Communities and Local Government

The European Commission's proposed Construction Products Regulation: Consultation on the proposals and development of a UK negotiating line

Summary of responses

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Background

1. In May 2008, the EU Commission published proposals for a new Construction Products Regulation (CPR) to replace the existing Construction Products Directive (CPD), in place since 1989. Their expectation was that negotiations on the proposals would be completed in early 2009, and that the main provisions of the new Regulation would come into effect in July 2011.

2. The purpose of the Construction Products Directive is to allow construction products which have been assessed against harmonised standards to be accepted on the market anywhere in the European Economic Area. The new proposals are intended to clarify and simplify the existing arrangements rather than completely to overhaul and revise them.

The consultation process

3. Communities and Local Government issued a consultation in August 2008 seeking views on the Commission's proposals, with the aim of informing their input to negotiations on the proposed Regulation. Communities and Local Government also engaged with stakeholders through regular meetings with two advisory groups: one of interested government departments and one of key industry contacts. Communities and Local Government held an open meeting with stakeholders in October 2008, and a series of meetings with specific groups representing different stakeholder interests.

4. This paper records the main points submitted in writing in response to the consultation.

The consultation respondents

5. Fifty-two bodies or individuals responded to the consultation , representing broad interest groups as shown in the table below:

Interest group (including individual businesses and representative organisations)	**Numbers of respondents**
Manufacturers	32
Distributors	1
Users	2
Notified bodies, approvals bodies, standards bodies	6
CPD enforcement bodies	2
CPD experts	3
Other	6

6. Respondents are listed in the Annex under these categories.

Overview of all responses

Clarification and simplification

7. The consultation noted that the main purpose of the Regulation was to clarify and simply the current arrangements. It invited views on whether this had been achieved.

8. Respondents who were in favour of the proposal to make CE marking mandatory (see paragraph 12 below) saw that in itself as an important step towards reducing confusion about the requirements, and improving their credibility. There was also a general welcome for the clarification of responsibilities across the supply chain, other than from those – particularly distributors – required to pick up new responsibilities.

9. More generally, however, the sense to emerge from the responses was that the provisions continue to be far from simple and clear. Those new to the regime – in particular businesses who have not had to CE mark their products in the past – clearly found the language and required procedures very difficult to follow. Many of those familiar with the existing regime argued that some of the proposed changes – including aspects of the proposed simplified procedures themselves (see paragraph 25) – were likely to complicate rather than simplify the requirements. There were concerns that the Regulation had changed things that did not need to be changed, adding to confusion. Finally, there were some who suggested that the procedures could never be made completely simple and straightforward for so long as they aimed to reconcile EEC-wide product performance standards with locally determined building regulations.

10. Several respondents urged that steps be taken to overcome the poor level of awareness of the requirements among manufacturers, distributors and enforcement bodies alike.

Mandatory CE marking

11. Unlike the majority of Member States, the UK interpreted the 1989 Directive as imposing a discretion rather than an obligation on manufacturers to CE mark their products. As a consequence, many smaller manufacturers serving only the UK market have not engaged with CE marking up until now, when the proposal is that it should become mandatory.

12. Respondents split roughly 50:50 on whether mandatory marking is to be welcomed, with express opposition coming predominantly from smaller manufacturers serving a UK market. Respondents from other parts of the manufacturing sector were mostly in favour, as were users and the bodies responsible for enforcing the UK regulations.

13. Those in favour of mandatory marking thought that it would help to bring about a larger and more competitive market, reduce confusion, and allow for more effective enforcement. The main concern of those opposed was that it would prove a major burden on small enterprises, forcing some out of business. There was particular opposition from those supplying bespoke products, where there was a concern that each and every product would need to be assessed and tested individually.

14. Many argued that the wording of the Regulation needed revision to clarify the intention that CE marking should be mandatory, and to make clearer the circumstances in which CE marking was required.

Relationship with Building Regulations

15. CE marking is based on the assessed performance of construction products against harmonised European standards. It is required only where the product has characteristics which are relevant in ensuring conformity with building regulations in the country in which the product is marketed. Respondents raised concerns about how harmonised standards can be related to the product characteristics required by building regulations in the UK, and there were suggestions that more guidance should be made available on this matter.

16. There were suggestions also that work needs to be done to ensure that references to European and British standards in building regulation guidance (Approved Documents for England and Wales building regulations) are truly equivalent, otherwise a perfectly acceptable product may have to test to one method to demonstrate compliance with the building regulations and another in order to CE mark. One large manufacturer took the different view that allowing equivalent standards to be used was itself confusing, and only the harmonised European standards should be referred to in Approved Documents.

The implications for voluntary certification schemes

17. The proposed new Regulation requires that CE marking should be the only marking on a product which attests conformity with the declared performance, and disbars national measures which make reference to any other conformity marking. The intention is to disallow the practice of requiring national marks in addition to CE marking, which goes against the basic free market aim.

18. There was some confusion among respondents about what this meant for voluntary certification schemes. Some argued that there was no intention to stop bona fide quality schemes providing additional information, while another respondent suggested that they were deliberately excluded. Another view was that voluntary schemes continued to be appropriate only for products not covered by European standards.

19. As to whether or not voluntary certification should continue to be allowed, views were split. A minority of respondents wanted to see CE marking replace all voluntary marking in order to remove barriers to trade and/or reduce confusion. Far larger numbers, however, wanted to see continuing recognition of voluntary certification schemes, which it was argued carried more credibility than CE marking. There were concerns also that the standards underpinning CE marking were in some contexts inadequate to secure the safety of the consumer, and that voluntary certification was essential for this purpose.

Clarification of responsibilities across the supply chain

20. The proposed new Regulation makes it clear that importers carry the same responsibilities as manufacturers to CE mark relevant construction products which they place on the market, and that distributors have responsibilities to ensure that the products which they in turn place on the market carry appropriate CE marking and are accompanied by the required documentation. These proposals were generally welcomed on the grounds that they would improve the traceability of products down the supply chain, mean that there is equality of responsibility between manufacturers and importers, and facilitate enforcement. The Builders Merchants' Federation was however strongly opposed to the proposal, arguing that it imposed obligations on its member distributors which they had neither the expertise not the resources to deliver, and unhelpfully diluted responsibilities which ought to rest with the manufacturer.

Harmonised standards

21. The CPD regime provides that harmonised European standards should be developed for defined product types, and that these should set out the method and criteria for assessing the performance of products of that type. Assessment of a product's performance against these standards provides the basis for its CE marking. The draft Regulation determines procedures for developing harmonised standards, and it sets out the actions which need to be taken to assess the performance of an individual product against those standards. These actions are defined in a series of five sets of requirements (the AOC levels), incorporating varying levels and types of testing depending on the characteristics of the product.

