

## EuroCommerce response to the Call for Evidence on the proposed Communication on Better Regulation

EuroCommerce, representing EU retail and wholesale, strongly believes evidence-informed policy-making will lead to better law making. **The EU needs to strike a better balance between regulation and innovation to give legal certainty and predictability** for EU retailers and wholesalers to innovate, globally, nationally and locally in a business environment that enables decisions balanced with business risk. Priority should be given to the Single Market. The EU institutions should only move ahead with new initiatives that truly deepen and strengthen the Single Market and do not codify fragmentation into EU law.

While we welcome the desire to make the consultation system smarter, invoke ‘simplicity by design’ and have a renewed focus on evidence-based, decisive EU action, **we believe caution is necessary in creating accelerated pathways**. Faster action in the case of urgency is required especially to ensure speed and legal certainty<sup>1</sup> but **checks and balances are critical to ensure that accelerated procedures remain exceptional**. **Creating a new fast-track procedure that undermines proper assessment**, can result in administrative burden, incoherence and impracticability, undermined competitiveness and unintended consequences.

The Commission has a rich structure and tools that enable assessment of all aspects of initiatives from their effect on the environment to jobs, as well as the impact on taxes, growth and international trade. **Time needs to be given to ensure that legislation is checked through all relevant ‘lenses’, in the inter-service consultations, well prepared through inter-service steering groups, robust stakeholder consultation, and with true scrutiny from the Regulatory Scrutiny Board**, before proposals are made.

**Legislation needs to be ‘reality checked’, with stakeholders and options tested. The EU needs to resist the temptation of ‘quick fixes’ that may initially sound appealing but in fact undermine the healthy functioning of free markets**. Reality checked means legislation that is cost-effective, proportional, based on gap-analysis, that achieves its intended goal and is mapped with stakeholders to identify harmful unintended side-effects once implemented.

**Initiatives need to help all businesses particularly SMEs manage the regulatory obligations more efficiently**, by streamlining compliance processes, providing financial support, offering expert guidance, implementing training programmes and developing digital tools to automate compliance

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<sup>1</sup> For example, in relation to the Commission’s ambition to cut down on bureaucracy in relation to existing legislation ([Omnibus sustainability package: simpler rules for a greener future - EuroCommerce](#)).

tasks, to significantly reduce administrative burden. The goal from the start needs to be clear, coherent, and easily applicable rules.

We propose several key principles that could guide the Commission in reconciling the need for evidence-based policies with urgent action, ensure a holistic approach to stakeholder consultation, and ensure EU laws are simpler and easier to implement in practice.

## Key principles

To ensure EU laws are simpler and easier to implement in practice, focus on:

1. Practicability
2. Workability
3. Capability
4. Understanding indirect effect
5. Undertaking a competitiveness check
6. Retaining flexibility where possible
7. Inspection at the right level
8. Avoiding duplication
9. Correctly allocating responsibilities
10. Understanding value chains
11. Avoiding unintended consequences by properly preparing and using Inter-Service Consultation
12. Using the EuroCommerce 'Better Regulation Checklist'
13. Using AI tools to check the degree of variation between a proposal and the final text agreed by co-legislators, and to test the quality of impact assessments
14. Incorporating coherence into digital-first policies and ensure they are technically feasible and capable of maintaining operational functionality
15. Not leaving targets to a political decision
16. Exercising restraint
17. Considering how enforcement works in practice *ahead of legislative proposals*.

To reconcile evidence-based policies with urgent action and ensure a holistic approach to stakeholders, focus on:

1. Preparation & anticipation in advance
2. Creating a system of checks & balances for urgent procedures
3. Improving clarity and quality in stakeholder consultation
4. Increasing transparency at more milestones, not focusing on once-only consultation
5. Remaining realistic in stakeholder consultation
6. Simulating what compliance would involve
7. Using the opportunities provided to gather feedback

## The importance of doing less, better

The largest service sector, retail and wholesale, creates over 10% of EU GDP and distributes goods over a billion times a day, providing an essential service to millions of businesses and individual customers. Our sector generates 1 in 7 jobs, offering careers to 26 million Europeans, many of them young people. Additionally, we create millions of indirect jobs throughout the supply chain, from small local suppliers to international businesses.

We offer strength in diversity, providing choice and stability to the EU's customers. Retail includes a large variety of business models, from integrated stores with omnichannel experiences, to franchise models, cooperatives, independent retailers, pure online players and SMEs. Wholesale<sup>2</sup> ensures the supply of goods along the entire value chain, providing financing for their customers, especially SMEs, offering choice, storage, one stop shop solutions, logistical support, and efficiency and minimises risks relating to goods such as availability, quality, security of supply, financing and transport.

Undermining specific business models or reducing their competitiveness will:

- Decrease resilience that is achieved through diversity;
- Expose affected companies to takeovers, often by non-EU players;
- Increase market concentration; and
- Decrease equal access to products and services and increase risks of shortages and unavailability.

Legislative initiatives often fail to appreciate the crucial role of wholesale and retail in its diversity plays in strengthening the EU's resilience against shocks and disasters, from the local to the European level. The lack of appreciation of this, is an example of 'self-defeating legislation' that Draghi refers to in his report.<sup>3</sup>

**Excessive administrative burden hampers our sector's capacity to invest and incentives/opportunities to innovate.** The amount of legislation applied to retailers and wholesalers has exploded in recent years. This is because we supply millions of products in the market and offer a wide variety of services across a multitude of channels. Real societal benefits will accrue if the EU can find a better balance between a comprehensive regulatory framework and fostering innovation. Draghi's suggestions for a new competitiveness framework need to be advanced to ensure better policy coordination, matching of budget, self-constraint in legislation, better assessment of regulatory burden, stress testing of existing legislation, review stakeholder consultation and promote innovation.

## How to strike the balance

**The EU needs to focus on understandable regulations that have greater clarity, avoids overlapping rules, has clear prioritisation of legislative acts, longer transition times for SMEs, and sufficient guidance materials and practical tools tailored to different segments and industries** (with the need for guidelines assessed and prepared ahead of proposals).

This requires the Commission to:

- Focus more on implementation and give more room for non-regulatory approaches.
- Focus on stability and give room for businesses to make decisions that fit with businesses that work with strategic plans over a longer term, not short-term vision.
- Continue the momentum on the Transition Pathways<sup>4</sup> and use them as part of the 'competitiveness check'. The European Commission's transition pathway for the retail ecosystem<sup>5</sup> offers a strategic plan to foster a resilient, digital, and green retail ecosystem. They can be used to check if legislation promotes competitiveness and is coherent.

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<sup>2</sup> [Support Europe's Wholesalers - EuroCommerce](#)

<sup>3</sup> See the Annex and the failure of the proposal for a Regulation on combatting Late Payments to appreciate the role that wholesale plays in supply chain financing, particularly to businesses who do not have access to other financing instruments, and its offer of storage that helps manage stable supplies during supply chain shocks.

