content, before any consideration is given to minimum thresholds.

About EVIA

The European Ventilation Industry Association (EVIA)’s mission is to represent the views and interests of the ventilation industry and serve as a platform between all the relevant European stakeholders involved in the ventilation sector, such as decision-makers at the EU level as well as our partners in EU Member States. Our membership is composed of more than 40 member companies and 6 national associations across Europe, realising an annual turnover of over 7 billion euros and employing more than 45,000 people in Europe.

EVIA aims to promote highly energy efficient ventilation applications across Europe, with high consideration for health and comfort aspects. Fresh and good indoor air quality is a critical element of comfort and contributes to keeping people healthy in buildings.