22. There were a range of comments on this aspect of the proposals, with the following issues attracting the most comment:

    (1) There were mixed views on the proposal to give more power to the EU standards body CEN (as opposed to the Commission itself and its Standing Committee on Construction) in deciding when a product may be deemed to meet a certain level or class of performance without testing or without further testing.

    (2) There were concerns that the proposed renumbering of AOC levels would be likely to cause unnecessary confusion among users and enforcement bodies.

    (3) The proposal that a committee set up under Article 5 of Directive 98/34/EC should deal with objections to harmonised standards was criticised on the grounds that that such a committee would lack adequate technical knowledge.

Notified bodies

23. Notified bodies are authorised to undertake testing and other third party tasks in the assessment of product performance. The draft Regulation sets out strengthened arrangements for the appointment and monitoring of these bodies, and for designation of a notifying authority by each Member State to undertake this work.

24. There was a general welcome for these proposals, though notified bodies themselves had queries and reservations on aspects of what was proposed. A wider group of respondents argued that all notified bodies should be required to have accreditation from their national accreditation body in order to ensure adequate levels of competence in all Member States.

Simplified procedures, micro enterprises and bespoke products

25. The draft Regulation proposes a new system intended to simplify the route to CE marking and reduce the burden on manufacturers. Under this, the type-testing or type calculation stages of the assessment process may, in certain specified circumstances where the characteristics of the product are already known, be replaced by Specific Technical Documentation (STD). The draft Regulation also proposes that micro enterprises and manufacturers of bespoke products have the option of using STD for all products except those with important safety functions.

26. Views on the use of STD proposals by all manufacturers were mixed. Some respondents across all respondent types welcomed them on the grounds that that should reduce costs, but rather larger numbers were not persuaded that they were helpful. Concerns were that they would complicate rather than simplify, and that they could undermine the credibility of CE marking.

27. While a few respondents underlined the importance of supporting SMEs, the overwhelming majority opposed the proposal to apply different rules to micro enterprises, on the grounds both that this would undermine the credibility of CE marking, and that it would be impossible to enforce. There was more support for the idea of treating bespoke products differently, with many arguing that such products were not 'placed on the market' and as such should be outside the scope of CE marking altogether.

European Technical Approvals (ETAs)

28. The existing rules provide that manufacturers may seek a European Technical Approval (ETA) for products not covered by a harmonised standard, and they provide two routes for obtaining an ETA. The draft Regulation proposes that the two routes should be replaced by a single mechanism involving the adoption of a European Assessment Document (EAD), and that this type of approval should be available even for products covered by a harmonised standard.

29. Respondents tended to be neutral or positive about the proposal to replace current mechanisms with the EAD approach, but there was scepticism about whether this would achieve the time savings envisaged. There was, however, widely-held and strong opposition to the proposal to allow manufacturers to seek an ETA for products covered by an existing harmonised standard, with many suggesting that this would confuse manufacturers, enforcers and designers alike.

Technical Assessment Bodies (TABs)

30. TABs are the bodies appointed to develop EADs and to issue ETAs. A number of changes are proposed for their designation and assessment, including a requirement that each body appointed should cover a specific product grouping (as defined in Annex IV of the draft Regulation), and that their competence be assessed through a pan-European arrangement for peer review.

31. There were queries from many respondents about the proposed product groupings, with many arguing that they were too wide and too inflexible, and that it was important to allow for the appointment of specialist bodies with a narrower range of expertise. There was also a fair amount of opposition to the proposals for

peer review, and concerns about how this would interface with Member State's responsibility to appoint such bodies, and about review of one body by another who might be competing for the same business.

Sustainability BWR

32. The Basic Works Requirements (BWR) set out in Annex I to the draft Regulation provide the basis for the Commission's mandates to CEN to develop harmonised standards, and for the development of EADs. These are largely unchanged from the Directive, except that a new seventh BWR is added dealing with the sustainable use of natural resources.

33. A number of respondents welcomed the inclusion of a BWR on sustainability, arguing that it was important to start the debate on how best to incorporate sustainability criteria in assessing construction product performance. Larger numbers, however, took the view that it was too early to include this BWR because the means of determining and testing environmental performance were not yet fully developed and agreed. A small number of respondents from the manufacturing sector flagged up other initiatives through which the sustainability of products was already being pursued, including eco-labelling and the Energy Performance of Buildings Directive.

General issues

Clarification

34. The consultation posed the following question.

> ***Q1: The Regulation is designed to clarify requirements. Do you feel that that the obligations on parties (manufacturers and others) are clear? Do you understand what is made mandatory by the Regulation, and how this will change your situation?***

The response

35. The majority of those responding to this question thought that the draft Regulation contained some welcome clarification of aspects of the regime, but most went on to point out aspects of the requirements that were unclear. Some respondents argued that moving to a mandatory regime should in itself make the obligations and their enforcement clearer. Several welcomed in particular the clarification of the responsibilities of operators down the supply chain.

36. There were concerns that some of the changes envisaged in the draft Regulation would themselves undermine the clarity of the regime, in particular:

- The proposal to allow manufacturers to opt for a European Technical Assessment for products covered by an existing harmonised standard
- The proposed special arrangements applying only to micro enterprises.

It was also argued that the proposals failed to fully clarify the relationship between national codes and regulations and harmonised standards.

37. There was also a fair amount of confusion about what the draft Regulation actually meant in some respects. Points raised included:

- Several respondents argued that the simplified procedures needed to be better explained. More specifically, there were queries about what is intended under Article 27 by way of Special Technical Documentation for micro-enterprises
- There were queries about what happens when a harmonised standard is amended and about the implications of the transitional provisions in Article 53
- The TSI were concerned that the definition of 'construction product' was not as clear as that in the Directive and the 1991 UK regulations, and that the wording in the new EU Regulation has deleted reference to construction products

needing to be fit for purpose for their intended use. They felt the new definition, which talks about the removal of the product decreasing the performance of the works, would be difficult to enforce and judge in practice

- The meaning of the recurring references to "measures designed to amend non-essential elements of this Regulation" (which refer to elements of the Regulation that will need further guidance to be developed by the Commission prior to implementation) were queried by a number of respondents.

38. Several respondents commented that the new Regulation had changed things that did not need change, adding to confusion.

Simplification

39. The consultation document posed the following question:

> ***Q2: The Regulation is designed to simplify procedures. Do you think it succeeds?***

The response

40. There was a relatively limited response to this question. While a small number of respondents ticked the 'yes' box, none of the responses elaborated on the respects in which they considered the new procedures to be simpler. There were many more respondents who argued that the new requirements were not simpler, but again there was only limited argumentation offered to support this view. Respondents thought the procedures were 'long-winded', 'complex' and 'a complicated way of proving very little'.