<sup>4</sup> [EU Transition Pathways](#)

<sup>5</sup> [EU Retail Platform | EU Retail Platform](#)

- Develop legislation trackers on the supporting online portals for the Transition Pathways<sup>6</sup>. This will help businesses prepare for implementation and help policymakers monitor the cumulative burden.
- Consult with stakeholders throughout the full development of initiatives, increase the number of milestones where input is systematically collected, and fully test all options before implementation to spot unintended consequences in advance.
- Ensure consistency and prioritisation of goals, to stop legislation pulling in different directions with no common thread.
- Add a new focus on relevance (e.g. sunset clauses) and removal of forced stagnation (e.g. lack of legal certainty, slow guidance, etc.).
- Learn from experience (including previous mandates) and use **our better regulation checklist**.<sup>7</sup>

## Key principles to consider

The following principles could guide the Commission in reconciling the need for evidence-based policies with urgent action, ensuring a holistic approach to stakeholder consultation, and ensuring EU laws are simpler and easier to implement in practice.

### 1. *Prepare & anticipate in advance*

Creating separate procedures for urgent reaction should be the last resort. Better planning and use of foresight could enable preparation in advance of crisis. Having intelligence upfront, gathered from trade associations or through the roll-out of the Preparedness Union, can better inform decision-making even under pressure.

Many efforts are already made to understand how value chains are affected in times of crisis, for example using the Industrial Forum<sup>8</sup> or the Europe Food Security Crisis Preparedness and Response Mechanism<sup>9</sup>.

The first step should be to map where information has been or is being collected within the Commission, its expert groups or via other means, on the experience of past shocks. The second step should be understanding of how global supply chains can increase preparedness and help resolve over-reliance before disaster strikes and developing scenarios for possible future 'black swan events' to inform policy design. The third step should be creating structures to collect such intelligence (e.g. identifying contact points, chains of command, method of communication), which can be set up in advance, taking the lessons learned from recent crisis.<sup>10</sup>

### 2. *Create a system of checks & balances for urgent procedures*

Checks and balances on the use of urgent procedures are critical to ensure application only in the case of emergencies, rather than as a general option for a 'short-cut' or fast-track procedure. For example, decisions on using urgent procedures and the absence of an impact assessment could require a decision from the Regulatory Scrutiny Board based on transparent procedures.

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<sup>6</sup> [EU Transition Pathways](#)

<sup>7</sup> [annex-better-regulation-checklist.pdf](#) Also, reproduced in the Annex of this Position Paper.

<sup>8</sup> [Industrial policy dialogue and expert advice - Internal Market, Industry, Entrepreneurship and SMEs](#)

<sup>9</sup> [EFSCM recommendations on ways to mitigate risks and vulnerabilities, including structural issues putting at risk food supply chains](#)

<sup>10</sup> For example, recommendations have been prepared on food security via the European Food Security and Crisis Preparedness Response Mechanism: [efscm-recommendations-guidelines-crisis-communication-on-food-supply-security\\_en.pdf](#)

Where the urgency fades, consultations need to be brought back to normal procedure.

**Example:**

*After farmers' protests in March 2024, the Commission announced **new rules on the cross-border enforcement of unfair trading practices (UTPs)**<sup>11</sup> initially through a non-paper<sup>12</sup>, before reference was more formally made in an Implementation Report. There was no prior publication on the Commission's Have Your Say portal and rules were proposed well ahead of the Directive's review date of 2025, despite an evaluation study being launched and undertaken in parallel. The implementation report admits 'the conformity check assessing the compatibility of national implementing measures with the Directive, is still not finalised', making it difficult to understand how the Commission was ready to correct 'problems' and do so without an impact assessment.<sup>13</sup> Nonetheless, the Commission published its proposal more than six months later in December 2024, without an impact assessment nor stakeholder consultation.<sup>14</sup> This lack of transparency and no shared analysis of the compatibility of the proposal with the Single Market and private international law led to the European Parliament adopting a position that could have seriously undermined the Single Market (namely by allowing extra-territorial effects of stricter national rules)<sup>15</sup>. The trilogue was concluded in November 2025 and the subsequently published evaluation report of December 2025 revealed that no major overhaul of rules was needed.<sup>16</sup>*

### 3. Understand value chains.

Initiatives that will affect value chains need to be based on a full understanding of how those value chains operate in practice. Retail and wholesale rely on complex value chains to offer choice and better prices to customers. The reality and interlinkage of those value chains needs to be better understood in policy making as well, as the effects of regulation on one part of the value chain on employment in the rest of the chain. Notably because retail and wholesale supports millions of jobs throughout the supply chain, from small local suppliers to international businesses.

As recommended in the European Economic and Social Committee report<sup>17</sup> on 'How to consider value chains in policymaking' the importance of identifying the leading firm operating in each value chain and understanding their role is important for the purposes of targeted policy support as well as ensuring policy creates value-chain wide benefits.

**Example:**

*The Corporate Sustainability Reporting Directive<sup>18</sup> led to spillover effects to SMEs despite their exclusion from the scope. Many wholesalers, who are predominantly SMEs, faced huge administrative burden due to their position in the value chain and the potential to be overwhelmed by the number of questionnaires they need to complete. It was only through the voluntary SME standard that the position*

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<sup>11</sup> [Council and Parliament strike a deal on combating cross-border unfair trading practices in the agrifood sector - Consilium](#)

<sup>12</sup> [non-paper](#)

<sup>13</sup> [Unfair trading practices: focus on facts, not haste! - EuroCommerce](#)

<sup>14</sup> [Cross-border enforcement of unfair trading practices: Single Market must come first, says EuroCommerce - EuroCommerce](#)

<sup>15</sup> [Outcome of AGRI MEPs vote: A devastating strike to the Single Market for both consumers and farmers - EuroCommerce](#)

<sup>16</sup> [UTP Directive evaluation: awareness and fact-based approach are critical - EuroCommerce](#)

<sup>17</sup> [How to consider value chains in policymaking | EESC](#)

<sup>18</sup> [Directive - 2022/2464 - EN - CSRD Directive - EUR-Lex](#)

of SMEs stands to be improved, with the hopes for relief for the value chain coming through the Omnibus proposal<sup>19</sup>.

#### 4. Correctly allocate responsibilities

Obligations need to remain with those in the supply chain best placed to comply with them – i.e. those who place products on the market. This needs to be considered in all impact assessments for future legislation to ensure legislation is implementable.

EuroCommerce is preparing a report that will analyse inconsistent use or interpretation of definitions across EU legislation, with aim of concluding on some basic principles that should be kept for all legislation (e.g. it is never the obligation of retailers to print instructions, e.g. private label owners should not be treated as manufacturers).

#### Example:

*In the CLP Regulation (Classification, labelling and packaging of substances and mixtures)<sup>20</sup>retailers are considered suppliers within the meaning of Article 4(4), and whereas they have no control over product design or knowledge of the chemical mixture, are called to label and package as manufacturers. Additionally, Articles 34a–34b oblige retailers and wholesalers (suppliers) to provide the digital-only elements of labels “by alternative means” (upon request or if the digital format is unavailable). This is disproportionate for distributors, given that the obligation to provide product information lies with the manufacturer. Imposing this duty on distributors would create a significant administrative burden, as it would require them to store and manage physical copies of information that the manufacturer only supplies digitally—an operationally unworkable scenario. It could also lead to inaccuracies, since distributors cannot guarantee that such information remains up to date or aligned with the manufacturer’s latest version.*

#### 5. Avoid unintended consequences by properly preparing and using Inter-Service Consultation

The Inter-Service Consultation offers policymakers the ability to view a proposal through different ‘lenses’ from the impact on the environment and jobs, to growth, competitiveness and international trade. Respecting proper procedures, ensuring documents are made available and time is given for reflection is key to avoid unintended consequences and coherence.

