

POSITION PAPER

Brussels, 23 January 2019

Orgalim answer to the stakeholder survey for the evaluation study of the Low Voltage Directive 2014/35/EU ¹

1. EXECUTIVE SUMMARY

The Low Voltage Directive (LVD) ensures the free circulation of electrical products (in the voltage range between 50 V. AC/ 75 V. DC and 1000 V. AC/ 1500 V. DC) on the EU market, provided that these comply with essential safety requirements for all users. In place since 1973, the LVD was the first European Directive to adopt the 'New Approach' regulatory model and has provided industry with a stable means of demonstrating legal compliance while upholding a high level of health and safety ever since.

The engineering sectors represented by Orgalim place great value on the fact that despite changes in technology over the years, the core elements of the LVD have remained unchanged.

Our industry firmly believes that the LVD remains fit for purpose. Orgalim's comments on the roadmap underline this belief by addressing a number of key points:

- The LVD is ready for the challenges that may arise from the digitalisation of electrical devices and household appliances, and their coexistence with the Internet of Things.
- The LVD scope is fit for placing safe electric products on the market.
- Safeguard clauses and objections to harmonised standards are not a good reason to call for a revision of the LVD.
- The interface between LVD and other EU Directives does not raise any issues.
- The European internal market for electrotechnical products functions well.

We are therefore confident that the Commission's evaluation will provide further evidence that the LVD remains one of the most reliable pieces of Internal Market legislation. If any application or enforcement problems are identified, we believe these could be addressed without revising the Directive.

¹ <https://ec.europa.eu/eusurvey/runner/LVDStakeholderSurvey>

Orgalim represents Europe's technology industries: companies that innovate at the crossroads of digital and physical technology. Our industries develop and manufacture the products, systems and services that enable a prosperous and sustainable future. Ranging from large globally active corporations to regionally anchored small and medium-sized enterprises, the companies we represent directly employ 11 million people across Europe and generate an annual turnover of around €2,000 billion. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.

2. About Orgalim

About you – Fields marked with * are mandatory.

*Language of my contribution

English

*Organisation name

Orgalim, Europe's Technology industries

*Organisation size

Small (10 to 49 employees)

Transparency register number

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision making.

Orgalim Register number: 20210641335-88

*Country of origin

Please add your country of origin, or that of your organisation.

Belgium

*Please specify which one of these best describes the type of your organisation

Business association

3. Views on the Low Voltage Directive

1. How relevant do you consider the Directive to ensure the safety of electrical products?

Very relevant

Please elaborate:

Orgalim answer: Very relevant. In place since 1973, the LVD was the first European Directive to adopt the 'New Approach' regulatory model and has provided industry with a stable means of demonstrating legal compliance and maintaining a high level of health and safety ever since.

2. How relevant do you consider the Directive to ensure an internal market for LVD products?

Very relevant

Please elaborate:

Orgalim answer: Very relevant. The Low Voltage Directive (LVD) ensures the free circulation of electrical products within the Internal Market, provided that they comply with the essential safety requirements for all users. Nevertheless, to provide such benefits, Member States' authorities should reinforce the market surveillance of products placed on the European Internal Market, including those falling under the scope of the LVD. This issue is not specific to the LVD and would be better addressed in the horizontal legislation on market surveillance.

3. A number of products falling under LVD scope also fall under other legislations. To what extent do you consider this is a problem?

A non-exhaustive list of legislations to be taken into account are:

- [Radio Equipment Directive 2014/53/EU](#)
- [Electromagnetic Compatibility Directive 2014/30/EU](#)
- [Machinery Directive 2006/42/EC](#)
- [General product safety directive 2001/95/EC](#)
- [Construction Products Directive 89/106/EEC](#)
- [Construction Products Regulation 305/2011/EU](#)
- [Ecodesign Directive 2009/125/EC](#)
- [Terminal Equipment Competition Directive 2008/63/EC](#)

Limited extent

Please elaborate:

Orgalim answer: Limited Extent. Uncertainties usually arise at the borderline between the LVD and other pieces of legislation. Clarifications of the scope of application of the LVD could be solved through means other than a regulatory change of the LVD. It is our experience that manufacturers find sufficient guidance in the LVD implementation guidelines for applying the LVD to a product which may also fall under other pieces of Union harmonisation legislation. These already entail clear criteria based on examples. Where in practice some interpretation problems may still arise, especially for new products, the LVD guidelines can be updated very quickly to inform all economic operators.