41. Those that commented on the simplified procedures (Chapter VI) did not consider that they succeeded in their aim. Some said it was not clear how they would work. Another comment was that while certain procedures had been simplified, in doing so more questions had been raised.

42. One respondent offered the view that the Regulation failed to simplify because its requirements were tied to regulations in the country in which a product is placed on the market (Article 4.1). In attempting to embrace the complexities of different national building regulations, the concept of a single market was undermined. A simple and effective system should focus on the needs of one large single European market.

Unresolved problems

43. The consultation document invited views on:

> ***Q3: Are there problems which the current Directive or its implementation that you feel are not resolved by the Regulation? How should these be addressed?***

The response

44. One respondent argued that the draft Regulation had addressed the main confusion under the current Directive in the UK by making the requirements mandatory. All the other comments offered in response to this question provided respondents' views of omissions, all of which appear elsewhere in this summary of responses.

45. The main three areas where respondents argued that more needs to be done to address current problems were:

    (1) Moves towards greater harmonisation of performance requirements applying in Member States, and more effective challenge to the use of national marks, and to the practice of preferring products tested by local firms.

    (2) Better market surveillance and enforcement, with associated additional training and resources for Trading Standards officers. The TSI also wanted to see the rules amended to extend the one-year time limit on bringing enforcement action.

    (3) Steps to overcome the poor level of awareness of the UK regulations among both economic operators and enforcers. There were suggestions that the Government might produce "how to comply" guidance for manufacturers, and that someone needed to take responsibility for promoting the regulations.

46. Other problems which respondents suggested were not adequately tackled were the poor quality of some harmonised standards and the lack of adequate arrangements to police standard making.

Practical problems in moving from the status quo

47. The consultation document asked:

> ***Q4: Do you foresee any practical problems in moving from the status quo to the new arrangements outlined in the Regulation?***

The response

48. The two practical problems most frequently mentioned by respondents in dealing with this question were:

    (1) The formidable workload for standard makers in updating existing harmonised standards to take account of the various changes proposed.

    (2) The need to overcome the low level of awareness and understanding of the requirements among manufacturers, distributors, Trading Standards and Building Control staff if CE marking was to become mandatory in the UK.

49. A range of other points raised in response to this question are covered in the sections that follow.

Special interest groups

50. Manufacturers of specialist wall coverings were well represented among respondents. Their main contention was that decorative wallcoverings should never have been included with scope of the Regulation as they are not products "incorporation in a permanent manner in construction works (Article 2)".

51. Other interest groups raised issues which are covered elsewhere in the text (such as manufacturers of bespoke products, dealt with in paragraphs 127-129).

Comments by Chapter

Chapter 2: Declaration of performance and CE marking

General

52. Chapter 2 of the draft Regulation deals with the requirement placed on manufacturers and importers to draw up a declaration of performance before placing a construction product on the market (Article 4); the content and form of the declaration of performance, and requirements for it to be accessible alongside the product (Articles 6 and 7); requirements concerning the use and affixing of CE marking where a declaration of performance is in place (Articles 7 and 8); and the role of national Product Contact Points in providing information on technical rules and regulatory requirements applicable to particular product types (Article 9) in each Member State.

53. Questions 5 to 11 of the consultation document probe aspects of these proposals as set out below.

Mandatory CE marking: general

The proposal

54. Paragraph 3.1 of the Explanatory Memorandum to the Commission Proposal notes that CE marking will be mandatory "for declaring the performances of products covered by harmonised standards" where these are being placed on the market.

55. The Communities and Local Government consultation invites views on the proposal that CE marking should become mandatory, but notes also that this is an issue on which there is unlikely to be much room for manoeuvre.

Q5: What is your view on the proposal to introduce mandatory CE marking? What would the costs and benefits (financial and other) be on your business or activities (eg market surveillance, building design, choice and use of other products, compliance checking for Building Regulations etc)?

The response

OVERVIEW

56. Ninety-five per cent of respondents dealt with this issue with broadly equal numbers in favour and against mandatory CE marking. All of those who opposed it were manufacturers. Those in favour of mandatory marking included the small numbers of CPD regulators and product users who responded, and nine larger manufactures or their trade associations. The CPD experts who responded divided evenly between those who supported mandatory marking and those who expressed no view one way or the other. Many of this group argued that the current proposal does not in fact make it clear that CE marking is mandatory.

MANUFACTURERS

57. The views of manufacturers were predictably split on this issue, with manufacturers currently engaged in exports to other EU states largely in favour of mandatory marking, while those focussed on the UK market (mainly smaller businesses and those producing products with high unit transport costs) opposed it. Those opposed to mandatory marking were mainly concerned about the cost of complying with the requirement and the danger that these costs could drive smaller enterprises out of business. Concerns were also expressed about the implications for bespoke products (see views on Chapter 6), the likelihood of duplicating work undertaken under the British Board of Agrément's Highway Authorities Product Approval Scheme (HAPAS), the implications for imports from outside the EU and the likely impact of compulsory product certification in inhibiting product development.

58. Those manufacturers who favoured mandatory CE marking did so on the basis that the current optional arrangements could cause confusion, or that there was already general acceptance of CE marking in the markets in which they operated. Concerns expressed by this group were that the unique product numbering proposals were not practicable, and that the proposal as drafted left too much to interpretation.

CPD REGULATORS

59. LACORS (the Local Authorities Coordinators of Regulatory Services) and the Trading Standards Institute (TSI) both favoured mandatory marking, arguing that it would strengthen enforcement. LACORS suggested that the current voluntary nature of CE marking had made the UK regulations fairly unenforceable.

NOTIFIED BODIES

60. Of the five notified body respondents, three expressed no view for or against mandatory marking, and two were broadly in favour. Some commented that the impact on their business was likely to be broadly neutral.

OTHER COMMENTS

61. A number of respondents argued that the text of the draft Regulation did not clearly state that CE marking was mandatory, and needed to be amended to make the position clearer. Queries were also raised about what 'mandatory' actually meant in this context, and the circumstances in which it applied. For example, there were queries about whether products for uses not covered by building regulations (eg garden products, fencing) were subject to the requirement to make a declaration. There were also queries about the requirements for products which are not put on the market, including bespoke products and on-site fabrications.

62. A 'user' respondent argued that mandatory CE marking would help to bring about a larger and more competitive market, provided that it was limited to the identification, determination and provision of information on the essential characteristics of construction products. They wanted to see the option of declaring 'no performance determined' retained for non-regulated characteristics.

63. Other concerns were that:

- The requirements were not always rigorously enforced in other Member States which were currently signed up to mandatory marking
- Related to this concern, it was argued that a requirement for surveillance by Member States should written expressly into the draft Regulation (see Chapter 8)
- The requirements applying to products imported from outside the EU were unclear.

