

Accompanying document – Sustainable Product Initiative Consultation

We understand the necessity to keep the use and the consumption of resources within our planet's limits. Retailers and wholesalers share the goals of the Green Deal and welcome the review of the Eco-design Directive as a key initiative to implement the Circular Economy Action Plan. It will contribute in providing the necessary policy instruments to address the overall challenge to make products more sustainable.

We would like to complement our answer to the public consultation on the sustainable product initiative with the following position.

Providing clear and common methods and definitions

Common methodology through standardised methods

Having a common methodology and assessment system across EU Member States is crucial to avoid having legal patchwork of approaches and requirements at national level. We call for a clear methodology and for common criteria to assess the impact of products with the same methodology based on scientific data. While **the decision to make environmental claims about a product should remain voluntary, the completeness, comparability, and reliability of information should be standardized** as it is key to successful consumer communication.

Concretely, the development of new eco-design rules should consider expertise **with international or European standardization bodies**, while also considering existing industry-wide and internationally oriented standards, to facilitate international trade and reflect the technological state of the art.

We recommend following an evidence-based methodology similar to the working process laid down in the Eco-design Directive and the Energy Labelling Framework Regulation, looking at scientific inputs to set clear requirements per product - category. We support a product-specific approach to find solution on a product-by-product basis, bringing together needs from a circular, safety and quality perspective.

Applying common definitions

The shift to the circular economy implies that we rethink our business models and agree on common definition. Sustainability or circularity in design implies the choice of materials, the design and a right balance between technological, ecological and economic factors. It is essential that definition such as "durability", "lifespan", "repairability" are clearly defined by product-group.

We have identified several semantic issues that may lead to unclear legislation:

- **Sustainability and long-term** are evolving terms. Focus on sustainability some years ago looked at improving performance within own operations, while today the concept of sustainability seems much broader. When applied to the circular economy, more attention should be paid as the concept of durable good may vary.

- **Lifespan and expected lifespan** may have different meanings. The expectation that a product lasts is grounded on several factors such as prices, brand or reviews¹. Research² shows that there is a strong difference between expected lifespan of a product and its actual lifetime. Decision to buy or replace is based on numerous factors like product quality and cost, as much as usage but also linked to consumers' brand loyalty, price difference, convenience and fashion, all of which are playing a significant role in the decision to perceive a product as obsolete. The impact of product lifespans should be considered in the full product lifecycle and decision should assess the trade-off for substituting one material, promoting reuse or discarding a resource-inefficient good. Inefficient durable products (such as old white goods for instance) may be better replaced as most emissions are caused during their use.
- We are not aware of specific evidence of **planned or intentional obsolescence**. On the contrary, a study by the German Federal Ministry of Environment³ as well as one by the European Parliament⁴ conclude the opposite: *"The literature on planned obsolescence focuses on suppliers who intentionally supply products with a short lifetime in order to sell replacements to consumers. The degree to which this is actually the case is largely unknown."*
- **Destruction of unsold good**: prior to any measures, we believe one should clarify and define what the destruction of unsold goods implies. Some least -performing goods should be dismantled to be recycled. One should ensure that a potential ban on destruction of goods does not compromise health, safety, privacy or intellectual property rights.

We recommend to based eco-design requirements on sound methodology.

Approach on repair and reuse

As products are inherently very different, there is, once again, no single approach on how to promote more repair activities:

- **Create a culture for repair and reuse**: for some products, the culture for repair and reuse is not fully developed and consumers are less eager to fix their items.
- **The complexity of repairs or reuse and legal implication**: Certain repairs can and should only be undertaken by experts for reasons of complexity or product safety. For other goods, market should help to prefer the choice for the right materials and separable components to contribute to fix and repair. Definition of responsibility once the product is repaired should be made clear. Also for reuse, the law is really complex especially if we consider that often a product after its first use, under the legal perspective, is considered waste, and the companies are obliged to handle it in compliance with the waste management national / local rules. Companies need a clearer and more flexible legal framework in order that allows initiatives for products' reuse.
- **Access to spare parts** should be the manufacturers' responsibility: retailers and wholesalers do not have the space nor capacity to stock spare parts for the million products they handle daily, nor do they have the information to sell the appropriate part.
- Consequently, **definition of responsibility and requirements** to e.g. life span or reparability must be situated as requirements directly to manufacturers.
- We believe that **digitalisation** could be of great help to provide adequate information to support easy repair through tutorial, guidance etc as long as it can be updated easily. The suggestion to include "repair network" seems rather difficult to provide a product -level as this information is likely to change regularly.
- It is also an opportunity to developing sufficient **capacity-building** and appropriate training programme to develop the right skills.