4. To what extent merging the scope of the LVD with the Electromagnetic Compatibility Directive (2014/30/EU), the Radio Equipment Directive (2014/53/EU) and the Terminal Equipment Competition Directive (2008/63/EC) into one single act could facilitate implementation of these legislations?

No extent

Please elaborate:

Orgalim answer: No extent. These directives pursue very different objectives: health and safety of end-users, technical inter-compatibility issues of products, adequate usage of the radio spectrum and competition rules for market operators. Grouping the scope and objectives of multiple directives into one single legal act would, in our view, only lead to more complexity and diverging interpretation issues to the detriment of the efficient and effective implementation, application and enforcement of all pursued objectives. Besides, it would add unnecessary training and consultancy costs to implement the new framework, while the existing framework is well known and overall adequately applied by legitimate manufacturers.

5. The scope of the Directive is limited to electrical equipment designed for use with a voltage rating of between 50 and 1 000 V for alternating current and between 75 and 1 500 V for direct current. To what extent do you consider it still appropriate?

Great extent

Please elaborate:

Orgalim answer: Great extent. The physical properties of electricity have not changed and will not change. Therefore, the related risks of its use in products are adequately covered by the current scope of the LVD.

6. Should the Directive also cover equipment operating at voltages below 50V AC / 75 V DC?

No

Please specify:

Orgalim answer: No. The safety of most products operating with "Extra-Low Voltage" (ELV) under 50V AC or 75 V DC is already regulated in other pieces of Union harmonisation legislation, mainly:

- [Radio Equipment Directive 2014/53/EU](#)
- [Electromagnetic Compatibility Directive 2014/30/EU](#) (functional safety)
- [Machinery Directive 2006/42/EC](#)
- [General product safety directive 2001/95/EC](#)
- [Ecodesign Directive 2009/125/EC](#)
- Legislation on motor vehicles

Nearly all other ELV products not directly covered by specific legislation are B2B electric or electronic components for integration into finished products. The safety of users is covered by the specific safety legislation applying to the finished products.

In addition, in the very rare cases when an ELV product is not covered by any of the above listed legislation, it remains at least covered by the Directive on defective products (product liability).

Therefore, in our view, there is no need for extending the scope of the LVD to ELV products, as safety requirements are sufficiently provided for in existing legislation. In our view, the Internal Market for these products performs well overall.

7. Should the following equipment and phenomena listed in Annex II also be included in the scope of the LVD?

*Electrical equipment for use in an explosive atmosphere

No

*Electrical equipment for radiology and medical purposes

No

*Electrical parts for goods and passenger lifts

No

*Electricity meters

No

*Plugs and socket outlets for domestic use

No

*Electric fence controllers

No

*Radio-electrical interference

No

*Specialised electrical equipment, for use on ships, aircraft or railways, which complies with the safety provisions drawn up by international bodies in which the Member States participate.

No

*Custom built evaluation kits destined for professionals to be used solely at research and development facilities for such purposes.

No

8. To what extent are the definitions specified and listed in Annex II of the Directive well defined?

[The Low Voltage Directive 2014/35/EU](#) - see Annex II

* Electrical equipment for use in an explosive atmosphere

Great extent

Please elaborate:

Orgalim answer: The borderline between the LVD and the more specific ATEX Directive is well understood as explained in the application guidelines. The definitions of Article 2 are about horizontal concepts that are not product specific. These are aligned with the Decision 768/2008 (EC), part of the New Legislative Framework and are known and perfectly understood by manufacturers. Clarification, where necessary, is adequately brought through the horizontal Blue Guide and the LVD Application guide. We however recommend leaving the above-mentioned specific equipment or phenomena outside of the scope of the LVD, as listed in Annex II of the Directive.

