



Position Paper

Revision of the Gas Appliances Directive: key issues from a consumer perspective

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Revision of the Gas Appliances Directive: key issues from a consumer perspective

Summary

ANEC welcomes the revision of the Gas Appliances Directive (GAD)¹, not only as an opportunity to review its safety requirements, but also to introduce provisions for the installation and maintenance of gas appliances, in order to ensure a high level of protection for consumers. This document outlines the major issues we believe should be taken into account in the revised GAD.

In particular, we urge the Commission to:

1. **Establish a more effective regulatory framework, allowing quick market interventions and reliable long-term solutions, without delegating political decisions to the standardisation bodies**
2. Set up **emission limit values** for combustion products
3. Introduce provisions for the **installation, maintenance and operation of gas appliances**
4. Introduce provisions for the **qualification of the installers**
5. Ensure **more effective market surveillance**

¹ Council Directive 2009/142/EC of 30 November 2009 relating to appliances burning gaseous fuels

1. Establish a more effective regulatory framework, allowing quick market interventions and reliable long-term solutions, without delegating political decisions to the standardisation bodies

There is a need to have a more flexible instrument, able to react quickly to market changes (new products) or new identified risks, and which allows requirements to be established, complementary to the essential requirements, without the cumbersome revision of the whole Directive.

ANEC proposes the legislative “framework for the setting of ecodesign requirements for energy-related products (ErP)²” (2009/125/EC) be used as a model in the field of product safety. This directive foresees the adoption of “implementing measures” for specific product categories, using a regulatory committee procedure complemented by a “consultation forum” involving all stakeholders. The implementing measures are based on research projects funded by the Commission. The Commission also makes funding available to ensure the effective involvement of consumers and environmental NGOs in the implementation process.

As with the ERP ecodesign process, we believe the Gas Appliances Directive should allow for the establishment of product specific rules complementing and detailing essential requirements, as appropriate, using a Comitology procedure. It could then be decided case-by-case which level of detail should be defined in the implementing measure and which aspects left to the standards bodies.

It is also essential to have an alternative to standardisation. The only option which is available now to challenge deficient standards is the procedure under Article 6 of the Gas Appliances Directive. This procedure can be time consuming and may not lead to satisfactory results within a reasonable time frame. The availability of an alternative may increase the willingness of the standards committees to seek a true consensus with all stakeholders and thus strengthen the position of consumer protection advocates in the committees.

We propose the requirements for formal objection to a harmonised standard, detailed in the New Legislative Framework³, are incorporated into the revision of the Gas Appliances Directive.

Regarding the interests represented in the standards development process, the participation of societal interests at the national level can be hampered by many factors such as lack of resources, insufficient expertise and ineffective coordination. These factors were detailed in the Access to Standardisation study of March 2009⁴

² Directive 2009/125/EC establishing a framework for the setting of ecodesign requirements for energy-related products, replacing Directive 2005/32/EC

³ Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC, Annex I - Article R9

⁴ http://ec.europa.eu/enterprise/policies/european-standards/files/standards_policy/access_to_standardisation/doc/access_to_standardisation_study_eim_en.pdf

for DG ENTR. Hence it is vital for public financial support to be continued in order to enable the participation of societal stakeholders directly at European level. ANEC welcomes the recommendation of the EXPRESS panel⁵ for public funding to be continued to ANEC (ECOS, ETUI-REHS and NORMAPME) in the years to 2020 and beyond. The revised Gas Appliances Directive could not be successful without the effective participation of consumers in the standardisation process.

Finally, we believe that highly political issues which have a direct or key impact on the protection or welfare of consumers are taken at Community level and not delegated to standardisation bodies. This is highly relevant for the establishment of limit values (see below under point 2). The role of standardisation should be limited to providing the technical means through which compliance with the political decision is achieved or evaluated.

2. Set up emission limit values for combustion products

In conjunction with the Ecodesign of Energy-related products Directive (ErP), the revised GAD should set limit values for the combustion gases parameters that the ErP Directive does not cover, in particular when the combustion products are emitted in living areas. 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 risk to health when released indoors. Several European Standards (ENs)⁶ permit 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). We consider that this value is very high indeed and poses extreme risk to health.

As mentioned above under point 1, we believe that establishing such limit values should not be left to standardisation. Highly political decisions which have a direct or key impact on the protection or welfare of consumers must be taken at the Community level and not delegated to the standardisation bodies.

