

Joint Statement on the Destruction of Unsold Goods

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The Policy Hub – Circularity for Apparel & Footwear, the Federation of the European Sporting Goods Industry (FESI), the European Branded Clothing Alliance (EBCA), and EuroCommerce welcome the objectives of the Eco-design for Sustainable Product Regulation (ESPR) proposal, including addressing the destruction of unsold goods. In this context, the signatories recommend that EU policymakers take a meticulous approach in the development of the framework for a potential ban and reporting requirements to set strong incentives for a circular economy, increase legal certainty, and ensure global competitiveness in the domain of environmental sustainability of the products placed on the EU market.

The signatories of this statement would like to highlight several concerns regarding the Council's general approach (adopted on the 22nd of May) and the European Parliament's Position (adopted on the 12th of July) on Article 20 of the proposed ESPR Framework.

The goal and ambition of commercial practices is to keep the stock of unsold products at a minimum or to avoid it altogether. This is a fundamental interest of the companies to ensure commercial profitability. No product is made just for the purpose of being destroyed at a later stage. The textile and footwear industry is also aware of the enormous value of the materials used and of the central role of the EU waste hierarchy when dealing with these products. Unsold goods have the potential to greatly contribute to the circularity of the sector if the right approach is implemented, always prioritizing reusability and ensuring the potential of pre-consumer goods in fiber-to-fiber recyclability.

To secure the effectiveness of the Eco-design measures, the signatories recommend the following:

1. Allow recycling by respecting and preserving the waste hierarchy, as a better alternative to destruction to avoid unintended consequences and potential loopholes.
2. Clarify the definition and exemptions of "unsold products" to provide legal certainty.
3. Clarify disclosure and reporting obligations while considering confidentiality of business sensitive information.

The below provides further explanation to our key recommendations.

1. Allow recycling as a better alternative to destruction to avoid unintended consequences and potential loopholes.

The industry believes that economic operators should have the flexibility to choose alternatives to energy recovery and landfilling, which aligns first and foremost with the EU waste hierarchy, reflects the characteristics and nature of the goods, considers value recovery options, and options for achieving the circular economy.

In line with the objectives introduced in the Commission's Communication on the Circular Economy Action Plan, on the proposed Regulation on the Eco-design for Sustainable Products, and the proposed revision of the Waste Framework Directive, the overall objective of the introduced framework should be to increase the effort to completely close the loop of the sector and use less resources. In this sense, the recycling of unsold fabrics will be a key tool to achieve circularity in our industry and considerably increase access to high-quality secondary raw materials. In fact, the possibility of using resources from unsold products for recycling is pivotal in advancing towards the fiber-to-fiber objective and ensuring high-quality inputs that would help to advance these objectives.

Moreover, equating recycling with destruction is conceptually incorrect. Where remanufacturing or preparation for reuse is not possible, recycling should not be excluded as an option to treat unsold goods as recycling is also a recovery operation, unlike incineration and landfilling, which are both disposal operations.

Including recycling operations in the ban of the destruction of unsold goods could inadvertently result in several unintended consequences that may hinder the sector's efforts to achieve its circularity goals. Here are two key considerations:

- A. Export of textiles unsuitable for reuse: While we fully support the co-legislators aim to promote garment reuse whenever feasible, including recycling operations under the destruction of unsold goods, may create incentives to categorize textiles as "fit for reuse" even when there is no viable reuse market outside the EU. Textiles classified suitable for reuse (e.g., "donations") will fall outside the scope of the Waste Shipment Regulation. Consequently, this approach could lead to increased landfilling or destruction risks in third countries and restrict the availability of crucial inputs for Europe's secondary raw material market.
- B. Investments in recycling technology and availability of high-quality recycled content: The objective of setting recycled content requirements within the Eco-design for Sustainable Product Regulation (ESPR) framework is to make the most efficient use of resources, keep them in the loop for longer, and reduce waste generation. Given the need to further scale the recycling infrastructure and technology in Europe¹, specifically for fiber-to-fiber recycling, we see the risk that through including recycling operations under the ban on the destruction of unsold goods these needed investments into technology and infrastructure could be disincentivized.