Formalising an ‘inter-DG consultation’ will also ensure coherence of initiatives within a Directorate General that can be inadvertently missed depending on the size of a Directorate General and volume of initiatives.

True scrutiny from the Regulatory Scrutiny Board should also mean negative opinions have consequences and proposals should not be adopted by the College until all concerns are fully addressed.

#### Examples:

*The Paperless Omnibus is a welcomed effort for simplification. However, unless clarity is provided, digitalisation threatens to simplify the situation for operators upstream, by moving obligations downstream. For example, the requirement that instructions can be provided digitally, but at request of user “**at the time of purchase**” the instructions should be provided in paper format. Unless it is explicitly mentioned that providing instructions in paper format is an exclusive obligation of the manufacturer, and that distributors should not be called to print or store instructions, the effort to*

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<sup>19</sup> [Omnibus I package - Commission simplifies rules on sustainability and EU investments, delivering over €6 billion in administrative relief - Finance](#)

<sup>20</sup> [Regulation - 1272/2008 - EN - clp regulation - EUR-Lex](#)

*simplify simply swifts the burden from manufacturers to distributors (i.e. an obligation to print or store instructions).*

*Additionally, safeguards should ensure that when the Digital Product Passport (DPP) is displayed in online retail, traffic is not re-directed to a manufacturers' website, creating unfair competition by re-directing consumers away from retailers' websites.*

*Different aspects of the DPP from access rights to how the DPP is being made available on online platforms are discussed in different pieces of vertical EU product legislation<sup>21</sup>, while standardisation discussions are still ongoing and the delegated acts under Ecodesign for Sustainable Product Regulation are not completed yet.*

#### *6. Use the EuroCommerce 'Better Regulation Checklist'*

The EuroCommerce Better regulation checklist proposes key principles for effective EU regulation that is high impact, high quality and low cost. The checklist reproduced in the Annex reflects the situation in November 2024, with some updates following recent simplification exercises or developments in the co-legislative procedure noted as footnotes.

The principles call for practicability, workability, capability, assessment of indirect effect, a competitiveness check, flexibility, inspection at the right level and avoidance of duplication. They are complemented by examples of lessons that can be learned from initiatives of the last Commission mandate.

This needs involvement of stakeholders throughout policy development, increasing feedback points and testing options. As well as aligning internal processes to ensure policies are consistent, conflicts avoided and competitiveness retained.

#### *7. Use AI tools (e.g. adapting what has been developed by Deloitte<sup>22</sup>) to check the degree of variation between a proposal and the final text agreed by co-legislators, and to test the quality of impact assessments.*

Testing the assumption that the higher degree of variation comes from too little time spent preparing a legislative proposal, the origin of a proposal or the basis for agreement (e.g. qualified majority vote, unanimity), will help improve legislative quality by understanding why the co-legislative procedure leads to major variations (indicating issues with the original proposal and/or the procedure).

In addition, studies could be carried out to consider how much effort is needed at national level to ensure rules are understood and applied after adopted into EU law (e.g. how much national consultation is needed, the level of awareness raising necessary, the nature of and number of questions asked by businesses and other stakeholders, etc.) and how they play out in practice.

#### *8. Do not leave targets to a political decision*

Work should be based on what is happening in the market and what can be achieved, properly understanding the barriers. For example, efforts made to encourage the adoption of green fleets remain disconnected to what is available on the market and any target should be based on a reasoned forecast/projection rather than an unreasoned target.

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<sup>21</sup> Toys, Detergents, Batteries, Construction Materials

<sup>22</sup> [Eindrapport Strengere richtlijnimplementatie en impact ondernemingsklimaat 2019-2023 | Rapport | Rijksoverheid.nl](https://eindrapport.strengere-richtlijnimplementatie-en-impact.ondernemingsklimaat.2019-2023|Rapport|Rijksoverheid.nl)



**Example:**

*In the revised Energy Performance of Buildings Directive<sup>23</sup> Article 14 introduces far-fetched and disproportionate requirements regarding the installation of charging points, which come with substantial costs and are technically challenging to implement for retailers and wholesalers. Specificities of our sector were not taken into account. Instead of strict requirements about the number of charging points, a flexible approach that is demand-driven and looks at the total charging capacity or targeted exemptions would be better and leave businesses more flexibility.*

#### 9. Exercise restraint

Restraint can come from focusing on stability and initiatives that truly deepen the Single Market, giving more room for non-regulatory approaches, dismantling Single Market barriers, removing overlaps where collective agreements cover the perceived legislative gap, and shifting the focus of the State of the Union address to reporting on progress and prioritisation rather than the announcement of new initiatives.

**Examples:**

*An initiative on AI in the workplace is being discussed as part of the Quality Jobs Act<sup>24</sup>. The EU has already responded with an extensive framework (e.g., AI Act<sup>25</sup>, Platform Work<sup>26</sup>, and GDPR<sup>27</sup>). Furthermore, certain Member States reinforced workers' rights through national employment and labour laws, implementing EU laws. In this context, the changes to the implementation of the AI Act as well as those concerning the revision of GDPR should be taken into account when examining this matter.<sup>28</sup>*

*Introducing origin rules through parallel legislative frameworks, such as the Organic Regulation, Breakfast Directives or sector-specific marketing standards under the Common Market Organisation (CMO) risks fragmentation, regulatory overlap, and legal uncertainty. The Food Information to Consumers (FIC) Regulation provides a horizontal, consumer-focused framework that is already well-established and widely implemented. Relying on the FIC as the primary legal basis for origin labelling would promote coherence, simplify compliance, and ensure that origin information is applied consistently across the EU food supply chain.*

#### 10. Incorporate coherence into digital-first policies and ensure they are technically feasible and capable of maintaining operational functionality

Standardised primary data collection and harmonised methodologies can streamline compliance efforts. This requires transparent guidance and clear expectations from policymakers to reduce uncertainty and build trust. It also requires flexible, interoperable systems that can grow and adjust to improve data quality and make it easier to compare information as regulations change over time.

Digital tools intended to enable compliance are often not operationally fit for purpose by the date of application. Before digital solutions are proposed, they need to be assessed for technical feasibility, for example, creating a role for technicians in DG DIGIT to be more involved in the inter-service steering group. Effective and proportionate enforcement requires that digital systems be fully functional before

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<sup>23</sup> [Directive - EU - 2024/1275 - EN - EUR-Lex](#)

<sup>24</sup> [Improving the quality of jobs in the EU - European Commission](#)

<sup>25</sup> [Regulation - EU - 2024/1689 - EN - EUR-Lex](#)

<sup>26</sup> [Directive - EU - 2024/2831 - EN - EUR-Lex](#)

<sup>27</sup> [Regulation - 2016/679 - EN - gdpr - EUR-Lex](#)

<sup>28</sup> See also: [AI @ Work - EEI](#)



they become the exclusive channel for compliance. Rules without workable systems do not uphold credibility, instead, they place operators in an impossible position.

