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# Main reasons why the Japanese “Top Runner” approach is not appropriate as a legal instrument for market transformation in the EU.

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Berlin 29 06 2006





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- The principle of the Top Runner is that manufacturers/importers will, by a certain date, produce or ship products that are better than products with the highest energy efficiency of all the products in the same group that are sold in Japan at the date of setting the target.



- These are “target standards” that do not preclude from the market equipment that fails to meet the standard. However manufacturers are supposed to compensate production of non-compliant products with production of more performing ones (weighted fleet average).



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- When manufacturers do not meet the target, they are reminded by the competent authorities and advised to improve their performance. If the manufacturer does not follow the advice, the authorities make the case public and order to follow the advice; when non-compliance continues, penalties will be imposed.



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- Main advantages of the program:
    - quite simple statistical approach in defining the requirement
    - dynamic towards higher efficiencies (in principle).



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- Main drawbacks of the program as a legal instrument for market transformation in the EU and for EuP in particular



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- the size of the market, made of 25 different markets (+ EEA + enlarged EU), with a huge and burdensome statistical task to monitor sales and enforce the scheme
  - the heterogeneity of those 25+ markets in particular as regards customers habits and purchasing capabilities.



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- The top runners in energy efficiency are not necessarily the top runners on the other environmental aspects of the products  
(the combination of “all aspects top runners” would likely create a theoretical and non commercially viable target)



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- no engineering-economic analysis, meaning that the impacts of adopting a given target standard are not fully known.
  
  - the costs of setting specific targets according to all market specificities for a same group of products.



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- the top of the market at the time the level is set may or may not be consistent with a least cost approach to energy use, CO<sup>2</sup> emission reduction or other policy goals



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- the possibility for gaming the scheme with manufacturers either colluding to halt efficiency improvements or attempting to create targets that can be attained only with proprietary technology.



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- Advice, shame, order targets and penalties are restricted to companies with the technical and financial capabilities to meet the target standard. Manufacturers whose production and import volumes fall below a fixed amount are not targeted.



## Conclusion

A "Top Runner" approach is not consistent with some general principles applying to EU legislation, namely:

- the need for impact assessments to identify economic-social effects hence acceptability of a measure
- the cost-effectiveness of the measure (the increase in purchase price must pay-back for the consumer in terms of reduced running costs)
- no legal discrimination on the basis of size or financial capability of manufacturers/importers
- the setting of clear-cut criteria (creating legal certainty for enforcement) to be or not to be on the EU market, and requiring the affixing of the "CE" marking.



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## Conclusion

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- All this does not mean that the Top Runner approach cannot be kept in mind when preparing implementing measures; the best available models and the technological developments will be looked at.
- Though it is a model that cannot simply be imported in the EU, it is a source of inspiration.