64. One respondent argued that an essential corollary of mandatory marking was that standards for testing should be made a lot less onerous.

Mandatory CE marking: specific questions to manufacturers

65. Question 6 of the consultation document posed a number of questions to manufacturers on the cost and other impacts of mandatory marking.

COSTS OF OBTAINING CE MARKING

> ***Q6a: What is your estimate of the one-off and annual cost to obtain CE marking for your products?***

66. Twenty-six manufacturers, or trade bodies representing manufacturers, responded to this question, 14 of whom offered general comments rather than actual cost estimates. These ranged from the comment that they were unclear what was required and hence what costs were likely to be involved, to the statement that no change in costs was expected as the business was already undertaking marking, to generalised statements about the expected impacts. These in turn ranged from statements that the costs were not that significant (one large and one small manufacturer took the converse view that the costs were likely to be substantial and could force firms out of business. One respondent suggested that mandatory marking could result in as many as 20,000 job losses, mostly in SMEs.

67. Communities and Local Government's published Impact Assessment was based on estimated one off and annual costs per enterprise of £4,000 and £700 respectively. Respondents offered a variety of estimates for their own anticipated costs, all of which were higher than Communities and Local Government's figures, some very substantially so, reflecting the fact that costs vary considerably between product families.

IMPACT ON COMPETITION

Q6b: Do you think mandatory marking will increase competition?

68. Only three respondents from the manufacturing sector answered 'yes' to this question, arguing that the change would enable consumers and regulators alike to compare different products on a genuine like-for-like basis. The much more commonly expressed view (19 respondents from this group) was that the change would not increase competition, many arguing that the set-up costs were likely to drive some smaller enterprises out of business.

IMPACT ON EXPORTS

Q6c: Would you be more likely to export your product if you already had it CE marked for the UK market?

69. There were fewer responses to this question (17 in total), with again only three respondents answering 'yes'. Those responding that they were unlikely to export their product explained variously that differences in building codes or in product design and aesthetics meant that their products were unlikely to find a market abroad, or that the price and weight of their particular product made export uneconomic.

PLANS FOR OBTAINING CE MARKING

Q6d: Do you plan to obtain CE marking in the next three years regardless of the proposed Regulation? If so, why? Is this because your competitors/ the rest of the sector is going the same way, because the market demands it, in order to export, or for another reason?

70. Seven respondents answered 'yes' to this question while eight respondents answered 'no'. Many of those answering 'yes' said that they would do so in order to continue to export their products while some of those answering 'no' said that they would not do so until CE marking became compulsory. There were, however, also comments that businesses needed to respond to the market, and that CE marking was already, or might become, a market expectation within the UK regardless of progress with the proposed Regulation.

80 PER CENT ASSUMPTION

Q6e: Based on your experience of CE marking or that or your competitors/other sectors, do you think the assumption that 80% of the market will CE mark voluntarily in the next few years is realistic?

71. Five respondents answered 'yes' to this question, while 13 answered 'no'. Some of the views expressed appear to reflect the likelihood of 80 per cent marking being achieved in the particular sector in which the respondent operates, rather than a general view.

BARRIERS TO EXPORT

Q6f: Do you face barriers when exporting products to other Member States? If so, do you think the Commission's proposals will help overcome these, or does it need to be amended? If so, how?

72. Thirteen respondents argued that they did face barriers to trade when exporting products to other Member States while six said that they did not. Several of those in the latter group were not currently in the export market.

73. Three main types of barrier were mentioned by those answering 'yes' to this question:

    (1) Continuing use of illegal national marks.

    (2) Difficulties in gaining acceptance in some Member States of certification documentation originating in the UK. The consequence is that some manufacturers are re-testing abroad.

(3) Continuing differences in reactions to fire classification requirements.

74. There was little confidence that the Commission's proposals in themselves would help to overcome these problems, although one trade association did feel that mandatory marking was the answer. Most respondents thought that better enforcement was the way forward. One large manufacturer noted that, despite three years of effort, the Commission had not been able to deal with two cases of technical barriers to trade in their sector.

Interaction with building regulations, and other UK regulations

The proposal

75. The consultation document sought views on how respondents saw mandatory marking interacting with regulations applying in the UK.

> ***Q7: How would you see mandatory CE marking on the point of marketing interacting with the UK's system of regulation, for example functional Building Regulations? How will manufacturers determine what requirements should be declared under a system of functional regulations?***

The response

76. A number of respondents commented on the difficulty of relating harmonised standards underpinning CE marking to functional Building Regulations, especially as it was not always obvious what characteristics are relevant to show a product will meet the Building Regulations. Some of these suggested that further guidance needed to be made available to explain how the Building Regulations apply to products in order to determine what needs to be included in the CE marking. One respondent suggested this should be provided by LACORS or Communities and Local Government.

77. There was a welcome from one respondent for the proposal that official Product Contact Points (PCPs) should be appointed to provide a ready source of advice in determining what product attributes need testing under particular Member State regulations. A couple of others also welcomed the PCP proposal in principle, but argued that it was unlikely to work in practice as no-one would take the job on.

78. Some specialist door manufacturers took the view that CE marking would lead to a declaration of characteristics beyond the functional requirements of Building Regulations and would as a result increase building costs resulting from over-design.

79. Concerns were also raised about the equivalent citation of European and British standards in Approved Document guidance, and it was suggested that work needs to be done to make sure the two are truly equivalent, or a perfectly acceptable product may have to test to one method to demonstrate compliance with the regulations and another in order to CE mark. In contrast, one large manufacturer suggested that allowing equivalent standards to be used was confusing, and only the harmonised standards should be referred to (particularly in the case of reaction to fire).

80. There were queries about the relationship with the Highway Agency Product Approval Scheme (HAPAS). One respondent sought clarity on whether Highways Agency standards were de facto regulations and hence whether the requirements should therefore be covered by the CE marking. Other concerns were about the costs of duplicating work already undertaken for HAPAS.

The implications for voluntary certification schemes

The proposal

81. Article 7.2 states that CE marking shall be the only marking which attests conformity of the product with the declared performance, and requires that Member States shall not introduce national measures and shall withdraw any references to a conformity marking other than the CE marking. The consultation document notes that this provision reflects experience of the current CPD implementation, where some Member States have continued to require national marks in addition to CE marking, going against the basic free market aim of the Directive.

Q8: What is you view on the proposal to make the CE marking the only conformity marking which can be used for the declaration of performance of construction products? How do you see this affecting current voluntary certification schemes in the UK?

The response

82. There was some confusion among respondents about the intention and impact of the proposals on voluntary certification schemes. One respondent assumed that they are deliberately excluded while others assumed that there was no intention to stop bona fide quality schemes providing additional information. One suggested that the CPR's intention was to require CE marking only for products within the scope of a harmonised European standard, and that voluntary schemes would continue to be appropriate for products outside that scope.