#### **Examples:**

*The changes to the Fisheries Control Regulation<sup>29</sup> illustrate how legislation can outpace operational reality. The new rules entered into force before the EU's digital systems were technically ready, creating disproportionate administrative burdens for operators and undermining efficiency. Key compliance tools are still not functional, yet they are meant to be the sole channel for enforcement, leaving operators in an impossible position. Fragmented national workarounds are now emerging in the absence of EU-level guidance, risking Single Market inconsistencies. Although retailers and wholesalers have heavily invested in digital traceability, many suppliers—especially small ones still cannot provide the required data, or uploading data in the CATCH IT system does not work making full compliance unattainable in practice.*

*The readiness and robustness of the Information system to support the implementation of the EUDR was uncertain, leading to a further delay on the date of application and a change in obligations for operators and traders. This issue had been flagged by the affected sectors in good time. Economic actors nevertheless continued to develop their IT systems and now require further investments to adapt the systems.*

#### *11. Consider how enforcement works in practice ahead of legislation*

The enforceability of new EU rules needs to systematically be assessed during legislative impact assessments, especially regarding non-EU traders and marketplaces.

Ahead of the proposal for a Regulation on Cross-Border Enforcement of Unfair Trading Practices, EuroCommerce highlighted that the current patchwork approach to cross-border enforcement of EU rules is inefficient, risks leading to multiple different procedures and undermines legal certainty. We called for the Commission to examine and, if necessary, propose a common approach or single procedure (e.g. through a set of general rules or a single package of proposals) to facilitate cross-border enforcement across all existing EU legislation that may require coordination between enforcement authorities.<sup>30</sup> However, this approach was not taken up by the Commission and means a patchwork of different rules remains (e.g. on unfair trading practices, the GDPR).

#### **Examples:**

*EuroCommerce is calling for #Compliance4All<sup>31</sup> to address growing concerns over non-compliant third-country traders and marketplaces, which affect consumer safety and the competitiveness of European retail. For rules to be effective, they need to be enforceable. Unfair competition by third-country players can only be resolved by one coherent and coordinated enforcement strategy shared and supported by all relevant enforcement authorities. Enforcement authorities responsible for market surveillance, product safety, consumer protection, online content, data protection, extended producer responsibilities schemes, customs, and more need to improve cooperation and coordination at EU and national levels with their peers and across policy domains.<sup>32</sup>*

*In REACH, the lack of sufficient or accurate data on the chemical characterisation of substances and mixtures or chemicals (especially in articles) are key challenges for our sector. This creates information*

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<sup>29</sup> [Regulation - EU - 2023/2842 - EN - EUR-Lex](#)

<sup>30</sup> [Cross-border enforcement of Unfair Trading Practices in the agri-food supply chain – EuroCommerce views - EuroCommerce](#)

<sup>31</sup> [#Compliance4All – Retailers call for a level playing field - EuroCommerce](#)

<sup>32</sup> [Restoring the level playing field in retail - EuroCommerce](#)

*gaps which some distributors cover by investing in additional testing to ensure products comply, an exercise that not all have the resources to undertake, and which is not an obligation that should be burdening our sector.*

## *12. Improve clarity and quality in stakeholder consultation*

What is asked in public consultations does not always reflect what is intended and is open to interpretation. A focus on clarity, testing whether there is a common understanding for example, with a sample of associations or third parties, could avoid confusion.

### **Examples:**

*The questions asked in the SME Panel on the proposal for a Regulation on Late Payments (September 2025) were one-sided, taken from the perspective of SME suppliers in the value chain<sup>33</sup>. The results of the survey have been presented in the Council<sup>34</sup>, Parliament<sup>35</sup> and at the SME Assembly<sup>36</sup> as representative, despite the lack of perspective of buyers or large companies being collected.*

*The JRC runs an annual survey on UTPs<sup>37</sup>. The questions are based on perception, rather than evidence. The UTP Directive only protects smaller suppliers, but larger suppliers can take part in the survey; buyers, on the other hand, (including SME buyers) are not eligible to respond to the survey.*

## *13. Increase transparency at more milestones, not focus on once-only consultation*

Stakeholders should be consulted throughout the full development of initiatives and the number of milestones where input is systematically collected and the full testing of options should be the goal, rather than consultation once-only. Ideas develop and should respond to stakeholder feedback, arguing against once-only consultation if a balanced result is to be achieved that avoids unintended consequences and gives equal opportunities for all those affected to respond.

The same principle should apply in relation to delegated and implementing acts and during the co-legislative procedure. In the co-legislative procedure, items for political discussion or the four-column table are not publicly available or may only be shared with certain stakeholders. Such asymmetry of information gives little time for meaningful input to be provided or risks being one-sided, based only on the views of those that may have seen the documents in advance. Given the rules will ultimately apply to all stakeholders, understanding the full differences in viewpoints should be the basis for informed decision-making.

In addition, the co-legislators could be required to assess the impact of their amendments following the same methodology as the original impact assessment.

## *14. Remain realistic in stakeholder consultation*

The Commission should develop the most effective means to gather cost-benefit feedback, through technical discussions, not based on requests for general information on the cost. A better approach would be to stimulate what compliance would involve (see below).

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<sup>33</sup> For example: Q7- Late payments can also refer to unfair payment practices. Have you suffered from any of the following? (tick all that apply) (a) Clients asking us to pay later than we feel comfortable with; (b) Clients unilaterally extending the agreed payment deadline (c) Clients using verification and acceptance procedures to extend the payment deadline (d) Clients unilaterally imposing discounts on prices (e) Clients offering to pay on the condition that we waive our right to interests and compensation (f) Other .

<sup>34</sup> [06c1431c-76e1-46e8-baa9-abde0e519434\\_en](#)

<sup>35</sup> 26 January 2026

<sup>36</sup> See: [Observatory News - Internal Market, Industry, Entrepreneurship and SMEs](#)

<sup>37</sup> [Food Supply Chain - UTPs - survey results \(3rd round\)](#)

Similarly, trade associations handle multiple consultations and files simultaneously and companies also need to manage competing pressures outside of public affairs. For quality input, preparatory documents for workshops or interviews need to be circulated well in advance to allow time for input to be gathered or a common position found. The views of an individual company cannot be taken as the agreed view for a whole sector.

### Example

*While we appreciate the opportunity to participate in Implementation Dialogues with the Commission, it is often challenging to secure the involvement of senior company representatives or individuals able to make strategic decisions on only one or two weeks' notice. Providing input on technical issues requires sufficient time for these members to be briefed and prepared. Allowing more time to identify, brief, and prepare relevant experts would significantly improve the quality of participation and provide more meaningful insights for both stakeholders and policymakers.*

### 15. Simulate what compliance would involve

Policymakers need to consider what the rules they are proposing mean in practice. Rather than relying purely on stakeholder feedback to understand, policymakers could simulate how they would put the obligations into practice (e.g. how long it would take, what they would need to guide them, what is available on the market to meet the demand, etc.) and then test this with stakeholders. This would also help make the SME Test more robust, avoid over-reliance on Fit for Future opinions that may have limited stakeholder feedback and SME Panels that only reach limited stakeholders.