We recommend that access to repair addresses the legal implication on liability of the repaired product.

¹ http://ec.europa.eu/environment/enveco/pdf/RealWorld_Briefing5WhiteGoods.pdf

² <https://www.plateconference.org/consumers-desired-expected-product-lifetimes/>

³ <https://www.umweltbundesamt.de/en/press/pressinformation/lifetime-of-electrical-appliances-becoming-shorter>

⁴ " [https://www.europarl.europa.eu/Reg-Data/etudes/STUD/2020/648767/IPOL_STU\(2020\)648767_EN.pdf](https://www.europarl.europa.eu/Reg-Data/etudes/STUD/2020/648767/IPOL_STU(2020)648767_EN.pdf)

Setting the right policy enablers

Harmonised policy requirements

We support the Commission's willingness to provide a comprehensive framework to upscale the sustainability of products in order to offer the right incentives. The interconnections among other proposed and existing legislation should be reinforced to ensure consistency as well as compliance and enforcement.

- **Consistency among EU legislation:** The Sustainable Product Initiative is interdependent with both the New Consumer Agenda and the initiative on substantiating claims as much as other established legislation such as the Waste Shipment Directive, the review of waste legislation, or the General Product Safety Directive and the EU Chemical strategy. We would like to suggest the timing of proposals are consistent to avoid contradicting measures and address the possible competitive and overlapping effects of the many new pieces of legislation coming from the EU. This is ever more challenging as 99% of our sector is composed by SMEs, with limited financial and human resources.

We recommend that particular attention is paid to consistency among EU legislation to ease the implementation by economic operators and avoid overlaps.

- **Harmonisation in Member States:** while we recognise the necessity to provide the right legislative framework, we also support the strengthening of the EU single market to enable the upscaling of sustainable products, as such we believe in the Commission's leading role to engage in a constructive dialogue with member states and avoid country-specific requirements that could conflict with the circulation of goods and the upscaling of sustainable solutions.

We recommend that the European Commission is engaged in a constructive dialogue with member states to ensure a consistent and harmonised implementation of future and existing rules.

Strengthen existing legislation on waste to uptake the market of secondary materials

EuroCommerce has numerously voiced its recommendation to enable a single market for waste.

- Our position calls for an appropriate compliance and enforcement of waste management rules, especially as regards Extended Producer Responsibility (EPR). While eco-modulation of EPR fees could be instrumental in creating a truly circular economy, **clear and harmonised rules** are needed to ensure that this does not lead to market fragmentation and barriers to intra-EU trade. The Commission should therefore adopt implementing acts setting out the criteria for eco-modulation, in accordance with Article 8(5) of the Waste Framework Directive.
- By the same token, the Commission should establish a **single point of contact for EPR registration** and reporting on products, either through the creation of an EU-wide register or through a mechanism to ensure that data is transferred from one national register to others where a product is sold. This would drastically reduce administrative and financial burdens for compliance with EPR schemes, thereby facilitating the smooth functioning of a truly circular Single Market.
- We recommend to **invest in high-value collecting, sorting and recycling technologies and sufficient infrastructure** (due to proximity and capacity at EU level) by mobilising financial resources. This will expand the European industry by financing promising waste classification technologies and good practices. Increase EU financial support in the form of loans or guarantees for innovative companies linked to circular economy from early-stage development to growth and expansion.

We recommend a harmonised framework to uptake the safe and recycling of materials in general.

Fiscal and other incentives

Retailers and wholesalers have long committed to reduce their waste and have already identified efficient mechanisms to reduce stocks by optimising their logistics. The sector calls for support to minimise the costs of donation through, for instance fiscal incentives. The EU VAT Directive (2006/112/EC) discourages donations of returned or unsold inventory by requiring businesses to account for VAT on donated goods. As a result, it is not economically viable for many businesses to donate goods.