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. Others do not realise that a gas appliance is at fault. It is not enough for the GAD to incorporate a vague essential requirement for the appliance to be safe. Specific provisions, in addition to emission limit values, must be made that address indoor air quality in order to avoid both fatal and non-fatal accidents in future.

⁵ Report of the Expert Panel for the Review of the European Standardization System: "Standardization for a competitive and innovative Europe: a vision for 2020", February 2010

⁶ 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'.

Such specific provisions on indoor air quality in the GAD are even more urgently needed as the ecodesign requirements for boilers and water heaters, currently under preparation, could lead to a safety risk. The draft 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. Although ANEC has been calling on the Commission several times to set NOx *and* CO threshold values in the Eco-design measures, such provisions are still missing.

3. Introduce provisions for the installation, maintenance and operation of gas appliances.

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. The Gas Appliances Directive does not address installation, operation or maintenance and hence there is need for these elements to be taken into account in its revision.

This issue has been discussed several times in the meetings of the Commission's WG-GA⁷. The appliance should be installed by a competent person following the manufacturer's instructions, 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. But 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. Indeed, in November 2007, we submitted a proposal on the safety of installation and servicing of gas appliances⁸ which was uploaded on to CIRCA (doc. 2007-11 ANEC - Installation and Servicing).

A finding of the "Study on the Competitiveness of the EU Gas Appliances Sector"⁹, 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. The following paragraph is an extract from the study describing this issue:

"The GAD is an important driver for the development of the GAS and has contributed much to the creation of a pan European industry that exploits comparative advantages in different regions. The free movement of goods is not a

⁷ Gas Appliances Directive / Member States Working Group

⁸ 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.

⁹ Study on the Competitiveness of the EU Gas Appliances Sector, ENTR/06/054, Final Report, August 2009.

problem to the sector. Problems have been identified in the legal framework that affects the installation and putting into operation of GA. There is some overlapping of European directives and different views on the jurisdiction, in particular the CPD and the GAD. Some problems are derived from directives that provide leeway to national provision. This refers to necessity of the European legislation to accept different boundary conditions in the national construction industry and the residential sector. With regard to the directives that tackle environmental provisions similar problems exist. These directives refer to Art. 175 EC Treaty and give national authorities room for a stricter regulation than on the European level. With ever growing requirements for energy efficiency and CO2 reduction this can raise some difficulties for manufacturers that face logistic problem with a growing number of variants to meet different, but high requirements”.

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 questionnaire¹⁰ sent by the Commission to the competent authorities of the Member States on 27 May 2008 indicates the same needs.

4. Introduce provisions for the qualification of the installers

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.

5. Ensure more effective market surveillance

Even the most stringent legislation and standards become worthless if they are not applied or enforced. 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.

¹⁰ 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.

Although Regulation 765/2008¹¹ became the first European instrument to set certain requirements for market surveillance by the Member States, we note with the utmost concern that a study¹² conducted for the IMCO Committee of the Parliament, published in October 2009, concluded 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 paper¹³ 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.

The revision of the GAD gives an opportunity to introduce more demanding requirements for market surveillance activities in Member States. However, this will be useful only if the lack of resources of market surveillance authorities is realised and addressed.

In addition, staff of the national public authorities should 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, national authorities should report the results of their annual inspections to the Commission and the Commission should publish the results on its website.

END

¹¹ 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

¹² "Market surveillance in the Member States", study by Committee on Internal Market and Consumer Protection of the European Parliament, October 2009

¹³ Joint ANEC/ORGALIME position paper "Call for an effective pan-European market surveillance system", April 2009

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About ANEC

A.1 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.

A.2 Contact persons at the ANEC Secretariat

Tania Vandenberghe
Senior Programme Manager (Domestic Appliances)
tania.vandenberghe@anec.eu

Laura Degallaix
Programme Manager (Services)
laura.degallaix@anec.eu

More information about ANEC and its activities is available at www.anec.eu

Should you have any problems in accessing the documentation, please contact the ANEC Secretariat.

☎ +32/2-743 24 70

📠 +32/2-706 54 30

✉ anec@anec.eu

📍 Avenue de Tervueren 32, box 27 – BE-1040 Brussels, Belgium

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