83. There were a few respondents who argued in favour of making CE marking the only allowable mark. One manufacturers' trade body (BEAMA) argued that allowing voluntary marking with similar status would be inconsistent with removing barriers to trade, while TSI welcomed the proposal on the grounds that it would reduce confusion.

84. Much larger numbers of respondents wanted to see continuing recognition of the role of voluntary marks. Some argued that CE marks were a conformity mark rather than a quality mark, and that voluntary schemes would continue to be useful for identifying non-essential characteristics, higher levels of performance or higher levels of attestation of conformity (where the manufacturer has chosen to carry out more onerous testing). Others argued that some long-standing voluntary schemes carried credibility not matched by CE marking, and would need to be allowed to continue for some time at least. HETAS were strongly opposed to replacing voluntary schemes on the grounds that the CE marking arrangements do not provide an adequate standard of protection to the consumer.

European Technical Approvals

The proposal

85. Article 4 requires a manufacturer to make a declaration of performance for products covered by a harmonised standard, and for products where a European Technical Assessment (ETA) has been issued. Recitals 16 and 17 state that a manufacturer may apply for an ETA for products not covered by a harmonised standard and, in order to provide the manufacturer with additional flexibility, also in cases where there is a harmonised standard. The procedures for issuing an ETA are set out in Article 21 and Annex II, dealt with in the section on Chapter 4 (paragraphs 110-113 below).

Q9: Do you have views on the proposal for ETAs, and whether these should only cover the product for which they were developed? Do you have views on the proposal to allow manufacturers to request an ETA for a product already covered by a harmonised standard?

The response

86. There were very few responses to the question of whether ETAs should only cover the product for which they were developed. Those few that did respond all took the view that an ETA should only cover the product for which it was developed, some because they thought that if one company had paid for the work another might be able to benefit from it. Others were concerned that the current use of ETAs for some fire protection products is inappropriate, and that full harmonised standards should have been issued for these products. The current situation has resulted in a situation

whereby two products that are used together have different testing requirements: one for which there is a harmonised standard and CE marking is mandatory and another for which an European Technical Approval Guideline exists instead, so CE marking is voluntary, despite the fact that they are equally important for the fire safety of the system.

87. Far larger numbers responded to the question of whether manufacturers should be allowed to request an ETA for a product covered by a harmonised standard, the very large majority arguing strongly that they should not. There were arguments that it was essential for a safe market that only one test method should be allowed, and concerns that offering more than one route to CE marking for the same product would confuse manufacturers, enforcers and specifiers alike. These views were reinforced in the response to question 15, covered in paragraph 113 below.

88. Only two respondents favoured the proposal to allow manufacturers to request an ETA for a product covered by a harmonised standard, both citing problems with the existing arrangements. In one case the argument was that the hEN test regime had been inappropriate for a particular product, and in the other that the standards applied under a particular EN had disallowed certain traditional products which were well tried and tested under local control regimes.

Procurement by public bodies

The proposal

89. Article 7.4 provides that Member States shall ensure that the use of CE-marked products shall not be impeded by rules or conditions imposed by public bodies.

> ***Q10: Article 7(4) mentions that public bodies should not impede the use of CE marked construction products. Do consultees (especially public procurers) see any conflict between this and the Public Procurement Directive/ Regulation?***

The response

90. Relatively few respondents (14) dealt with this question. Most of those who did felt that there was a conflict between similar provisions in the CPD and the Public Procurement Directive, and saw this as missed opportunity to clarify. Respondents argued that the two sets of requirement should be mutually supportive.

Provision of performance information by electronic means

The proposal

91. Article 6 of the draft Regulation provides that a copy of the declaration of performance shall be supplied with each CE marked product (or each batch where supplied to a single user), and may be supplied by electronic means only with the express agreement of the recipient. These are different to the provisions governing the CE marking itself, which are covered in Article 8[1].

Q11: Do you have any views on the proposal to allow the provision of performance information electronically or on a website?

The response

92. Most of the respondents representing manufacturing interests were strongly in favour of allowing the provision of performance data via a website or in other electronic format; one of them described this as a 'no-brainer'. Other respondents were also generally in favour. However, it was not clear in some cases whether respondents thought that the information should be available electronically in addition to, rather than in place of, hard copy.

93. One respondent considered that website information was preferable to physical information attached to the product as the latter could well get detached from the product as it progressed down the supply chain.

94. Only one respondent directly addressed the suggestion that the electronic alternative should be allowed only with the express agreement of the recipient, arguing that this requirement would cause major difficulties in administering the system.

95. Many respondents from all interest groups underlined the importance of ensuring that web information was accurate and up-to-date, and capable of being linked to the individual product through the unique reference number. There was a suggestion that web information should be of evidential quality, and comply with information standards such as ISO 15489.

96. Several respondents (including a user, a notified body and a larger manufacturer) made the point that, while there was great advantage in offering detailed performance information on a website, some basic physical marking on the product itself will always be needed for the benefit of customers, site operatives and inspectors. The content of the physical mark envisaged by these respondents appeared to go beyond the CE mark requirements in Article 8 (eg one mentioned strength and durability classes).

[1] Article 8 provides that the date of fixing, the name of the producer, the unique identification code of the product and the number of the declaration of performance shall be affixed 'visibly, legibly and indelibly' to a product or its data plate.

Chapter 3: Obligations on manufacturers, importers and distributors

The proposal

97. Chapter 3 of the draft Regulation sets out the obligations of manufacturers (Article 10), importers (Article 12), and distributors (Article 13) in relation to CE marked products. These place new responsibilities in particular on importers and distributors.

> ***Q 12: For manufacturers, distributors and importers: what do you think are the impacts and/or benefits (financial or otherwise) of these new obligations and the extension of responsibility down the supply chain?***
>
> ***Q 13: It has been suggested that these changes may make market surveillance activities easier by increasing the traceability of products. Do you agree?***

The response

98. There was a general welcome for this set of provisions from the majority of those responding, with many commenting that this was a welcome clarification of responsibilities through the supply chain. Many of the larger manufacturers or their representative bodies commented that they already had systems in place to ensure traceability of products through the supply chain, so that there were few resource implications for them.

99. There were however substantial concerns about the provisions from or on behalf of distributors. The Builders Merchants' Federation argued that their members did not have the resources or expertise to carry out the duties expected of them under these provisions; they would not know what CE marking a particular product was supposed to have. They argued also that the distributor provisions unhelpfully diluted the responsibilities of manufacturers. The CPA noted that its distributor members were unhappy with the proposals, and there were also concerns expressed on behalf of distributors by a couple of manufacturers.

