



**ANEC response to the public consultation of the
European Commission
on the
revision of Directive 2009/142/EC
on appliances burning gaseous fuels
(GAD)**

February 2012

ANEC-DOMAP-2012-G-012final

A. Alignment of GAD to the New Legislative Framework

A.1

No

A.1.1

The term 'in-house' is not clear. If 'in-house' means within the enterprise, we do not agree to introduce 'accredited in-house bodies' in GAD. See below under A.1.2.

A.1.2

The term 'in-house' is not clear.

If 'in-house' means within the enterprise, we do not agree to introduce 'accredited in-house bodies' in GAD. This would change the current safety philosophy of the Gas Appliances Directive, which requires that the product is subjected to EC-type examination by a Notified Body.

If "in-house" does not mean within the enterprise, we could support the proposal.

A.2

The current safety philosophy of GAD should be maintained.

A.2.1

We welcome that the current safety philosophy of the Gas Appliances Directive requires that the product is subject to EC-type examination by a Notified Body.

ANEC thinks that the level of conformity assessment should be dependent on the products characteristics such as the level of risks involved. In the case of gas appliances, EC-type examination by a Notified Body is justified in order to ensure a high level of safety for consumers.

A.2.2

N/A

B. Clarification of the provisions of GAD in order to make it function better and to reduce the need for interpretation

B.1

Yes

B.1.1

N/A

B.2

No opinion

B.2.1

N/A

B.2.2

N/A

B.3

No opinion

B.3.1

N/A

B.3.2

N/A

B.4

No

B.4.1

Although we replied 'No' to question B.4, we nevertheless think that additional requirements should be added. See below under B.4.2.

B.4.2

All instructions currently under 1.2.1 are key and should thus be kept in the legal text. This will ensure that no safety related aspect is ignored and will avoid misinterpretation. Additional requirements should however be added regarding instructions for regular inspections and for records of details related to any corrective actions taken during the maintenance phase.

In addition to these provisions, we believe that there is a need to incorporate in the Directive requirements for the competence and training of the professionals involved in the planning, design, installation, commissioning, use and maintenance of the appliances.

The appliance should be installed by a competent person following the manufacturer's instructions and complying with all relevant standards and regulations, in particular when the installer must assemble parts of the appliance affecting its safety or compliance with CE Marking requirements, the latter as it is not possible for the appliance to be tested in situ. The revised GAD should take account of the situation where the manufacturers' instructions might not cover all safety requirements of other attached components. There was a case a few years ago where a gas appliance was correctly installed in itself, but incorrectly connected to a flue - the appliance manufacturer's instructions did not cover all different types of flue, so the installer fitted to the appliance requirements which however resulted in unsafe operation of the flue. It is not enough for the appliance to be safe when it is put on the market. It must remain safe after installation and all along its life-cycle including during the dismantling/replacement phase.

Gas appliances need to be designed, installed and maintained by competent operatives in order to reduce the risk of e.g. fire, explosion or gas leak.

B.5

YES

B.5.1

We believe it insufficient for the GAD to include only a vague essential requirement for the appliance to be safe. In conjunction with the Ecodesign of Energy-related products Directive (ErP), we ask for the revised GAD to set limit values for the combustion gases parameters that the ErP Directive does not cover, in particular when the combustion products are emitted indoors (e.g. in private households, public buildings). The exhaust gas parameters (e.g. temperature, CO and CO₂ concentration) affect not only the performance of the appliance, but also the quality of the air, and thus pose a potential risk to health when released indoors. The GAD and Ecodesign implementing measures should complement one another and regulators must ensure that no legal gaps or grey areas exist.

In this context, we stress that such limit values for emissions from appliances should be established by regulators (in the GAD) and not be left to standardisation. Regarding CO emissions for instance, several European Standards (ENs)¹ permit far too high concentrations of CO to be emitted in the room where the appliance is installed, even up to 2000 ppm (or 0,2% CO) in an abnormal operation of the appliance (low voltage or high gas pressure). Such concentration levels pose extreme risk to health. Highly political decisions which have a direct or key impact on the protection or welfare of consumers must therefore be taken at the Community level and not delegated to the standardisation bodies.