*Electrical equipment for radiology and medical purposes

Great extent

Please elaborate:

Orgalim answer: The borderline between the LVD and the more specific Medical Device Regulation is well understood as explained in the application guidelines. The definitions of Article 2 are about horizontal concepts that are not product specific. These are aligned with the Decision 768/2008 (EC), part of the New Legislative Framework and are known and perfectly understood by manufacturers. Clarification, where necessary, is adequately brought through the horizontal Blue Guide and the LVD Application guide. We however recommend leaving the above-mentioned specific equipment or phenomena outside of the scope of the LVD, as listed in Annex II of the Directive.

*Electrical parts for goods and passenger lifts

Great extent

Please elaborate:

Orgalim answer: The borderline between the LVD and the more specific Lifts Directive is well understood as explained in the application guidelines. The definitions of Article 2 are about horizontal concepts that are not product specific. These are aligned with the Decision 768/2008 (EC), part of the New Legislative Framework and are known and perfectly understood by manufacturers. Clarification, where necessary, is adequately brought through the horizontal Blue Guide and the LVD Application guide. We however recommend leaving the above-mentioned specific equipment or phenomena outside of the scope of the LVD, as listed in Annex II of the Directive.

*Electricity meters

Great extent

Please elaborate:

Orgalim answer: The exclusion of electricity meters is clear and well understood as explained in the application guidelines.

*Plugs and socket outlets for domestic use

Great extent

Please elaborate:

Orgalim answer: The exclusion of plugs and socket outlets is clear and well understood as explained in the application guidelines, especially in the light of the illustrated list of examples provided.

*Electric fence controllers

Great extent

Please elaborate:

Orgalim answer: The exclusion of electric fence controllers is clear and well understood as explained in the application guidelines.

*Radio-electrical interference

Great extent

Please elaborate:

Orgalim answer: This exclusion is clear and well understood as explained in the application guidelines.

*Specialised electrical equipment, for use on ships, aircraft or railways, which complies with the safety provisions drawn up by international bodies in which the Member States participate.

Great extent

Please elaborate:

Orgalim answer: This exclusion is clear and well understood as explained in the application guidelines.

*Custom built evaluation kits destined for professionals to be used solely at research and development facilities for such purposes.

Great extent

Please elaborate:

Orgalim answer: This exemption of custom-built evaluation kits is clear and well understood as explained in the latest version of the LVD Guide of the European Commission (August 2018).

4. Orgalim's perspective on the Low Voltage Directive

9. To what extent do you think that the LVD facilitates intra-EU exchange?

Great extent

Please elaborate:

Orgalim answer: Orgalim believes that overall, the LVD has significantly contributed to improving the free circulation of goods on the Internal Market and the competitiveness of manufacturers of electrical equipment and installations. This positive outcome is essentially the result of 45 years of conformity assessment flexibility for economic operators thanks to:

1. the use of module A (internal production control) of the New Approach regulatory model, as codified in the New Legislative Framework of 2008;
2. the generic and technology neutral formulation of the safety objectives in Annex I.

10. To what extent do you think that the LVD improved the safety of electrical products sold on the EU market?

Great extent

Please elaborate:

Orgalim answer: Orgalim believes that overall, the LVD has significantly contributed to improving the level of health and safety of electrical products that have been placed on the market over the past 45 years. There is to date no sufficient data, or enough granularity in this data, to assess the cause-effect relationship of accidents and injuries with manufactured products, including electrical products. However, the few available sources of information tend to indicate that the situation has improved over time and that the risks arising from the use of electrical appliances has decreased, both at work and in households. This result is remarkable, taking into consideration the fact that each end-user (either as a worker or as a consumer) is exposed in 2018 to a much larger number of electric appliances in his working environment or in his household/ leisure environment compared to 1973 when the LVD was adopted.

Electric appliances and equipment, lighting chains, lighting equipment represent 13% of all Member States' RAPEX notifications for products assessed as entailing a "serious risk" in 2018, that is three times less than in 2005 (36%). More:

https://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/?event=main.search&lng=en#searchResults

The number of fatal home injuries in which electric current played a role is now down to 5% in proportion of all fatal home injuries. More:

https://ec.europa.eu/health/sites/health/files/data_collection/docs/idb_report_2013_en.pdf

However, this positive outcome is increasingly impeded by an inadequate level of market surveillance that does not stem from insufficient or unclear requirements in the LVD but from an overall lack of resources, staffing and political will at Member States level. This should be dealt with through better European coordination in the horizontal Union legislation on market surveillance.