Consequently, we recommend that recycling operations should not be considered as a destruction.

2. Clarify the definition and exemptions of "unsold products" to provide legal certainty

We recommend further and timely clarification regarding the scope of destruction bans, reporting requirements, and exemptions. The concept of "unsold products" should cover products that are fit for consumption and sale, and should, however, exclude products that are sold (B2B) to third parties.

Samples, prototypes, and products that are not allowed to be placed on the market due to contractual obligations should be exempted from the ban, similar to counterfeit products. On this point, it is relevant to underline that storage and discarding of counterfeit products are overseen by competent authorities, without influence or control of economic operators, whose products these aim to imitate. Furthermore, the industry welcomes the acknowledgment of the specificities of products that violate Intellectual Property Rights or do not meet health, safety, and environmental requirements of EU and national legislation. However, products that may not be placed on the EU market for product regulatory compliance reasons should be exempt from the ban, similar to unsafe products.

Clarity on definitions, methodology, and exemptions should be available 36 months before the new rules apply to economic operators.

3. Clarify disclosure and reporting obligations while considering confidentiality of business sensitive information.

The apparel and footwear industry calls for ensuring clear reporting requirements that lay down adequate timelines and clarify the reporting format and a standardized methodology. This will ensure legal certainty and equal application of rules across the EU, which are prerequisites for requirements to provide added value in tracking the progress toward a more sustainable product ecosystem.

In the European Parliament's position, adopted on the 12th of July, it is suggested that the number and percentage of products destroyed should be disclosed. We strongly encourage the co-legislators to

¹ Also recognized by the Commission's proposal on the targeted revision of the Waste Framework Directive, presented on the 5th of July.

find the right balance between continuing to boost responsible business behaviors while safeguarding confidential business information.

In this regard, we support the implementation of reporting requirements with the same single metric, providing incentives to lower the reported figures. However, it is critical to consider the apparel and footwear industry's characteristics when specifying the applicability date, which should cover no less than 36 months after adopting the methodology.

The signatories encourage the European Parliament and the Council to contribute to the EU's circular and environmental objectives by addressing these elements and providing legal certainty to economic operators.

ABOUT LIST OF SIGNATORIES

Policy Hub unites the textiles industry to develop ambitious policies that accelerate sustainable practices. We represent more than 700 apparel & footwear stakeholders, including brands, retailers, and manufacturers. We also gather technical expertise and knowledge from members of our partner organisations: Sustainable Apparel Coalition (SAC), Global Fashion Agenda (GFA), Federation of European Sporting Goods (FESI), Textile Exchange, and Fashion For Good.

The Federation of European Sporting Goods Industry (FESI), represents the interests of approximately 1.800 sporting goods manufacturers (85% of the European market) through its National Sporting Goods Industry Federations and its directly affiliated member companies. 70-75% of FESI's membership is made up of Small and Medium Sized Enterprises. In total, the European Sporting Goods Industry employs over 700.000 EU citizens and has an annual turnover of some 81 billion euro.

The European Branded Clothing Alliance (EBCA) is a coalition of nine European and multinational retail apparel companies that represent over 70 brands and directly employ upwards of 200,000 Europeans. Since its inception in 2007, EBCA has sought to promote trade and sustainable development, market access, rules-based trade and investment security at the heart of the EU's trade policy.

EuroCommerce is the principal European organization representing the retail and wholesale sector. It embraces national associations in 27 countries, sector associations and leading global players. Over a billion times a day, retailers and wholesalers distribute goods and provide an essential service to millions of business and individual customers. The sector generates 1 in 7 jobs, offering a varied career to 26 million Europeans, many of them young people. It also supports millions of further jobs throughout the supply chain, from small local suppliers to international businesses. EuroCommerce is the recognized European social partner for the retail and wholesale sector.