In addition to emission limit values, we also ask to introduce specific provisions on indoor air quality in the GAD. Such provisions are missing in the current implementing measure for boilers and water heaters and this could lead to a safety risk. The Implementing Measure contains only requirements to limit NOx emissions. However, as the amount of NOx could be reduced by increasing CO, this could lead to a serious health risk to consumers. ANEC therefore urge the Commission to set NOx and CO threshold values in the GAD.

B.5.2

N/A

C. Modification of the scope of GAD

C.1

YES.

C.1.1

A gas appliance, even if manufactured to the most rigorous standards for safety and efficiency, may become unsafe and/or inefficient in operation due to poor, faulty or negligent installation and maintenance. GAD does not address installation, operation or maintenance and hence there is need for these elements to be taken into account in its revision. It is not enough for the appliance to be safe when it is put on the market. It must remain safe after installation until the end of its life. ANEC already expressed these concerns to the Commission in November 2007, in a proposal on the safety of installation and servicing of gas appliances².

¹ EN 30-1-1 'Domestic cooking appliances burning gas. Safety. General'; EN 30-1-2 'Domestic cooking appliances burning gas. Safety. Appliances having forced convection ovens and/or grills'; EN 483 'Gas-fired central heating boilers. Type C boilers of nominal heat input not exceeding 70 kW'.

² ANEC proposal for the revision of the Gas Appliances Directive, proposal relating to the installation and servicing of appliances burning gaseous fuels (ANEC-DOMAP-2007-G-054final), November 2007.

A finding of the "Study on the Competitiveness of the EU Gas Appliances Sector"³, conducted in 2008-2009, confirms the ANEC position by indicating that there are several problems in the legal framework affecting the installation and putting into operation of gas appliances.

We urge the Commission to introduce provisions for the installation and maintenance of gas appliances in the revised GAD, based on our proposal from November 2007, and on the findings of the above mentioned study, in order to ensure the same level of safety for all European consumers. The Italian reply (doc. GAD-09-009) to the questionnaire⁴ sent by the Commission to the competent authorities of the Member States on 27 May 2008 indicates the same needs.

Proper installation and maintenance of products is recognized by Article 16.2 of Regulation 765/2008, where reference is made to "products covered by Community harmonisation legislation which, when used in accordance to their intended purpose *or under the conditions which can be reasonably foreseen* and when properly installed and maintained". We suggest for this wording to be put in Article 1.3 of the revised GAD.

C.1.2

Accident statistics indicate that carbon monoxide (CO) poisoning is the cause of several deaths each year. In addition, many other consumers become ill, realising that a faulty or poorly-maintained gas appliance is the cause, but such incidents are often not recorded. It is not enough for the GAD to incorporate a vague essential requirement for the appliance to be safe. It is not enough for the appliance to be safe when it is put on the market. It must remain safe after installation until the end of its life.

C.1.3

N/A

C.2

NO

C.2.1

N/A

C.2.2

N/A

C.2.3

We do not see a need to reduce the scope of the current GAD.

³ Study on the Competitiveness of the EU Gas Appliances Sector, ENTR/06/054, Final Report, August 2009.

⁴ Questionnaire for the competent authorities of the Member States on streamlining and a possible review of Directive 90/396/EEC (GAD), document GAD-09-009.

C.3

No opinion

C.3.1

N/A

C.3.2

N/A

C.4

Yes

C.4.1

We are in favour of maintaining the exclusion as appliances specifically designed for use in industrial processes carried out on industrial premises are covered by other EU legislation.

C.4.2

N/A

C.5

YES

C.5.1

ANEC calls for a provision in the revised Gas Appliances Directive that a device which prevents a dangerous accumulation of un-burnt gas (such as a flame supervision device) should be mandatory for all burners.

