



*Raising standards for consumers*



## **POSITION PAPER**

### **on the European Commission proposal for a Regulation on appliances burning gaseous fuels**

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## 1. Summary

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On 12 May 2014, the European Commission published a proposal for a Regulation on appliances burning gaseous fuels<sup>1</sup>.

The proposal intends to replace Directive 2009/142/EC<sup>2</sup> which covers a very wide range of consumer products used for cooking, refrigeration, heating, lighting and washing.

In this position paper, ANEC gives recommendations on the provisions we believe need to be kept, as well as those that need to be modified in the Commission's proposal in order to ensure the highest level of consumer protection.

### ***We welcome that the proposal:***

- takes the form of a Regulation;
- maintains the exclusion of appliances specifically designed for use in industrial processes
- ensures better traceability
- takes into account the provision of Regulation No 1025/2012<sup>3</sup> for a procedure for objections to harmonised standards

### ***We call for:***

- The introduction of provisions for the installation, maintenance and operation of gas appliances, as well as for the qualification of the installers
- The terms 'normal use' and 'reasonably foreseen use' to be used in a consistent way
- The mandatory use of a flame supervision device for all burners
- The setting up of emission limit values for combustion products

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<sup>1</sup> Proposal for a Regulation of the European Parliament and of the Council on appliances burning gaseous fuels, [http://eur-lex.europa.eu/resource.html?uri=cellar:63e47aae-d9b6-11e3-8cd4-01aa75ed71a1.0002.01/DOC\\_1&format=PDF](http://eur-lex.europa.eu/resource.html?uri=cellar:63e47aae-d9b6-11e3-8cd4-01aa75ed71a1.0002.01/DOC_1&format=PDF) and [http://eur-lex.europa.eu/resource.html?uri=cellar:63e47aae-d9b6-11e3-8cd4-01aa75ed71a1.0002.01/DOC\\_2&format=PDF](http://eur-lex.europa.eu/resource.html?uri=cellar:63e47aae-d9b6-11e3-8cd4-01aa75ed71a1.0002.01/DOC_2&format=PDF)

<sup>2</sup> Council Directive 2009/142/EC relating to appliances burning gaseous fuels

<sup>3</sup> Regulation No 1025/2012 of 25 October 2012 on European standardization,

## 2. Introduction

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Directive 2009/142/EC relating to appliances burning gaseous fuels covers a wide range of consumer products used for cooking, refrigeration, heating, lighting and washing.

In anticipation of the revision of Directive 2009/142/EC, ANEC published a position paper in September 2010, detailing key issues from a consumer perspective<sup>4</sup>.

In particular, we urged the Commission to:

- Introduce provisions for the **installation, maintenance and operation of gas appliances**
- Introduce provisions for the **qualification of the installers**
- Set up **emission limit values** for combustion products
- Ensure **more effective market surveillance**

In this position paper, we give recommendations regarding the changes that should be made to the Commission's Proposal, as well as the elements that should be kept, in order to achieve a better protection of consumers from unsafe and non-compliant products.

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<sup>4</sup> "Revision of the Gas Appliances Directive: key issues from a consumer perspective", ANEC position paper, <http://www.anec.eu/attachments/ANEC-GA-2010-G-001final.pdf>.

### 3. Key issues from a consumer perspective

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#### **A Regulation will ensure a uniform level of safety in the internal market**

ANEC welcomes that the proposal takes the form of a Regulation. A Regulation imposes rules and requirements that are applicable at the same time throughout the Union, and which do not give room for divergent transposition by Member States. Experience has shown that a Directive can lead to different interpretation and deadlines, creating different levels of safety for consumers and burdens for economic operators in the single market.

#### **Scope**

##### **1. Exclusion of appliances specifically designed for use in industrial processes**

ANEC welcomes that the proposal maintains exclusion of appliances specifically designed for use in industrial processes carried out on industrial premises, as these appliances are covered by other EU legislation.

##### **2. Installation and maintenance of gas appliances**

We are very disappointed and concerned that no provisions for the installation and maintenance of gas appliances have been introduced in the proposal.

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.

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. With a mortality rate of 2.24 for each 100.000 persons in Europe, CO kills more people annually than HIV/AIDS (2.0) or skin cancer (2.1), and slightly less than alcohol abuse (2.6), according to the World Health

Organisation Europe<sup>5</sup>. Several studies<sup>6</sup> indicate that fatal CO-intoxications have increased throughout the last years European-wide.

It is not enough for the Regulation to incorporate a vague essential requirement 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.*** Directive 2009/142/EC does not address installation, operation or maintenance and hence there is need for these elements to be taken into account in its revision.

ANEC already expressed these concerns to the Commission in November 2007, in a proposal on the safety of installation and servicing of gas appliances<sup>7</sup>.

A finding of the "Study on the Competitiveness of the EU Gas Appliances Sector"<sup>8</sup>, conducted in 2008-2009, confirmed the ANEC position by indicating that there are several problems in the legal framework affecting the installation and putting into operation of gas appliances.

In the ANEC response<sup>9</sup> to the public consultation of the European Commission on the revision of Directive 2009/142/EC, we urged the Commission to introduce provisions for the installation and maintenance of gas appliances in the revised directive, 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.

***It is essential that all carbonaceous fuel burning appliances, not just gas, must be installed, maintained and serviced pursuant to the appliance manufacturer's instructions by a professionally competent person.***

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 this wording be put in Article 1 (2) of the proposal.