100. Two respondents specifically welcomed the extension of explicit responsibilities from manufacturers to importers, suggesting that this would remove a current imbalance favouring imports from outside the EU.

101. A point made by many respondents was that these proposals needed to be supported by the provision of adequate resources for surveillance.

102. Specific aspects that were queried or challenged were:

- The provision in Article 10.3 that manufacturers should, where appropriate, carry out sample testing of marketed products was challenged on the grounds that it was impractical, as was the requirement in Article 10.6 that manufacturers should recall products where appropriate
- Respondents queried the length of time manufacturers were to be required to retain documentation under Article 10.2, noting that some products had a design life of as much as 120 years
- LACORS suggested that, while the new obligations were welcome, they could be circumvented where a manufacturer/ importer stated that a product was supplied for a non-construction use.

Chapter 4: Harmonised Technical Specifications

Harmonised standards

The proposals

103. Articles 16 to 19 set out procedures for establishing harmonised standards, for formal objection to them, for establishing levels or classes of performance and for the systems to be applied in assessing and verifying the declared performance of products.

> ***Q 14: Do you have views on the new procedures set out on harmonised standards, and the proposed changes to the way in which classes of performance and WT/WFT levels are established?***

The responses

104. The responses to question 14 deal only with a few aspects of the proposals in Chapter 4.

SETTING WT AND WFT CONDITIONS (ARTICLE 18.3)

105. There are mixed views on the proposed changes to the way 'without testing' and 'without further testing' (WT and WFT) conditions are to be established, and indeed some apparent differences of understanding of what these changes are. A number of manufacturers welcome the proposal that CEN Technical Committees (TCs) rather than the Commission's Standing Committee of Construction (SCC) may determine WT and WFT conditions, some on the basis that the proposal may reduce testing requirements. On the other hand, a number of respondents from across all interest groups oppose or express reservations about the proposal, some of them querying whether CEN TCs have the necessary expertise, and others expressing concern about possible consequential reductions in testing requirements. Several respondents suggest that the Commission should produce guidance on exercising this power.

AOC LEVELS (ARTICLE 19 AND ANNEX V)

106. While there was some support for the rationalisation of Attestation of Conformity levels as set out in Annex V of the draft Regulation, many respondents expressed concern that the proposed renumbering would lead to confusion, particularly among end-users and regulatory authorities. One suggestion was that it would be better simply to omit System 2 with other systems retaining the same numbering.

107. Several respondents also wanted to see clarification of whether or not cumulative attestation would continue to be permissible. The UK National Mirror Group of Notified Bodies said that they would welcome removal or further simplification, always appropriately considering the safety risks.

108. One respondent expressed dissatisfaction with the SCC role in deciding the appropriate AOC level for particular products, arguing for greater technical input from specialists in the sector concerned.

OBJECTIONS AND POLICING STANDARD MAKING (ARTICLE 17)

109. Several respondents commented on the arrangements for objections. A couple of CPD experts criticised the proposal that a Committee set up under Article 5 of Directive 98/34/EC should deal with objections to harmonised standards, both preferring that they should be dealt with by the more specialist Standing Committee of Construction. Another expert respondent criticised the lack of provision for policing the standards-making process, suggesting that CEN lacked teeth and that national standards bodies could be influenced by their national interests and by their financial interest in testing and certification activities.

EADs and ETAs

The proposal

110. Under existing arrangements, European Technical Approvals (ETAs) are an alternative route to CE marking for products not covered by harmonised standards. In an effort to speed up this process, the draft Regulation proposes that the existing two mechanisms for obtaining an ETA (now standing for European Technical Assessment) should be replaced by a single set of procedures – set out in detail in Annex II to the draft Regulation – involving the adoption of a European Assessment Document (EAD). As described above in dealing with Chapter 2 proposals, the Commission is also proposing that ETAs should become an alternative route to CE marking available for a products covered by a harmonised standard.

Q15: Do you have any views on the new procedures for EADs, and do you think this will achieve the Commission's aim of speeding up the current process?

The responses

111. While a couple of respondents argued that the new procedures for EADs would speed up the process for obtaining an ETA, very many more were sceptical. One respondent pointed out that there were no built-in penalties for those who failed to deliver within the required time-frame. Others argued that technical assessment was by its nature time consuming, particularly where innovative products were concerned. Several respondents suggested that the procedures and timescales in Annex II were over-prescriptive. Some pointed to the fact that time limits were imposed on Technical Assessment Bodies but were not also imposed on the Commission or the manufacturer, and suggested that the Commission should do more to set an example. Two suggested that the Technical Assessment Bodies would need to be resourced in order for the deadlines to be met.

112. Scepticism about time savings aside, respondents tended to be neutral or positively in favour of replacing current arrangements with the single EAD approach. However, one respondent argued that it would be better to improve the existing ETAG and CUAP[2] procedures rather than confuse things with new names, and another thought the EAD proposals would cause complications and confusion.

113. The most commonly expressed concern in responding to this question was about the relationship between EADs and harmonised standards, with many respondents referring back to the (strongly opposed) proposal to allow ETAs for products covered by harmonised standards, and commenting that EADs should not be allowed to compromise harmonised standards. There were arguments that the same provisions should apply to both routes, and/or that the EAD should be seen as a stepping stone towards a harmonised standard. There were also requests for a much more precise statement of the circumstances in which an EAD might be used.

[2] European Technical Assessment Guideline and Common Understanding of Assessment Procedure: the documents on which current ETAs are based.

Chapter 5: Technical Assessment Bodies

The proposal

114. Articles 22, 23 and 25 of the draft Regulation propose that Member States should designate Technical Assessment Bodies (TABs) to be responsible for issuing European Technical Approvals (ETAs), working with an organisation of TABs responsible for adopting European Assessment Documents (EADs), and co-ordinating the rules and procedures under which TABs operate. TABs should be appointed to cover one of a number of product areas specified (Table 1 of Annex IV) and should be able to satisfy certain competence requirements (Table 2 of Annex IV). TABs should be peer reviewed once every four years by a TAB from a different Member State (Article 24).

Q16: What are your views on the process for designation of TABs?

Q17: What are your views on the proposed system for peer review of TABs?

The response

115. A number of respondents expressly supported these proposals as an attempt to level out the standards applied by different Member States in appointing Approvals Bodies/TABs, combining this with a recognition that UK standards tended to be more stringent than those applied by some other countries. A rather larger number of respondents, however, raised doubts and queries about this set of proposals as described below.

ANNEX IV PRODUCT GROUPINGS

116. The product groupings set out in Table 1 of Annex IV were queried by many. The main concerns were that they were too wide and too inflexible. Respondents from all categories – manufacturers, users, experts and approval bodies themselves – all argued that there were very few bodies offering a spread of expertise sufficient to cover everything within any of the defined product groups. The ability to appoint more specialist bodies where appropriate was important, though larger bodies with a wider range of expertise could also be valuable, particularly for dealing with innovative products. There were queries about some of the proposed grouping[3]. One respondent proposed the inclusion of a facility to amend the table on the basis of advice from SCC.