Channeling consultations through the Enterprise Europe Network only gives limited visibility. The launch of SME Panels should be shared with the network of SME Envoys as a rule, to try and increase the pool of possible respondents. Similarly, the responses of associations representing SMEs should be taken as the SME view, as many entrepreneurs rely on their associations to represent their interests and do not have time to directly respond to questionnaires.

Developing methodology jointly with stakeholders, for example using the Joint Research Centre, could help create the tools for this assessment. Investment in better evaluations could also help policymakers understand how laws operate in practice, so lessons learned can be taken into future policymaking and necessary adjustments made.

### Example:

*In October 2024, the Fit for Future Platform adopted Opinion 2024/4 on the ongoing evaluation of Directive 2019/633 on unfair trading practices in B2B relationships in the agricultural and food supply chain ('the UTP Directive'). EU retailers and wholesalers are not directly present in the Fit for Future Platform. They are a key sector but were not consulted on their views on the Directive as part of the Platform's evaluation or recommendations.<sup>38</sup>*

This should also include consideration of the consequences of rules, for example, what are the responsibilities in relation to products that can no longer be legally marketed in the EU or the effect on, or coherence with, payment systems.

### Examples

*Retroactive application of the Directive on Empowering Consumers for the Green Transition risks forcing companies to withdraw millions of goods lawfully placed on the market before the Directive's application date, leading to considerable economic and environmental impacts, including costs and burdens regarding relabelling, providing additional information at the point of sale, repackaging, and*

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<sup>38</sup> [fff-on-utps-eurocommerce-views.pdf](#)

*potentially destruction of products, which would directly contradict the Ecodesign for Sustainable Products Regulation and the operators' efforts to be more sustainable. This could be avoided by introducing a "grandfathering" clause allowing products lawfully placed on the market before the Directive's application date to continue being marketed.*<sup>39</sup>

*Articles 5 and 7 of the Alternative Fuels Infrastructure Regulation (AFIR) conflicts with the existing EU legislation on payments mainly the second Payment Services Directive (PSD2) in its provisions concerning payments for electric and hydrogen vehicles. It requires 'at least one of the following': 'payment card readers' or 'devices with a contactless functionality that is at least able to read payment cards'. These two are contradictory or overlapping descriptions.*

*The Electronic Identification, Authentication and Trust Services (eIDAS 2.0) Regulation does not make it clear for merchants if acceptance of the EU Digital Identity Wallet (EUDIW) is mandatory as a way to perform Strong Customer Authentication (SCA) as required in second Payment Services Directive (PSD2) for payment transactions. SCA means that at least two different factors must be used to authenticate a payment: something you are (e.g. biometrics), something you have (e.g. a card) and something you know (e.g. a PIN).*

It should also consider how legislation may inadvertently negatively affect incentives or practical problems. For example, what are the consequences for retail and wholesale that may be ordering products 1.5–2 years in advance, or who need to be able to sell unsold products in the next sales season.

#### **Example:**

*The Ecodesign for Sustainable Products (ESPR) Regulation<sup>[1]</sup> mandated that economic operators store back-up copies of the Digital Product Passport (DPP) with external DPP service providers, which might lead to increased costs and duplication of information. Clarification is needed on the volume and type of data to be stored, the frequency of updates, and who is responsible for carrying them out—particularly for circular products or DPPs serialised on item level—to avoid operational burdens and environmental cost associated with storage of large amounts of data.*

#### *16. Use the opportunities provided to gather feedback*

Many associations hold events and panel discussions. These events are frequented by the members of the association, so provide an opportunity to raise questions and improve understanding. Often, Commission representatives are only able to remain for keynote speeches or cancel attendance at the last minute. This means many miss out on the rich discussions that is an efficient way to gather feedback, understand how a sector may be affected by an initiative or to test ideas. It also, enables practical questions to be asked of those that will need to implement the legislation or will be involved with national transposition.

A stronger commitment to engagement with stakeholders at these events, or inclusion of a requirement to attend a certain number of stakeholder events on a topic could be introduced as requirement of the consultation strategy. The same should apply to store visits, which give the possibility to engage with the experts.

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<sup>39</sup> [joint-business-statement-grandfathering-clause-ecgt-final.pdf](#)

<sup>[1]</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1781&qid=1719580391746>

## Annex – Better Regulation Checklist

**Delivering high impact, high quality, low-cost legislation.**

**Practicability:** Map the practical consequences of legislation in advance examining what processes and practical steps that businesses need to take to comply with. Involve the public authorities as well as the cities and other regional and local actors, who will need to be involved in implementation from the start.

**Lessons to learn:**

- Several guidelines will need to be adopted under the **Artificial Intelligence Act**<sup>40</sup>. Some of them are also expected to provide clarity on provisions that will likely start being applicable in the upcoming six months (i.e. the one on the definition and the one on prohibited practice). Essential work will also need to be done on the guidelines providing concrete examples on high-risk AI systems. Providers and deployers of AI may be discouraged to invest in AI and other technologies if they do not know in advance what are the obligations they will have to comply with. This really risks hampering innovation and competition in the single market. Despite this and ahead of the guidelines, the Commission has announced in the mission letter<sup>41</sup> to Commissioner Designate Roxana Mînzatu **an initiative on algorithmic management in the workplace**. This implies there is a legal gap that is not covered by the AI Act or the GDPR before concrete examples are developed.
- The logical and proportionate division of responsibilities among economic operators has been ignored in **the Deforestation Regulation**<sup>42</sup>, **Construction Products and Cyber Resilience Act**.<sup>43</sup> Making the distribution sector responsible when it is not in control of production, design or standards of products that it distributes, and does not first place it on the market, gives responsibilities that is outside the sphere of influence of the sector can take on. Responsibilities should be assigned in line with commonly applied and generally accepted division between producers, manufacturers and importers in EU product law as set down in General Product Safety rules. This similarly applies when responsibility is given to police the supply chain to distributors, when this should be the role of enforcement authorities.
- The **Corporate Sustainability Due Diligence Directive**<sup>44</sup> requires companies to set up a system to identify social and environmental impacts along their supply chain. As SMEs indirectly fall within its scope, they will need to check whether the supplier of a supplier is in breach of the requirements of the Directive, including compliance with 23 international human rights and environmental conventions. This needs to be done at the request of the larger business partner/distributor who is within scope of the Directive, with civil liability attached to non-compliance.<sup>45</sup>

<sup>40</sup> Excellence and trust in artificial intelligence - European Commission (europa.eu)

<sup>41</sup> See: *mission letter*

<sup>42</sup> Note: This reflects the position in November 2024, so before the recent revision of the rules.

<sup>43</sup> A joint letter was sent from EuroCommerce to Commissioner Breton together with other associations on responsibilities in November 2022.

<sup>44</sup> Directive - EU - 2024/1760 - EN - EUR-Lex (europa.eu)

<sup>45</sup> Note: This reflects the position in November 2024 and is a matter addressed by the recent Omnibus.

