

## BSEF Position Paper

### EU Regulation on Eco-design for Sustainable Products

#### Key messages:

- **Develop a new methodology for the ESPR**
- **Put in place a representative Eco-design Forum**
- **Avoid duplication of existing chemical regulation for substances**
- **Promote scientific-based Green Public Procurement criteria**

BSEF, the International Bromine Council, is actively involved in responding to and engaging with the EU Green Deal and in particular the EU Circular Economy Action Plan and Chemicals Strategy for Sustainability. Additionally, its member companies are active in a range of projects and investments (some EU co-funded<sup>1</sup>) designed to align bromine technologies with Green Deal goals. BSEF supports the objectives of the ESPR and the goal of making products more sustainable.

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#### Article 6: Performance Requirements

*In Annex I: Improved performance requirements based on products aspects including: Use of substances, on their own, as constituents of substances or in mixtures, during the production process of products, or leading to their presence in products, including once these products become waste.*

Once included in the polymer Reactive BFR are no longer present. BSEF call for clear definition on how a “product” is defined.

#### Develop a new methodology for the ESPR

BSEF supports the European Commission’s initiative to set up a new methodology for the assessment of performance and information requirements for specific product categories under the future ESPR. The development of a new methodology should in our view be set up in an open and transparent manner that allows for industry to contribute.

BSEF believes that the creation of the ESPR methodology should address flaws that have been identified in the current Eco-design Directive’s preferred methodologies: *Methodology for Eco-design Energy-related Products (MEErP)* and *EN 45555 standard on “general methods for assessing the recyclability and recoverability of energy-related products”*.

Based on our own experience with respect to the use of these methodologies to assess the impact of halogenated flame retardant additives on “recyclability of plastics” used in enclosures of electronic

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<sup>1</sup> <https://polystyreneloop.eu/>

displays, the above-mentioned methodologies risk authorities come to erroneous conclusions when setting product-related Eco-design criteria. For instance, the MEERp methodology does not take into consideration essential characteristics such as the quality, safety and reliability of a product. Similarly, the use of the EN 45555 standard to assess the degree of recyclability and recoverability in products has resulted in strong overestimations.

The proposal also recognizes that the Product Environmental Footprint (PEF) methodology should be by default the recommended methodology to assess carbon and environmental footprints. In this regard, we are aligned with CEFIC's view that overtime the PEF methodology has shown limitations.

BSEF strongly believes that a correct and scientific-based update of these methodologies will be key to ensure an ambitious implementation of the ESPR's objectives. We also wonder how methodologies focusing on different sustainability aspects will be reconciled, in case of conflicting results.

In decision making the potential to remove 'substances of concern' at end of life stage should be taken into account.

### **Put in place a representative Eco-design Forum**

BSEF welcomes the upgrade of the Eco-design Forum (Article 17). The Eco-design Forum will play an essential role in assisting the Commission with the development and review of implementing measures and delegated acts setting product specific eco-design requirements. The Forum could also provide expert advice and input to operational and implementation issues and development of working plans.

Today, a number of significant stakeholders would be missing. These are those stakeholders representing upstream raw material extraction and processing as well as those representing social issues related to resource extraction and product safety. BSEF therefore is of the opinion that the Commission should take opportunity to recast the scope and composition of this important body in the interests of a balanced approach to achieving the wider scope of the ESPR.

### **Avoid duplication of existing chemical regulation for substances**

BSEF supports the effort proposed by the ESPR to improve the circularity of products. However, any approach needs to be transparent, inclusive and tailored to the particular product context, its value chain and its life cycle from raw materials to end of life treatment.

BSEF welcomes the Commission's intention not to duplicate or replace the RoHS Directive, which is currently undergoing a revision. For waste electrical electronic equipment, the RoHS Directive as well as WEEE CEN standards ensure the effective assessment and management of hazardous substances during the recycling phase of products. A recent study<sup>2</sup> by SOFIES sustainability consultants supports this and, with respect to plastics containing brominated flame retardant additives, highlights that they are well managed and that any hazardous or restricted substances are effectively screened out and treated according to the regulatory requirements.

BSEF also notes that the Commission has the intention to restrict, through delegated acts, the presence of substances in products or used in their manufacturing process, which negatively affect the products' sustainability for reasons other than chemical safety. Although sections of the proposal exclude the

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<sup>2</sup> SOFIES Sustainability Consultants (2020). Impact of brominated flame retardants on WEEE plastics recycling in Europe.

restriction of substances on the basis of their chemical safety, Article 5 5. (b) states that Eco-design requirements shall ensure “no adverse effect on the health and safety of persons”.

BSEF has concerns with this hazard-based approach as chemicals should be regulated through the existing and well-established framework of the REACH Regulation, that is risk-based, which involves ECHA and the REACH committee that have the right expertise to deal with risk management of chemicals.

Once again, BSEF strongly believes that the ECHA’ scientific bodies, as prescribed in the REACH Regulation, are the right fora to assess the impact of a chemical on the health and safety of persons. Besides, BSEF remarks that the process to restrict substances for reasons other than chemical safety is not well defined in the Regulation, and that it is not clear which sustainability aspects will be targeted. The inclusion of a well-defined and science-based process, with a clear scope and including impact assessments and socio-economic considerations, would greatly benefit predictability and reliability. The chemical management process included in the Batteries Regulation could be a good example in this sense. In addition, no role for ECHA or other Commission agencies seems to be foreseen at the moment.

Therefore, BSEF would welcome further clarifications on this aspect.

#### **Promote scientific-based Green Public Procurement criteria**

BSEF notes that the proposal enables the European Commission for the establishment of mandatory green public procurement (GPP) criteria that would apply to Member States and regulate the purchasing decisions of their respective public bodies. We acknowledge the important role GPP plays for the purchase of more sustainable goods and services and its impact on existing markets.

BSEF would therefore like to stress that any GPP criteria should be risk -based using scientific evidence, advice from expert bodies and their assessment, and concerned stakeholders should be allowed to submit their assessment and data. Any future GPP criteria should follow a clear, transparent, and scientifically sounded process.

#### **Further information:**

For further information, please contact Michael Hack, Secretary General ([mhack@bsef.org](mailto:mhack@bsef.org)) or Patrick Fox, Head of Public Affairs & Advocacy ([pfox@bsef.org](mailto:pfox@bsef.org))

#### **About BSEF**

BSEF – the International Bromine Council, is the global representative body for bromine producers and producers of bromine technologies. Originally founded in 1997, BSEF works to foster knowledge on the societal benefits of bromine and its applications. The members of BSEF are Albemarle Corporation, ICL Industrial Products, Lanxess and Tosoh.