It is totally unclear what is meant by "sufficient ventilation" in Annex I, points 1.2.3 and 3.2.3. It would be up to the Member States to judge or to define "sufficient ventilation" or room sizes, which would result in different requirements for different countries. For a consumer, it would be possible to buy an appliance without FSD for open burners, but it could be the case, that due to ventilation requirements, the appliance cannot be used. This would on its turn result in an unsafe situation for the consumer. The seller of an appliance cannot know what ventilation exists in places where the appliance is to be used, nor whether an appliance may be moved to another location. This will result in a huge scope for accidents if FSDs are not provided in all circumstances.

Flame supervision devices are state of the art for many years now and also the new version of EN 30 is respecting that fact. The revised Gas Appliances Directive should also do so.

ANEC supports FSDs (flame safety devices) for open burners and is of the opinion that "sufficient ventilation" cannot be accepted as alternative. According to the standard EN 30, ventilation is not regarded as an alternative.

C.6

YES

C.6.1

Set up emission limit values for combustion products. See our answer to question B.5.1

Introduce provisions for the installation, maintenance and operation of gas appliances. See our answer to question C.1.1

In addition, provisions should be introduced for the qualification of the installers of gas appliances. Gas appliances are sometimes placed on the market without the gas-carrying circuit assembled. It is left to the installer to assemble the gas-carrying circuit and conduct soundness tests in accordance with the manufacturer's instructions. The installer needs to be competent in order to follow the instructions of the manufacturer correctly and install the appliance safely. The responsibilities of the manufacturer, and the qualification and the role of the installer, should be set by the revised Directive. The ANEC proposal relating to the installation and servicing of appliances burning gaseous fuels from November 2007 contains proposals in this respect.

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| D. Any other matters to be considered |
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D.1

Even the most stringent legislation and standards become worthless if they are not applied or enforced effectively. Within the Internal Market, market enforcement authorities have the responsibility to protect consumers' health and safety. Unfortunately, most market surveillance activities are undertaken by Member States exclusively and individually at the national level. This leads to inconsistencies and, above all, sees insufficient resources available to police the

many products on the market. As a result, the consumer expectation for safe products is not always met.

Although Regulation 765/2008⁵ became the first European instrument to set certain requirements for market surveillance by the Member States, we note with the utmost concern that a study⁶ conducted for the IMCO Committee of the European Parliament, published in October 2009, concluded that most Member States will not commit more resources to market surveillance, either because they think their national systems already meet the requirements of the Regulation or because they do not have the financial resources available.

European legislation is effective only if its enforcement is ensured. Sadly, the legislators tend not to consider market surveillance when discussing new laws. As ANEC stressed in a position paper⁷ issued with Orgalime (the European Engineering Industries Association) in April 2009, there is an urgent need for establishing a European framework for market surveillance in order to ensure the availability of sufficient resources and a coherent approach to market surveillance activities across all 27 Member States. This call has found support from actors across the economic spectrum – such as all those present at the Swedish Presidency Conference on Safe Products of 11 September 2009 – and we believe there is a strong expectation from the market for an initiative to be undertaken in the lifetime of the present Commission.

In this context, we believe that the revision of the GAD gives an opportunity to introduce more demanding requirements for market surveillance activities in Member States. Related ambitious requirements should therefore be incorporated in the Directive.

Of course, this would need to be combined with an increase of resources of market surveillance authorities.

In addition, the revised GAD should cover provisions for staff of the national public authorities, who should be required to have the professional skills and equipment needed to verify the compliance of an appliance with the requirements of the Directive even after its installation.

Finally, the revised GAD should cover provisions for national authorities to report the results of their annual inspections to the Commission and the Commission should publish the results on its website.

⁵ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93

⁶ "Market surveillance in the Member States", study by Committee on Internal Market and Consumer Protection of the European Parliament, October 2009

⁷ Joint ANEC/ORGALIME position paper "Call for an effective pan-European market surveillance system", April 2009

About ANEC

ANEC is the European consumer voice in standardisation, defending consumer interests in the processes of technical standardisation and conformity assessment as well as related legislation and public policies. ANEC was established in 1995 as an international non-profit association under Belgian law and represents consumer organisations from 31 European countries. ANEC is funded by the European Union and EFTA, with national consumer organisations contributing in kind. Its Secretariat is based in Brussels.

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