- *Not receiving important tools from the Commission in time, such as the information system and the application interface application, as well as lacking essential guidance and clarifications necessary for businesses to comply with the **Deforestation Regulation (EUDR (EU Deforestation Regulation))**<sup>46</sup> made it very difficult to meet the application date at the end of 2024 and resulted in an a proposed amendment for an extension of the transition period by one year.<sup>47</sup>*
- *Pursuant to the new **Ecodesign for Sustainable Products Regulation (ESPR)**<sup>48</sup> a number of delegated acts will be adopted, establishing mandatory ecodesign requirements for products to be able to enter the EU market. The development of these delegated acts will be key – consultations to the **new Ecodesign** Forum and collaboration with the stakeholders therein will be crucial to develop scalable, feasible, impactful and efficient ecodesign requirements.*
- *The **Energy Performance of Buildings Directive**<sup>49</sup> introduces requirements for charging stations, pre-cabling and solar on buildings that also need to match with local conditions, including planning, mobility plans and structural and technical feasibility when introduced to existing buildings (e.g. underground car parks depending on load bearing capacity).*
- *The Commission adopted **restrictions on microplastics**<sup>50</sup> on 25 September 2023, which include an implicit ban on loose glitter. The measure entered into force 20 days later (i.e. 17 October 2023). However, the definition of glitter and what is banned was unclear. Despite the promise made by the Commission to provide guidance (initially expected by the end of 2023), the document was still awaited in October 2024<sup>51</sup>.*
- *Pictograms and markings required for the **Single Use Plastics Directive**<sup>52</sup> were provided after the deadline in the legislation. This made adjustments in the supply chain harder and more complicated as economic operators waited for the correct specifications.*
- *The lack of impact assessment on **Article 6a of the Price Indication Directive**<sup>53</sup> meant the large variety of marketing practices across the EU were not considered, creating legal uncertainty among businesses.*

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<sup>46</sup> [Regulation on Deforestation-free products - European Commission \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1781&qid=1719580391746)

<sup>47</sup> Note since publication, the following update more accurately sets out the state of play (additions shown underlined): *Not receiving important tools from the Commission in time, such as the information system and the application interface application, as well as lacking essential stress testing guidance and clarifications necessary for businesses to comply with the **Deforestation Regulation (EUDR (EU Deforestation Regulation))**<sup>47</sup> made it very difficult to have legal certainty on how to ensure compliance and meet the application date at the end of 2024 and resulted in a second extension of the transition period now set at the end of 2026.*

<sup>48</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1781&qid=1719580391746>

<sup>49</sup> [Directive - EU - 2024/1275 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1781&qid=1719580391746)

<sup>50</sup> [Commission Regulation \(EU\) 2023/... of 25 September 2023 amending Annex XVII to Regulation \(EC\) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals \(REACH\) as regards synthetic polymer microparticles \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1781&qid=1719580391746)

<sup>51</sup> Note since publication of the Better Regulation Checklist, Even with the guidance published, the restriction remains a very complicated text that is hard to interpret, and doubt remains over borderline cases. Lastly, restriction introduces complex and burdensome reporting requirements, which is a trend to be avoided following chemicals restrictions

<sup>52</sup> [Single-use plastics - European Commission \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1781&qid=1719580391746)

<sup>53</sup> [Price indication directive - European Commission \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1781&qid=1719580391746)



- Several delegated acts and guidance will need to complement the **Packaging and Packaging Waste Regulation**. Some of them will be technical requirements that require close collaboration with the businesses.

**1. Workability:** Involve the companies and public authorities that will be affected by measures/controls/certification/monitoring to find out how, when and where the requirements need to be managed and enable them to plan the resources they need. Engage companies and public authorities in understanding how reporting will work in practice, developing single reporting tools as needed, working with them if new obligations arise in the legislative negotiations and ensuring public authorities have the infrastructure in place.

### **Lessons to learn:**

- The transitional phase of the EU **Carbon Border Adjustment Mechanism (CBAM)**<sup>54</sup>, which started on 1 October 2023, requires companies importing iron and steel, aluminium, cement, fertilisers and energy from most countries to extensive reporting obligations and data gathering. Traders, and as such the voice of importers, are excluded from being part of the EU CBAM Expert Group which has been exclusively created for EU producers irrespective that importers need to comply with CBAM. The possibility of using default values to calculate CO<sub>2</sub>-emissions has been widely abolished since 1 July 2024 also exacerbates the situation.
- An upcoming set of amendments to the **Common Market Organisation Regulation** was announced by the European Commission following weeks of protests by farmers in a 'non-paper' (i.e. a non-public letter) to the European Council. The proposals have so far been subject to no open public consultations among stakeholders.
- The **CESOP legislation tackling VAT fraud in ecommerce**<sup>55</sup> requires payment service providers to store 7 years of data for cross-border e-commerce transactions if done more than 25 times a month with the same counterparty. This reporting/data storage requirement will have a high cost for payment service providers to comply with, which they will eventually charge to their customers, the merchants such as retailers and wholesalers.
- The **Ecodesign for Sustainable Products Regulation (ESPR)**<sup>56</sup> introduces a **ban on the destruction of unsold goods, specifically apparel and footwear**, as well as an obligation on economic operators to disclose information on discarded unsold consumer goods. The first disclosure is expected to cover unsold goods during the first full financial year after the ESPR comes into effect (year 2025). However, secondary legislation on the reporting obligations will not come until 12 months after the entry into force of the ESPR. Companies need clear reporting rules that lay down adequate timelines and clarify reporting format and a standardised methodology.
- The ongoing revision of the **Waste Framework Directive** introduces an **extended producer responsibility (EPR)** scheme. Being a Directive, companies will face the rules being phased in through 27 different EPR schemes with different reporting obligations, requirements, scope. To be able to develop the needed European secondary raw materials market and to avoid distorting the Single Market, more harmonisation and interoperability are urgently needed.

<sup>54</sup> [https://taxation-customs.ec.europa.eu/document/download/c4b208a6-3945-4dcd-84d3-5f9551578851\\_en](https://taxation-customs.ec.europa.eu/document/download/c4b208a6-3945-4dcd-84d3-5f9551578851_en)

<sup>55</sup> [Tackling VAT fraud in e-commerce - CESOP - European Commission \(europa.eu\)](https://taxation-customs.ec.europa.eu/document/download/c4b208a6-3945-4dcd-84d3-5f9551578851_en)

<sup>56</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1781&qid=1719580391746>



- The **Market Transparency Regulation** has been amended to reduce the frequency retail data is provided from weekly to monthly for some products because the collection of retail buying prices was found to be too difficult.<sup>57</sup> While this reduction in reporting requirements is welcomed, there are other problems with the data collection. In particular, there is an underuse of the data by some Member States leading to the Commission searching for ways to encourage use of the data that companies are mandated to report.
- In the Netherlands, **rules for organic products**<sup>58</sup> require providers to maintain detailed records such as packaging slips, certificates and separate bookkeeping. They must also take extensive measures to stop organic products being mixed with other products that ironically encourage the use of more plastic packaging. This is a deterrent and comes at an annual cost of €5,000 to €15,000 per company, on top of the one-off costs for the first certification (c. €4,000).

2. **Capability:** Involve the companies that will be affected by targets to find out how feasible they are to reach, how long they will take and what are the consequences - not leaving this to a political decision.

