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German Ecolabel Blue Angel's feedback on the European Commission's Proposal for a Regulation laying down harmonised conditions for the marketing of construction products

Suggestions for amendments regarding the interface with ecolabels (Article 18) and green public procurement (Article 84)

We appreciate the possibility to send feedback on your Proposal for a Regulation laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011.

The Blue Angel ecolabel has been awarded to a large range of construction and building products for over 40 years. Based on our experience we have the following comments.

Article 18 Other markings

The article currently reads:

“Markings other than the CE marking, including private ones, may be affixed on a product only if they do not cover or refer to harmonised technical specifications or to product requirements or essential characteristics or assessment methods included in the harmonised zone.

No other marking than marking set out by Union legislation may be affixed on a product in a distance smaller than the double length of the CE marking measured from any point of the CE and the other marking set out by Union law.

No other marking than the CE marking may be placed on the declaration of performance or the declaration of conformity.”

We strongly disagree with the first sentence. The Blue Angel ecolabel is today awarded to many CE-marked construction products. The Blue Angel helps the product users to find environmentally high performing products and strengthens the functioning of the internal market through enabling a competition regarding the product environmental

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performance. Currently the Blue Angel covers both performance criteria that are intended to be part of the harmonised zone (e.g. emission of formaldehyde) as well as additional criteria (e.g. sensory evaluation of odour emissions, content of polycyclic aromatic compounds or nitrosamines, absence of biocides, no active use of carcinogenic, mutagenic or reprotoxic substances). We cannot see any benefit for any stakeholder group nor for the internal market in not allowing CE marked products to apply for the Blue Angel ecolabel. On the contrary, we think that this would weaken the trust to CE marking on the market.

Therefore, we suggest to amend the first sentence of Article 18 to read as follows:

*Markings other than the CE marking, including private ones **and excluding Type I (ISO 14024) ecolabels**, may be affixed on a product only if they do not cover or refer to harmonised technical specifications or to product requirements or essential characteristics or assessment methods included in the harmonised zone.*

Type I ecolabels according to ISO 14024 like the Blue Angel or the EU Ecolabel are voluntary multi-criteria ecolabel programs assessed by an independent third party covering the life cycle impacts of a product.

Article 84 Green public procurement

The article currently reads:

1. The Commission is empowered to supplement this Regulation by delegated acts according to Article 87 by establishing sustainability requirements applicable to public contracts, including implementation, monitoring and reporting of those requirements by Member States.

2. Requirements adopted pursuant to paragraph 1 for public contracts awarded by contracting authorities, as defined in Article 2(1) of Directive 2014/24/EU or Article 3, point (1) of Directive 2014/25/EU, or contracting entities, as defined in Article 4(1) of Directive 2014/25/EU, may take the form of mandatory technical specifications, selection criteria, award criteria, contract performance clauses, or targets, as appropriate.

3. When establishing requirements pursuant to paragraph 1 for public contracts, the Commission shall take into account the following criteria:

(a) the value and volume of public contracts awarded for that given product family or category or for the services or works using the given product family or category;

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- (b) the need to ensure sufficient demand for more environmentally sustainable products;*
- (c) the economic feasibility for contracting authorities or contracting entities to buy more environmentally sustainable products, without entailing disproportionate costs.*

Here we are concerned that labels according to Article 43 of Directive 2014/24/EU on Public Procurement are missing in the list of legitimate formats for requirements in clause 2. (ISO 14024 Type Ecolabels are covered by Article 43 and already used in procurement of construction products.) We propose to add labels under clause 2 as follows.

*Requirements adopted pursuant to paragraph 1 for public contracts awarded by contracting authorities, as defined in Article 2(1) of Directive 2014/24/EU or Article 3, point (1) of Directive 2014/25/EU, or contracting entities, as defined in Article 4(1) of Directive 2014/25/EU, may take the form of mandatory technical specifications, selection criteria, award criteria, contract performance clauses, **labels as defined in Article 43 of Directive 2014/24/EU** or targets, as appropriate.*

The existing Union Law on public procurement allows the contracting authorities to require a specific label as means of proof for the required characteristics. We consider it important to maintain this principle also for construction products.

We look forward to a clear and ambitious new Construction Products Regulation that enables an expedient teamwork with type I ecolabels.

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