We recommend that the Commission considers a targeted amendment to the EU VAT Directive to ensure that donations of unsold durable goods to charitable organisations are VAT-free. Until such changes can be introduced, Member States should be encouraged and enabled to introduce national VAT exemptions through EU guidelines (e.g. VAT Committee guidelines).

Generally speaking, incentives to escalate the development of more sustainable products are also needed. Incentives shall be based on impact: the trade offs existing among the different eco-design requirements (recyclability vs durability, sustainable products vs durability or recyclability). There is not solution that fits for all. Each product should be assessed independently, and the best option should be incentivized.

We support incentive and guidance to encourage products with less environmental impacts based on scientific data. Guidelines for eco-design should be accompanied with incentives to implement measures and avoid hindrances. A detailed guideline for product category that cover designing for recyclability, for enlarging use or reducing using of virgin materials is needed accompanied with proper incentives to leverage the scalability may be a trigger of change.

Access to information

Responsibility to provide information

It is essential to define which actor is responsible to provide information. Our sector often relies on data made available by the manufacturers: the phrase ‘at the origin of the information’ is not legally sound for the moment.

Targeted and necessary information

The information contained in the digital product passport should be differentiated depending on the target audience, in order to avoid information overload for customers. While customers may benefit from greater transparency on the sustainability of products, detailed information on e.g. chemical content of a product or on origin of the product components or recycling methods, re-manufacture and spare parts, carbon footprint calculations, material composition or data on compliance with legislation and standards information would add little value to customers should be reserved for regulators and industry actors along the product value chain.

Also, we suggest that request for information should be evidence -based and following an impact assessment that is fit for purpose. This cannot be a full ingredient list, and should focus on most relevant substances. A first point would build upon existing information.

A final set of remarks on control and enforcement: often the information can be retrieved upon request but its systematic publication (on the passport or elsewhere) may be extremely burdensome without any added value for checking compliance.

Digital product passport

The digital product passport should aim to streamline existing disclosure requirements in EU legislation, such as those contained in the WEEE Directive, REACH Regulation, and Ecodesign and Energy Labelling frameworks – in respect of intellectual property rights and in alignment with reporting requirements seen in other global markets.

We welcome a digital product passport that aligns with the following principles and:

- Is **harmonized**: same format across product groups, no centralized repository
- Adds tangible **value**: by reducing administrative burden and unnecessary paper-work
- **Avoids duplication**: if the information is contained in the passport, it shouldn't be necessary to report it elsewhere
- Is limited to **priority product categories**: that are relevant from an environmental or social sustainability perspective
- Is **standardized** at global level: supply chains are not local
- Is based on a **technology -neutral and interoperable** basis

The digital product passport should prioritise the use of already existing information and maximise its potential. For new information, it should clearly specify the type of information that is strictly necessary for the specific product group; indeed, as products (and their components) are constantly evolving to keep such passport up to date will be a real challenge.

Supporting new business models

New business models

Circular business models are driven by the emergence of enabling technologies, more consumer preferences for sustainable goods and services or new business risks. Circular economy will only become a reality if it is profitable. Hence, one of the biggest challenges is to ensure that regulatory measures are smart, efficient and lead economic development in the right direction to transfer best practices. The Commission should refrain from prescriptive approaches on “regulating” business models. At this point in time, we need to build up support for companies willing to challenge the existing system and make the transformation.

Retail and wholesale have led or built partnership to suggest innovative manner to provide services such as repair workshop or developing product leasing models rather than selling in a linear manner. On a side note, the reverse logistics listed in the public consultation seems more a mean to an end than a business model *per se*.

We recommend that the Commission can support new circular business models that are more profitable (incentives) by building capabilities: facilitating uptake (for example, by facilitating voluntary take back), clarify waste ownership and related legislation in a harmonized way across the EU, setting EU level criteria for procurements).

Consumers' responsiveness

The uptake of business models can only be successful if there is a market for these. As mentioned previously, the response of consumer is detrimental in such success. For instance, consumers should be willing to have their items repaired or to move from the usual ownership models. More generally, there seems to be a discrepancy between consumers' attitude towards more sustainable product and their actual purchasing behaviour. Drivers to buy are linked to price, fashion, brand loyalty which are factors beyond the sole consideration of environmental products. The range of products should reflect the fact that there a distinct customer groups.

Contact:
Isabelle Maurizi - +32 2 737 05 90 - maurizi@eurocommerce.eu

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