#### **Lessons to learn:**

- It is assumed that existing acceptance infrastructure will be used to roll out the **Digital Euro**<sup>59</sup> and **European digital identity wallet (EUIDW)**<sup>60</sup>. However, merchants including retailers and wholesalers need to be consulted to ensure that this will work in practice. The current payment terminal landscape is centred around card-based payments using the EMV standard from Mastercard and Visa. Only very modern terminals (Android based) could have a separate digital identity or digital euro applications in addition to normal card based payments. The same applies when you consider how transactions will flow from stores to the back-end of Payments Service Providers.
- **Food waste legislation**<sup>61</sup> imposed a reduction target for retail and wholesale that is combined with consumers. This is irrespective of the fact that retail and wholesale contribute less than 7% and has no control over consumers' behaviour. At best it can only encourage consumers. This misses what would be more effective, such as removing VAT on donations that could create the right incentives and achieve results.
- The **Packaging and Packaging Waste Regulation** introduces obligations related to reuse of packaging and restrictions for certain packaging formats. On reuse a provision on refill stations was added during the legislative process without an impact assessment. The regulation should support our members in their efforts and refrain from forcing businesses to use a specific reuse format such as refill at the store level, while other initiatives and innovations might be more appropriate to reach the stated objectives of more sustainable packaging. For the bans, further input from retailers and wholesalers is needed, as the restrictions come with conditions and exemptions that need to be clear and implementable to ensure that unintended effects like increased food waste and spoilage is prevented.

<sup>57</sup>[https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14082-Agricultural-markets-obligation-to-notify-information-on-prices-and-other-data-adjustments-\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14082-Agricultural-markets-obligation-to-notify-information-on-prices-and-other-data-adjustments-_en).

<sup>58</sup> [Door Skal ingerichte Certificeringsplicht biologische producten onwerkbaar en kostbaar | Vakcentrum](#)

<sup>59</sup> [Digital euro - European Commission \(europa.eu\)](#)

<sup>60</sup> [EU Digital Identity Wallet Home - EU Digital Identity Wallet - \(europa.eu\)](#)

<sup>61</sup> [EU actions against food waste - European Commission \(europa.eu\)](#)

- *The consequences of hard stops can lead to unnecessary stock destructions or market disruptions, which except in high-risk cases (e.g. acute risk to health), could be better dealt with permission to allow products already on the market to be sold until stock is depleted.*

**3. Indirect effect:** Map consequences for those the rules are intended to affect, but also go a step further to examine how their practical application will indirectly affect other companies and their operations (e.g. considering what information is necessary, the interaction with the supply chain, etc.).

#### **Lessons to learn:**

- *The inclusion of low value gift cards in the **Anti-Money Laundering Directive**<sup>62</sup> deterred those that wished to offer these as an enticement to consumers – with no bearing on the overall goal of the legislation.*
- *Initiatives announced in speeches e.g. the **Forced Labour proposal**<sup>63</sup>, sets an unrealistic timetable for proper assessment of the indirect consequences before a proposal, especially where no impact assessment accompanies the measure.*
- *The strict payment terms imposed by the **proposal for a Regulation to combat late payments** missed the financial cost (estimated to be €2 trillion for the whole economy) and the consequences of that financial gap. This blind spot undermined the viability of SME retailers, the value proposition of wholesalers who were willingly offering supply chain credit and created market entry barriers. It also strengthened the position of large suppliers and online intermediation (particularly those of non-EU origin).<sup>64</sup>*
- *A **complete or partial surcharging ban for payments**<sup>65</sup> has the indirect effect that it reduces competition and increases consumer prices and, in the end, makes the most expensive payment methods stronger.*

**4. Competitiveness check:** Map consequences for those the rules will affect vis-à-vis relative competitiveness within the Single Market, and with third countries. This requires a big-on-big, small-on-small approach and better coordination between Commission services.

#### **Lessons to learn**

- *The **EU Strategy for Sustainable and Circular Textiles**<sup>66</sup> contained 24 measures aiming to create a greener, more competitive sector is spread across multiple initiatives. The sustainability-related and social aspects of the textile sector are addressed in complex horizontal regulatory proposals including the Corporate Sustainability Due Diligence Directive (CSDDD) and the Ecodesign for*

<sup>62</sup> [Anti-money laundering and countering the financing of terrorism at EU level - European Commission \(europa.eu\)](https://ec.europa.eu/anti-money-laundering/)

<sup>63</sup> [Retail and Wholesale committed to making forced labour history, but needs consistent EU rules - EuroCommerce](https://ec.europa.eu/eurocommerce/forced-labour/)

<sup>64</sup> [Late Payments - EuroCommerce](https://ec.europa.eu/eurocommerce/late-payments/)

<sup>65</sup> [Surcharging will benefit consumers - EuroCommerce](https://ec.europa.eu/eurocommerce/surcharging/)

<sup>66</sup> [https://environment.ec.europa.eu/publications/textiles-strategy\\_en](https://environment.ec.europa.eu/publications/textiles-strategy_en)

*Sustainable Products Regulation (ESPR), which introduces the Digital Product Passport to digitalise product information. The Empowering Consumers Directive and the Directive on Green Claims<sup>67</sup> will soon regulate the communication of voluntary sustainability claims, while the revised Waste Framework Directive will address the basic concepts related to end-of-life management.*

- *The **Farm to Fork Strategy**<sup>68</sup> contained 27 measures. Some legislation did not even make it through the mandate such as sustainable foods framework law, food information and animal welfare. If the strategy is over-ambitious for the law makers to develop, it will be over-ambitious for the companies to implement. On the other hand, it also encourages Member States to take action themselves. This fragments the Single Market and can in fact undermine it, like the Romanian ban on Nutri-Score.<sup>69</sup>*
- *In the proposal on **promoting repair and reuse of products**<sup>70</sup> new obligations are introduced for sellers and manufacturers, but many products are produced outside the EU. Consumers can directly import products and the initiative leaves an open question on what happens when there is no EU producer and there are no spare parts, repair manuals or responsible operators. This lack of achievable enforcement is likely to make compliant products more expensive than non-compliant products and can encourage purchase of non-reparable products by consumers based on price. Enforceability of new rules on all businesses targeting consumers in the EU is critical to ensure a level playing field.*
- *The announcement of **new cross-border enforcement rules** prior to the completion of the evaluation of the **Unfair Trading Practices in the Food Supply Chain Directive**, risks undermining the rules on choice of law and court, and private international law, by creating special rules for cross-border enforcement for the food supply chain. Extra-territorial effect of laws that effectively prohibit international retail alliances and the renationalisation of sourcing (where a complaint is pending), undermines the competitiveness of retailers and wholesalers, reducing the benefits of scale and pressure that the EU itself has enjoyed through its joint purchasing of gas and vaccines vis -à-vis negotiations with international multi-national suppliers.<sup>71</sup>*

**5. Retain flexibility where possible:** Avoid too strict rules that are difficult to implement and disproportionately costly, by leaving space for flexibility on how and not being too prescriptive. Focus on final results rather than specific ways to achieve them and preserve a technologically neutral approach to regulation.

### **Lessons to learn**

- *The **mandatory acceptance of cash**<sup>72</sup> is not future proof nor offers flexibility for Member States to cater for local circumstances or preferences. It means that payments that are already digital or automatic will need to accept cash in the future. This also will come at a time when banks are reducing access to cash and the number of ATMs are in decline.*

<sup>67</sup> Note: now no longer relevant.