11. To what extent do you think that the tool of the conformity assessment procedures, as provided by the LVD 2014/35/EU, is sufficient and appropriate to guarantee the safety of electrical products?

Great extent

Please elaborate:

Orgalim answer: Orgalim believes that using module A 'self-declaration of conformity' under the responsibility of the manufacturer ("internal production control") is sufficient to support manufacturers in meeting their obligations to design safe and compliant electrical products.

Resorting to third-party conformity assessment bodies should remain a choice for manufacturers. Changing the current status quo would not bring any significant improvement in safety of electrical products, as dangerous and non-compliant products found on the Internal Market often come from rogue traders who also forge third party-certification marks (cf. product pictures on RAPEX!). These unscrupulous manufacturers are the largest cause of the problem that can only be addressed through effective and efficient market surveillance. Imposing a more constraining and costly conformity assessment procedure for the marketing of electrical products would provide these rogue traders with an even greater unfair marketing advantage compared to legitimate products whose selling prices would have to reflect the additional costs of a mandatory certification procedure.

12. Since the LVD 2014/35/EU, the notified bodies are not anymore part of the procedure. What do you think is the effect of the current absence of notified bodies?

- * Concerning costs to industry → **Strong positive impact**
- * Concerning safety of products → **No impact**
- * Concerning internal EU exchange → **Somewhat positive impact**

13. Do you participate in consultation bodies of the LVD? Yes

If yes, what are the annual costs of participating in these consultation bodies?

Orgalim answer: For the member companies of our constituency who participate in consultation bodies the estimated **€1000**

14. Do you participate in standardisation committees of the LVD? Yes

If yes, what are the annual costs of participating in these standardisation committees? :

Orgalim answer: For the member companies of our constituency who participate in standardisation committees the estimated **€3000**

15. What are the benefits of participating in standardisation committees/consultation bodies?

Orgalim answer: For the member companies of our constituency, participating in standardisation committees/consultation bodies ensures an acceptable level of safety whilst making sure that legitimate manufacturers are not unnecessarily penalised.

16. Are those benefits proportionate to costs? Yes

Orgalim answer: Yes benefits are proportionate to the costs, as long as participating in Cenelec standardisation committees remains rewarded by a timely adoption of harmonised standards and their subsequent swift citation in the Official Journal of the European Union.

17. Overall, how do you rate the main benefits deriving from the LVD, regarding:

* Easier intra-EU exchange

 High

Please elaborate:

Orgalim answer: As long as the entitlement of the benefit of the presumption of conformity is not unnecessarily delayed by the internal bureaucratic procedures that are unilaterally imposed on the European standardisation system by the European Commission. The developing backlogs of non-cited standards give rise to concerns as to the delays this new imposed procedure will induce for the timely availability of adopted harmonised standards. This would have a significant impact on Intra-EU trade, as the Court of Justice of the EU recently warned the Commission in the "Global Garden" Court case.

* Cost savings deriving from simplified conformity assessment procedures

 High

Please elaborate:

Orgalim answer: Yes, there are to date cost savings derived from using module A (self assessment of conformity) and the use of harmonised standards to facilitate the demonstration of conformity to the essential requirements of the LVD. However, we see such benefits disappearing with the European Commission's unilateral decision to consider the citation of LVD standards in the OJEU as a legal act. We believe that the consequences of such a decision are disproportionate to meeting its purpose. When it was set in place in 1985, the New Approach to technical harmonisation never intended to give the European Commission the responsibility to interfere with the technical content of standards. It should be left up to the standards user to decide the usefulness of the annex ZZ. For 35 years (from 1973 until 2008),

manufacturers of LVD products benefitted from the presumption of conformity as soon as the LVD standard was adopted by the Cenelec technical board (BT) and published by Cenelec. This operated well to the satisfaction of all Member States, as the entitlement to benefit from the 'presumption of conformity' from using the LVD standards was, and will remain, the free choice of manufacturers. Turning standards into an extension of the law does not provide additional legal certainty to manufacturers – who, in the eye of the law, remain entirely responsible for their products. It adds unnecessarily delays for making use of the harmonised standards and removes the flexibility that manufacturers once enjoyed; facilitating their demonstration of conformity with the LVD.