[3] Eg the boundaries between A and K

117. Concerns were also expressed by the CPA and BEAMA that the wide scope of the groupings meant that they might impinge on the authority of other Directives which were currently working well. The Low Voltage Directive and the Gas Appliances Directive were cited as examples.

PEER REVIEW

118. While a small number of respondents welcomed the proposal for peer review of TABs as a move in the right direction, many more queried or opposed it. Particular concerns were about:

- The relationship between peer review and Member State responsibilities for TAB designation. It was not clear whether or not an adverse peer review would bind the appointing Member State to take action against the TAB concerned. Some favoured an obligation on the Member State to do so, while others saw this as unrealistic
- Competitor issues. Many respondents drew attention to sensitivities about one TAB auditing another when both might be competing for the same business
- Interface with national accreditation. There were concerns particularly from approvals bodies and notified bodies that the proposed four yearly peer reviews would duplicate more rigorous national accreditation requirements, and about their cost implications. One expert respondent proposed either national accreditation or peer review
- Notified body performance review. Some respondents queried why the review arrangements for notified bodies should be more stringent than for TABs, when the latter had more demanding responsibilities.

COMPETENCE REQUIREMENTS

119. One approval body argued that the competence proposals in Table 2 of Annex 4 were too demanding, suggesting, for example, that it was not realistic for TABs to have detailed knowledge of the regulatory requirements of all Member States relevant to the product area for which they were responsible.

Chapter 6: Simplified procedures

The proposal

120. Chapter VI of the draft Regulation contains proposals designed to simplify the processes which need to be gone through before a manufacturer may declare the performance of his product for CE marking. Article 26 proposes that all manufacturers may replace the type-testing or type calculation stage of the assessment process with Specific Technical Documentation (STD) where (a) the performance of the product is known without testing or without further testing; (b) test results have been obtained for the same product type by another manufacturer; or (c) the product components have all already been tested (cascading of test results). Article 27 provides that micro-enterprises may use STDs instead of the initial type testing for all their non-safety critical products. Article 28 provides that STDs may be used in place of initial type testing for all non-safety critical bespoke products[4].

Q18: What do you think that the practical implications of the proposed simplified procedures will be?

Q19: Do you think the proposed simplified procedures will achieve the Commission's aim of reducing unnecessary burdens for all?

Q20: Do you think the proposals will be effective in simplifying processes for small businesses? If so, what do you consider the financial savings will be?

Q21: If you would prefer to see different provisions for small businesses, what would these be, and what do you consider the costs and benefits of these would be?

Q 22: Do you think the reference to use of STD by micro-enterprises and producers of bespoke products is appropriate? If not, should this be extended or restricted to a different sub-set of businesses or products?

[4] Defined as products "designed and manufactured in a non-industrialised production process in response to a specific order, and installed in a single identified work."

The response

SIMPLIFIED PROCEDURES FOR ALL MANUFACTURERS

121. No single clear message emerged from respondents on whether the proposals in draft Article 26 would succeed in reducing the burden of CE marking for manufacturers in general. Several respondents – not confined to a particular interest group – welcomed the proposals on the grounds that they should reduce costs, were sufficient to safeguard safety and product performance and in some respects reflected provisions already embodied in some harmonised standards. A rather larger number of respondents were not persuaded that the STD proposals were helpful. Their concerns ranged from the view that the proposals would add to confusion and complicate rather than simplify procedures, to the view that they presented huge risks to the credibility of CE marking and would complicate enforcement. Those who were not persuaded by the value of what was proposed again came from all categories of respondent.

122. At a more detailed level, a couple of respondents suggested that cascading of test results was not appropriate at least for some products; their argument was that it is not just the characteristics of components which determines the performance of the final product, but how the product is put together.

123. Judging from their comments, it appears that some respondents understood that the proposed simplified procedures were to be available only to small businesses. This perception is likely to have made them less disposed to welcome the proposals.

PROVISIONS FOR MICRO ENTERPRISES

124. A small number of respondents from the manufacturing sector emphasised the importance of small businesses to the economy and their sensitivity to regulation, giving an implicit welcome to those aspects of the proposals which reduce the burden on them. One argued that it was essential that there should be a fast track for small and specialist firms.

125. However, the overwhelming majority who commented on this matter argued that it was inappropriate to set up provisions which differentiate between manufacturers on grounds of their size. The same views were expressed whether in the context of small businesses as referred to in questions 20 and 21, or in commenting on the provision for micro enterprises in Article 27. Concerns were that rules which discriminated on the grounds of business size would be impossible to enforce, would undermine the credibility of CE marking, and could adversely affect safety standards. One manufacturing trade association noted that while their membership was largely made up of SMEs, members would not want specialist treatment at the expense of safety.

126. Few respondents dealt with questions 20 and 21 about the scale of potential savings to small businesses, and those who did commented in very general terms. Some offered the view that the proposals would reduce costs, while others foresaw no savings.

BESPOKE PRODUCTS

127. A substantially smaller number of respondents commented on the proposal in Article 28 that products 'designed and manufactured in a non-industrialised production process in response to a specific order' might use STD to replace initial type testing, split broadly evenly between those who supported the proposal and those who did not. Opposition to the proposal was on similar grounds to opposition to Article 27.

128. Most of those favouring special arrangements for bespoke products argued that an express exclusion was inappropriate. The suggestion was that it should be made clear that such products were outside the scope of the requirement for CE marking on the grounds that they were never put on the market.

129. It was argued that "non-industrialised" could exclude some bespoke products. There was also the suggestion that the article should be extended to include low-volume products and those on short production runs.

Chapter 7: Notified bodies

The proposal

130. Articles 29 to 43 of the proposed Regulation set out arrangements for notified bodies who are authorised to undertake third party tasks in the assessment of product performance. They provide for Member States to designate a notifying authority responsible for the appointment and monitoring of notified bodies, and they impose an array of requirements about how both the notifying authority and notified bodies must act. The requirements draw on provisions applying to CE marking under the New Legislative Framework.

> ***Q23: What views do you have on the proposals for notified bodies, and do you think they will achieve the aim of improving the credibility of CE marking and notified bodies? If not, what changes would you suggest (bearing in mind the requirements to follow the NLF)?***

The response

131. About a dozen respondents from the manufacturing sector offered a short and simple response to question 23, with three quarters indicating that they thought the proposals would add to the credibility of CE marking. A couple thought that the proposals would make no difference, and two were equivocal.