<sup>68</sup> [Farm to Fork Strategy - European Commission \(europa.eu\)](https://european-council.europa.eu/media/120000/attachment/data/120000/1/20201114_Farm_to_Fork_Strategy.pdf)

<sup>69</sup> Since publication of the Better Regulation Checklist, other examples include the adoption of additional national origin-labelling measures, national measures on allergen-related requirement, different environmental footprint labels and date-marking rules.

<sup>70</sup> [Making repair the most attractive option for consumers and retailers \(eurocommerce.eu\)](https://ec.europa.eu/eurocommerce/eurocommerce_en/making-repair-the-most-attractive-option-for-consumers-and-retailers)

<sup>71</sup> See - [Retail and wholesale in the agri-food supply chain - EuroCommerce](https://ec.europa.eu/eurocommerce/eurocommerce_en/retail-and-wholesale-in-the-agri-food-supply-chain) and [Unfair trading practices: focus on facts, not haste! - EuroCommerce](https://ec.europa.eu/eurocommerce/eurocommerce_en/unfair-trading-practices-focus-on-facts-not-haste)

<sup>72</sup> [For retailers 'cash' is not always 'king' - EuroCommerce](https://ec.europa.eu/eurocommerce/eurocommerce_en/for-retailers-cash-is-not-always-king)

- The **Energy Efficiency of Buildings Directive**<sup>73</sup> requires retailers to invest in charging stations for e-vehicles for a substantive share of their car parks. One country has extended the obligation to install solar panels on car parks. These investments remove the flexibility of retailers and ignores the fact that there can be a business case in investing in charging stations or solar panels, which before it became law could also be supported by public finances or incentives. Where Member States choose to accelerate compliance with earlier deadlines, this causes logistical, infrastructure and cost problems. In Spain for example, the transposition of the Directive<sup>74</sup> meant Spanish retail companies had to introduce 20,000 electric vehicle charging points in less than 8 months.
- The **Urban Waste Water Treatment Directive**<sup>75</sup> introduces extended producer responsibility. The producers of pharmaceuticals and cosmetics are required to contribute to the cost of treatment, and extended producer responsibility applies to pharmaceutical distributors if they place products on the market of a Member State for the first time, even if the product had already been placed on the market in another Member State. In smaller Member States (e.g. Estonia) the burden of producer responsibility falls onto a few actors in the market, creating an unreasonable financial burden, and gives no flexibility to Member States to consider national specificities that could share the burden with other downstream actors. Such discretion would meet the objectives of the polluter pays principle but without unintended consequences for the availability, affordability and accessibility of critical medicines.

**6. Focus inspection at the right level:** If requirements are met by those at the beginning of the chain, they should be the focus of checks and inspections to relieve the pressure further down the chain. Responsibilities should be given to the person best placed or who is in control, with consistent legal definitions used.

### **Lessons to learn**

- In the proposal for **Empowering Consumers for the Green Transition**<sup>76</sup> and for dual quality products under the **Unfair Commercial Practices Directive**<sup>77</sup>, the responsibilities on economic operators are not clear. Retailers are covered by the concept of trader, which is the economic operator that sells directly to a consumer. However, this could also be a producer (in the role of a retailer) or other service providers like booking, rental and gaming websites. In this sense, a pure retailer is dependent on the producer to ensure a product is compliant and all the relevant information is correct, and responsibilities should be distributed accordingly.
- The **proposal on promoting repair and reuse** borrows elements from the product law hierarchy<sup>78</sup> but places producer obligations on distributors, by copying the definition of producer of the **Ecodesign for Sustainable Products Regulation (product law)**. This is irrespective of the fact that the purpose of promoting repair and reuse is not for competent authorities to identify the responsible operator on the Union market, but for the consumer to know who should provide repair. These mismatches undermine, for example, the purpose of e.g. **the Market Surveillance and**

<sup>73</sup> [Directive - EU - 2024/1275 - EN - EUR-Lex \(europa.eu\)](#)

<sup>74</sup> Spanish Royal Degree 29/2021 of 21 December 2021.

<sup>75</sup> [Carriages preview | Legislative Train Schedule \(europa.eu\)](#)

<sup>76</sup> [Directive - EU - 2024/825 - EN - EUR-Lex \(europa.eu\)](#)

<sup>77</sup> [Directive - 2019/2161 - EN - omnibus directive - EUR-Lex \(europa.eu\)](#)

<sup>78</sup> In EU product law, the hierarchy of economic operators includes the producer, the authorised representative, the importer, the fulfilment service provider and the distributor (i.e. retailer and wholesaler). In EU product law, the producer has the ultimate responsibility to ensure a product placed on the EU market is safe, the distributor is for instance obliged to make sure all the mandatory information is attached to the product but is not responsible for its veracity.

**Compliance of Products Regulation**<sup>79</sup> that aimed to streamline obligations so economic operators did not have to check over 30 pieces of EU product law to understand what their obligations were.

- 7. Avoid duplication:** Map the practical implications of compliance and apply a once-only principle, so obligations only fall on one party to meet the objective and unnecessary duplication (e.g. more registrations) is avoided. Data that is already available to the EU should not be collected a second time. Work in harmony with what already exists, to avoid wide divergences in approach, and have at the forefront of mind simplification (e.g. through one-stop shops, the once only principle and development of tools to enable a single report (a single input/single reporting tool) to be used for all legally required purposes or that helps businesses find requirements and submit their responses<sup>80</sup>).

### Lessons learned

- According to the **EU Deforestation Regulation**<sup>81</sup>, non-SME traders need to submit due diligence statements which refer to the due diligence statements previously uploaded by the operator. This creates unnecessary duplication<sup>82</sup>
- An Implementing Act will define the harmonised labels and specifications relating to Article 11 of the **Packaging and Packaging Waste Regulation**. Where Member States act faster, for example in Spain where Spanish Royal Decree 1055/2022 will enter into force in January 2025 ahead of the EU mandatory requirements, could result in businesses duplicating or wasting efforts to comply if the requirements differ. The same result will occur as the Regulation permits Member States to go beyond the minimum harmonisation, leading to fragmentation of the Single Market made worse by goldplating that results in a maze of national requirements.
- The **Textile Labelling Regulation (TLR)**<sup>83</sup> is currently undergoing a review – this is a technical legislation to provide information on fibers composition. However, the Commission is considering introducing new labelling domains beyond the technical scope of the TLR and that are or will be addressed under other EU initiatives. **Regulatory coherence** is crucial to ensure a well-functioning policy framework, remove trade barriers and facilitate implementation by economic operators, especially avoiding duplication of obligations.

<sup>79</sup> [Regulation - 2019/1020 - EN - EUR-Lex \(europa.eu\)](#)

<sup>80</sup> Similar to tools provided for non-EU businesses wishing to import products into the EU (e.g. [Help for My Trade Assistant | Access2Markets](#)).

<sup>81</sup> [Regulation - 2023/1115 - EN - EUR-Lex \(europa.eu\)](#)

<sup>82</sup> Since publication of the Better Regulation Checklist, the following addition should be noted: “which has been recognised by the Commission leading to a targeted amendment, amending the obligations for operators and traders Regulation (EU) 2025/2650 of the European Parliament and of the Council of 19 December 2025 amending Regulation (EU) 2023/1115 as regards certain obligations of operators and traders”

<sup>83</sup> [Regulation \(EU\) 1007/2011 - European Commission \(europa.eu\)](#)