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<sup>5</sup> M. Braubach et al.: *Mortality associated with exposure to carbon monoxide in WHO European Member States*, 2012, WHO Regional Office for Europe, p. 6

<sup>6</sup> Federal Statistics Office, ICD 10 Cases (T 58), Germany; Delers M. et al, *Clinical Toxicology*, 2010, 48: 283, *Arch Kriminol.* 2011 ; 227:102-10

<sup>7</sup> 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.

<sup>8</sup> Study on the Competitiveness of the EU Gas Appliances Sector, ENTR/06/054, Final Report, August 2009.

<sup>9</sup> ANEC response to the public consultation of the European Commission on the revision of Directive 2009/142/EC, ANEC-DOMAP-2012-G-012final, February 2012.

## Traceability of products

It is crucial for consumers that the withdrawal of unsafe products from the market, or the recall of products that hold potential risks to health and safety, is done as quickly as possible. Hence, we welcome the proposals made regarding the traceability of products.

## Harmonised standards

### **1. Objection to harmonised standards**

We welcome that the proposal takes into account the provision of Regulation No 1025/2012<sup>10</sup> for a procedure for objections to harmonised standards where those standards do not entirely satisfy the safety objectives.

### **2. Reference to vulnerable consumers**

We suggest to add a recital that "*The harmonised standards relevant to this Directive should also take into account the United Nations Convention on the Rights of Persons with Disabilities<sup>11</sup>*", in line with the revision (recast) of other European Directives, like the Low Voltage Directive<sup>12</sup> amongst others.

## General principles of the CE Marking

In general, ANEC repeats its concerns regarding CE marking, which consumers often wrongly believe to be a safety label when it is not addressed to them but to market surveillance authorities.

Consumer organisations in Europe have long criticised CE marking as, for most consumer products, it is only a self-declaration from the manufacturer that the product complies with EU safety legislation<sup>13</sup>.

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<sup>10</sup> Regulation No 1025/2012 of 25 October 2012 on European standardization,

<sup>11</sup> Approved by Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities (OJ L 23, 27.1.2010, p. 35)

<sup>12</sup> Directive 2014/35/EU of 26 February 2014, OJEU 29 March 2014

<sup>13</sup> ANEC Position Paper on CE Marking "Caveat Emptor - Buyer Beware" (ANEC-SC-2012-G-026final)

Consumers are misled about the meaning of the CE marking as they believe it refers to a geographical origin (such as “Made in the EU”) or they confuse it with an authorisation or independent safety testing.

We propose removing CE marking from the products that require it and to include it in the related technical documentation. CE marking should not be visible to consumers as it is not intended for them and is often misunderstood.

## **Review and reporting**

We think an explicit provision should be introduced, obliging Member States to report on the effectiveness of market surveillance at national level.

This provision is already directly applicable, because of Article 40 of Regulation (EC) No 765/2008, which says that “By 1 January 2013, and every five years thereafter, the Commission, in cooperation with the Member States, shall produce and submit to the European Parliament and to the Council a report on the implementation of this Regulation”, but we believe that it would be more practical to have also a “vertical” reporting obligation as the system of market surveillance varies across Member States.

## **Annexes to the Proposal for a Regulation of the European Parliament and of the Council on appliances burning gaseous fuels**

### **1. Normal use – reasonably foreseen use**

- It is not clear from point 1.1 what is meant by ‘normally used’. We suggest to add ‘*as defined in Article 1(2) of this Regulation*’ after the first sentence, in line with the wording of the current Directive 2009/142/EC.
- The same goes for point 3.6.2. We suggest to change the sentence as follows:  
‘The surface temperature of parts of appliances intended to be handled shall not present a danger to the user, *when normally used as defined in Article 1(2) of this Regulation*’.

### **2. Mandatory use of a flame supervision device**

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

The risk of explosion needs to be reduced at the earliest point possible, achieved when a flame supervision device fails to detect the flame and shuts off the supply of gas to the burner usually within 60 seconds. Hence the quantity of un-burnt gas released into the room or space is minimised.

The costs of a flame supervision device in cookers are minimal compared with the risks to life and property. Additional ventilation does not negate an explosion, but provides and maintains a level of oxygen that allows complete combustion to take place until either the burner is shut off manually or the gas supply to the property is cut off. Both can be time consuming.

Flame supervision devices have been state-of-the-art for many years now, as recognised by the European Standard, EN 30. The proposed Regulation should also recognise the value of flame supervision devices.

### **3. Introduction of emission limit values for combustion products**

The proposal for a Regulation should set limit values for the combustion gas parameters, in particular when the combustion products are emitted in living areas. The exhaust gas parameters (e.g. temperature, CO, NO<sub>x</sub> and CO<sub>2</sub> 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)<sup>14</sup> 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 to pose extreme risk to health.

We believe the establishment of limit values should not be left to standardisation. Highly political decisions that have a direct or key impact on the protection or welfare of consumers must be taken at the Union level and not delegated to the standardisation bodies.

As mentioned above, carbon monoxide (CO) poisoning is the cause of numerous deaths each year. It is therefore not enough for the proposal to incorporate a vague essential requirement for the appliance to be safe. Indoor air quality needs to be addressed in order to avoid both fatal and non-fatal accidents.

END

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<sup>14</sup> 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'.

## About ANEC

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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 is open to the representation of national consumer organisations in 33 countries.

ANEC is funded by the European Union and EFTA, with national consumer organisations contributing in kind. Its Secretariat is based in Brussels.



***Raising standards for consumers***

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