European Commission
Giuseppe Casella, Head of Unit
Unit B2 'Prevention of Technical Barriers'
DG for Internal Market, Industry, Entrepreneurship and SMEs
European Commission

Brussels, 23 December 2016

**Re: Comments from EHI on the amendment to the Swedish Board's Building Regulations (BBR) on solid fuel heating**

Dear Mr Casella,

We would like to submit comments to you on the Swedish Board's Building Regulations (BBR) on solid fuel heating notified to TRIS by the Swedish National Board of Housing, Building and Planning (Boverket) under the file number **2016/527/S**.

In its proposal, Boverket proposes to advance the introduction of the ecodesign requirements by nearly 2 years, with a one-year transition period, for solid fuel boilers (for particulates, OGC and CO emissions), and for solid fuel local space heaters (for efficiency and CO emissions). In addition, new efficiency requirements are introduced for solid fuel boilers.

However, contrary to Boverket, we believe that the transition provisions[1] of the EU Ecodesign Regulations 2015/1189 and 2015/1185 should be interpreted to mean that Member States can retain current requirement levels, but may not introduce new requirements during the transitional period for the following reasons:

- the amended Swedish regulation may represent a barrier to the trade of solid fuel heaters;
- it may also be problematic for manufacturers, importers and distributors of solid fuel heaters, whose established transition period set in the EU Ecodesign Regulations 2015/1189 for solid fuel boilers and 2015/1185 for solid fuel local space heaters would be shortened respectively from January 2020 and January 2022 to April 2017.

## 1. Earlier implementation of Ecodesign requirements represents a barrier to trade

Introducing new national Ecodesign rules on energy-related products already regulated at the EU level represents a barrier to trade of such products in the EU internal market, as they set additional national requirements on products, which are not applied by other Member States.

And this is true even if the national rules are similar to the future EU Ecodesign requirements: introducing the EU Ecodesign rules in the national legislation earlier would put an additional restriction to the trade of such products in the EU because the other Member States are not requested to apply them yet.

European Ecodesign implementing regulations provide for the full harmonisation of the energy efficiency and emissions requirements in order to prevent "barriers to trade and distort[ed] competition in the Community" "with the aim of ensuring the free movement of such products within the internal market" (Ecodesign Framework Directive 2009/125/EC). As directly

[1] Article 8 of the EU Ecodesign Regulations 2015/1189 and 2015/1185: "*until 1 January 2020 [for solid fuel boilers] / until 1 January 2022 [for solid fuel local space heaters] Member States may allow the placing on the market and putting into service of solid fuel boilers / solid fuel local space heaters which are in conformity with the national provisions in force regarding seasonal space heating energy efficiency, emissions of particulate matter, emissions of organic gaseous compounds, emissions of carbon monoxide and emissions of nitrogen oxides.*"

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applicable European legislative acts, these EU Ecodesign implementing regulations take precedence over any national legislation.

Member States should therefore refrain from introducing European Ecodesign rules earlier so that the EU internal market is not further impeded. And this concept was stated in the European Commission's Blue Guide on the implementation of EU product rules from 2014: "each Union harmonisation legislation providing for a transitional period sets the date for freezing the system in force."

## 2. The Ecodesign timetable planned at the EU level should be respected

The EU Ecodesign Regulations 2015/1189 for solid fuel boilers and 2015/1185 for solid fuel local space heaters, which entered into force on 10 August 2015, provide for specific transition periods, which have been introduced in order to:

- "give manufacturers sufficient time to redesign their products", […] to "take into account the impact on manufacturers' costs, in particular for small and medium-sized enterprises […]", as laid down in these two EU Regulations;
- "allow manufacturers […] to adjust gradually to the conformity assessment procedures and the essential or other legal requirements […] and, thus, to avert the risk of blocking production" (EU Blue Guide 2014);
- give manufacturers, importers and distributors time to "exercise any rights they have acquired under any pre-existing, national or EU rules, for example to sell their stocks of products manufactured in line with the pre-existing rules" (EU Blue Guide 2014).

Finally, as pointed out in Boverket's impact assessment, "the existing harmonised standards for [solid fuel local] space heaters lack assessment methods for emissions of particulates, OGC and nitrogen oxides (NOx) in flue gases." The Swedish authority has thus decided to wait for the new harmonised standards for space heaters to regulate these emissions. But this means unfair competition between solid fuel heaters, whose particulates and OGC emissions would be limited already from April 2017, and solid fuel local space heaters.

For all these reasons, the European Heating Industry Association (EHI) believes the Swedish national authorities should not introduce new emission and efficiency requirements during the transitional periods of the EU Ecodesign Regulations 2015/1189 and 2015/1185.

We invite you to consider the above arguments during dialogue with the Swedish authorities in order to bring further consistency between the European and national legal frameworks.

We look forward to hearing from you and are available for any further information.

Yours sincerely,

Federica Sabbati,
Secretary General
EHI

***About EHI, the Association of the European Heating Industry***

*EHI represents 90% of the European market for heat and hot water generation, heating controls and heat emitters, 80% of biomass central heating, as well as more than 70% of the hydronic heat pump market. Our Members produce advanced technologies for heating in buildings, including: heating systems, burners, boilers, heat pumps, components and system integrators, radiators, surface heating & cooling and renewable energy systems. In doing so, we employ directly more than 120.000 people in Europe and invest more than half a billion euro a year in energy efficiency.*