132. From those who offered more substantive comments on this issue, several argued that all notified bodies should be accredited by their national accreditation body. In the absence of a requirement for accreditation, it was argued that less competent notified bodies existed in some Member States, and this was undermining the credibility of CE marking.

133. The UK National Mirror Group of Notified Bodies offered a number of comments on the proposals, some of which were also picked up by other respondents. In summary, these were:

- Article 3.3: a concern that the proposals appear to allow a business association body or professional federation to act as a notified body if its independence and absence of any conflict of interest can be demonstrated
- Article 35: some concerns about the proposal that clients should be in a position to veto the sub-contracting of assessment work

- Article 38: a concern that the two level notification procedure (with different processes for accredited and non-accredited bodies) could cause further delay to an already slow process
- Article 43: a concern that the requirement to supply information on certain matters to the notifying authority, and indirectly to notified bodies carrying out similar work, could be impractical and cause problems in terms of confidentiality
- Article 45: the requirement for Member States to ensure that all notified bodies participate to the work of notified body groups was said to be welcome, but there were concerns about if and how this will be enforced
- Article 41: more detail was sought on the proposed powers for the Commission to investigate cases where there are doubts about the competence of a notified body, although these are largely welcomed.

Chapter 8: Products which are a health and safety risk

Q24: Do you have any views on the proposed procedure for dealing with products which pose a health and safety risk?

134. Relatively few respondents commented on these procedures. Those who did were generally in favour, although one respondent argued that health and safety matters were a Member State responsibility and should remain so. RICS looked for an effective pan-European information system to flow from these procedures, which would enable Building Control to be informed about unsafe products which had been identified in other countries, and to take pre-emptive action when these are identified on site. One large manufacturer emphasised that enforcement bodies must have adequate resources to ensure actions are taken without delay. NHBC noted that the proposal did not address the question of what should happen to deal with unsafe products which had already been installed. HVCA sought confirmation that the new scheme replacing CORGI would obviate the need for these procedures in connection with gas appliances.

Annex 1: Basic works requirements

The proposal

135. Annex 1 of the draft Regulation sets out the Basic Works Requirements (BWR) – previously called essential requirements – which provide the basis for the Commission's mandates to CEN for the preparation of harmonised standards and the basis for EADs. The requirements are unchanged except for the addition of a new seventh BWR on the sustainable use of natural resources across the life cycle of works from design to demolition and a change to BWR on Hygiene, Health and the Environment to take account of the life cycle impact of products.

Q25: What views do you have on the new sustainability BWR? How do you think this links with other government/ industry developments on product sustainability?

Q26: What views do you have on the timing of the inclusion of this BWR, given that the UK and other member states are at early stage in assessing product sustainability?

The response

136. Most respondents dealing with this issue accepted the importance of taking account of the sustainability characteristics of construction products, many manufacturers noting that work on these characteristics was already underway. There were, however, mixed views on whether the BWR proposal sits comfortably with other initiatives on sustainability, and on whether or not it is the right time to add in this provision.

TIMING

137. One respondent argued that it was essential that provision was included at this stage, suggesting that member states would otherwise be inhibited from regulating this aspect of building works. Several others supported the inclusion of this provision in the BWR, arguing that this was the right time to start the debate and, in one case, that the provision would guide the development of harmonised standards and test methodologies.

138. However, rather larger numbers of respondents argued that was too early to include this BWR. Their concern was that the requirements were at present too ill-defined, and that the means of determining and testing environmental performance were not yet fully developed and agreed (a view, incidentally, which was accepted also by most of those who supported inclusion). Several respondents argued that this provision should be added in at a later date after CEN's work under Mandate 350 had been completed. One respondent also suggested that there could be dangers in introducing harmonised standards too early in areas where there was little real experience of the performance characteristics or products.

139. One respondent from the contract furnishing sector (wallpaper and carpets) challenged the contention that the UK and others were at an early stage in assessing product sustainability, claiming that there was already a vast amount of information on the subject. They argued that mandatory requirements on product sustainability, while not necessarily a bad thing, would be a highly costly shock to the system.

LINKS AND OVERLAPS WITH OTHER REGIMES

140. On links with other initiatives on sustainability, there were concerns that there were too many ill-co-ordinated initiatives, and that industry might be left to pick up the bill where UK initiatives were discarded in favour of European ones. Several respondents argued that it was important not to second guess the outcome of the work of CEN TC 350, that UK initiatives lined up with European ones, and that industry had a chance to focus on key issues in order to achieve necessary change.

141. A respondent from the contract furnishing sector argued that sustainability requirements should be pursued through EU eco-labelling, and that suppliers should not have to face two different sets of requirements covering the same issues. A respondent from the energy products sector argued that sustainability issues should be dealt with under the Energy Using Products Directive and the Energy Performance of Buildings Directive. A respondent from the glass sector argued that there were numerous other initiatives where sustainability was covered so it was not appropriate that they should be included in BWRs.

Annex 2: List of respondents by category

Manufacturers

Architectural & Specialist Door Manufacturers Association (ASDMA)

BEAMA Ltd

British Aggregates Association

British Coatings Federation

British Constructional Steelwork Association (BCSA)

British Contract Furnishing & Design Association

Canada Wood UK

CE Marking Advisory Group (CEMAG)

Colt International Ltd

Concrete Block Association

Construction Products Association (CPA)

Corus Tubes

Doortech 2000

Dr John Nuttall Consultancy Ltd (on behalf of copper & copper alloy plumbing products)

European Association for Passive Fire Protection

Fire Industries Association

Glass & Glazing Federation

Graefe Ltd

Graham & Brown Ltd

Grenville Log Homes

Hazlin of Ludlow Ltd

Lindner Schmidlin Facades Ltd

National Federation of Roofing Contractors (NFRC)

Omnova Wallcovering

Pipeline and Drainage Systems PLC (PDS)

Pilkington Group

Road Emulsion Association Ltd (REAL)

Road Surface Treatments Association

Rockwool Ltd

Tektura Wallcoverings

Wavin UK

Wood Panel Industries Federation (WPIF)

Distributors

Builders Merchants' Federation

Users

Heating & Ventilation Contractors' Association

National House Building Council

Notified bodies, approvals bodies and standards bodies

Bodycote Warrington Fire including Warrington Certification Ltd

British Board of Agrément

BRE Global

BSI British Standards

GASTEC at CRE Ltd

UK National Mirror Group of Notified Bodies

CPD enforcement bodies

LACORS

Trading Standards Institute

CPD Experts

APSR Consultants Ltd

Haydn White, Chartered Engineer

Stuart Reynolds

Other

BSI Consumer and Public Interest Network

Environment Agency

HETAS Ltd

Royal Institution of Chartered Surveyors (RICS)

The Waste and Resources Action Plan (WRAP)

West Midlands Fire Service

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