* Health and safety protection

Please elaborate:

Orgalim answer: The proportion of accidents linked with the use of electricity has significantly decreased over the past decades, as shown by the publicly available statistics of fatal electrical accidents. This trend is equally reflected in the yearly statistics of RAPEX notifications, where the number of notifications for products with a serious electrical risk amounted 40% in 2004 and is now down to 6% in 2018, also taking into consideration that most non-compliant products are imported from countries where they do not have all the EU safety requirements in mind. A tighter control of imported products at the external borders of the EU could significantly positively improve the level of safety of electrical products placed on the EU Internal Market.

* Guaranteeing the same level playing field for the different involved actors

High

Please elaborate:

Orgalim answer: As long as the legislation is effectively enforced! The effectiveness and efficiency of the market surveillance of LVD products depends on the financial and staffing means assigned by national market surveillance authorities, not from changes to the LVD provisions.

Please report any other important benefits:

Orgalim answer:

18. Do you consider that costs stemming from the LVD are proportional to benefits?

Yes, absolutely

Please elaborate:

Orgalim answer: Yes, absolutely: as long as the current status quo is preserved. Turning LVD standards into an extension of the law with the attached bureaucratic constraints will increase the time-to-market for placing products according to harmonised standards, which will impact the costs of companies that send experts in standardisation to TCs or disincentivise them from participating in mandated standardisation. Resorting to third-party certification as an alternative to obtain the presumption of conformity will induce greater costs to companies, especially to those smaller businesses that do not have sufficiently large a production to make economies of scale, without improving the level of safety.

19. Do you see any possibilities to simplify procedures linked to the LVD?

Please report any simplifications you think could be useful.

Orgalim answer: There are many ways to simplify the procedures for facilitating the making available of harmonised electrical products on the market without resorting to a change of the scope or the essential requirements of the directive.

An area of simplification is in the Commission internal procedures to verify that the drafting of LVD standards is fit for the citation of those standards in the OJEU. These should refrain from imposing the drafting of a “granular” Annex ZZ for future harmonised LVD standards. Such an informative annex is not common practice for the thousand LVD standards as it was never considered as helpful by manufacturers to help them in assessing which of the risks listed in Annex I of the Directive would need to be taken into consideration while applying the technical specifications of the standard.

However, such simplifications are of horizontal nature – and therefore not specific to the scope of the LVD and are not to be dealt within the LVD; consequently, these do not constitute, in our view, a sufficient ground for revising the LVD.

5. Closing questions

* What is the overall value added of the LVD? What consequences would you foresee for your organisation in the event of the Directive being repealed?

Orgalim answer: The LVD has many strengths and should neither be revised nor repealed. The Directive’s scope is comprehensive and clear. Minor issues such as components and where they are under LVD or MD are easy to solve through interpretation guidelines, such as the LVD Guide. **Essential requirements** - mobile communication and digitalisation are not new, and any potential risks or new hazards have been addressed in the generic formulation of the safety objectives in the Directive and by the standard writers to keep the product safe. **Module A** is the only conformity assessment procedure proven effective and efficient over more than 45 years. In the light of this, we see no benefit to our industry in this revision while we are concerned that the increased administrative burden and legal uncertainty that such a revision would likely trigger, will further weaken the competitiveness of European manufacturers.

Furthermore, in the framework of better regulation, it is particularly important to ensure that the quality, effectiveness and simplicity of EU law be taken into account: where an industry has achieved a high degree of self regulation by developing fair conditions of trade and safety between companies through the extended use of harmonised standards, the market of electrical products should be left to regulate itself as far as possible. To interfere in this process will only lead to creating more unnecessary administrative burdens and therefore more costs.

Your responses provided in this questionnaire are treated confidentially. In case you are interested in providing the study with more input via a (confidential) telephone conversation, please provide:

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