

APCO SUMMARY NOTE ON THE SUSTAINABLE PRODUCTS INITIATIVE

EXECUTIVE SUMMARY

On 30 March 2022, the European Commission adopted its long-awaited Sustainable Products Initiative (SPI), announced in December 2019 under the umbrella of the European Green Deal. The SPI package of proposals, initially expected to be published in Q4 2021, will likely lead to robust and long-running debates, considering that European policymakers have set high expectations for the concept and that the implementation of the proposal (through delegated acts) will impact a wide array of product groups.

During the [press conference](#), Executive Vice-President for the European Green Deal Frans Timmermans said: *“It’s time to end the model of ‘take, make, break, and throw away’ that is so harmful to our planet, our health and our economy. Today’s proposals will ensure that only the most sustainable products are sold in Europe. They allow consumers to save energy, repair and not replace broken products, and make smart environmental choices when they are shopping for new ones. This is how we bring balance back in our relationship with nature and reduce our vulnerability to disruptions in global supply chains.”*

The package adopted by the college of Commissioners consists of legislative proposals and non-binding documents, including:

- [Communication on making sustainable products the norm](#)
- [Proposal for Ecodesign for Sustainable Products Regulation \(ESPR\)](#)
- [Ecodesign and Energy Labelling Working Plan 2022-2024](#)
- [Communication for a EU strategy for sustainable and circular textiles](#)
- [Proposal for a Directive on empowering consumers for the green transition](#)
- [Proposal on the revision of the Construction Products Regulation](#)

This note focuses on the **key legislative proposal** (‘Ecodesign for Sustainable Products Regulation’ or ESPR), which aims **to reduce the negative life cycle environmental impacts of a wide range of products and product groups**. It sets out a general framework for setting eco-design requirements based on the sustainability and circularity aspects listed in the Circular Economy Action Plan, such as product durability, reusability, upgradability and reparability. It will also establish EU digital product passports and offer the possibility to prohibit the destruction of unsold consumer products.

The set-up of the new Regulation is similar to the existing Ecodesign Directive but broadens its scope; the existing Directive will be repealed by the new Regulation. Much like the Ecodesign Directive, the Regulation sets out a framework of general rules and sustainability principles, which are then implemented through delegated acts covering specific product groups.¹

The other adopted documents include:

- A [Strategy for Sustainable and Circular Textiles](#), which sets out the vision and concrete actions to ensure that by 2030 textile products placed on the EU market are long-lived and recyclable, made as much as possible of recycled fibres, free of hazardous substances and produced in respect of social rights and the environment. The Strategy also announces a mandatory EU extended producer responsibility scheme for textiles.
- The [proposal to revise the Construction Products Regulation](#) will lead to a new harmonised framework to assess and communicate the environmental and climate performance of construction products. It will also set new product requirements based on the ESPR to ensure that products are more durable, repairable, recyclable, and easier to re-manufacture.

¹ E.g. under the Ecodesign Directive, [individual delegated acts](#) were adopted for refrigerators; dishwashers; light sources; electronic displays.

- A [proposal to amend the Consumer Rights Directive](#) to empower consumers in the green transition. The Commission [announces](#) new rules to oblige companies to provide consumers with information on product durability and reparability, as well as amendments to the Unfair Commercial Practices Directive in order to tackle misleading environmental claims (greenwashing).

INITIAL RECOMMENDATIONS

Based on preliminary assessment of the legislative proposal, annexes and accompanying documents, the ESPR should be expected to have a substantial impact on a wide variety of products and affect an equally wide array of stakeholders such as producers, consumers, and the organisations that represent them. Initial recommendations for companies that manufacture or place products on the EU market:

Producers of energy-related products that were already covered by requirements under the Ecodesign Directive and Energy-Labeling Regulation should consider focusing on the procedures establishing additional ecodesign requirements for their products (i.e. performance requirements, material efficiency requirements and information requirements) in order to obtain a workable outcome.

Producers of products that are currently not affected by EU rules for ecodesign and energy-labelling should consider focusing primarily on obtaining a favourable outcome of the procedure that will determine which product categories will be included in the upcoming Commission working plans under the ESPR. A public consultation will be launched by the end of 2022.

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1. MAIN PROVISIONS

In essence, the Regulation (ESPR) lays down a framework for setting ecodesign requirements based on sustainability and circularity aspects. It also creates a framework to address the destruction of unsold consumer products, including an initial obligation of transparency and disclosure for companies on the destruction of unsold consumer goods, and provides EU decision-makers the possibility to implement a prohibition on such destruction of goods. A third key part of the proposal is the establishment of information requirements for products to be implemented through a digital product passport.

1.1 Products in scope

The European Commission will define the exact products and product groups to be covered by delegated acts in 3-year working plans, as well as the aspects for which it intends to adopt delegated acts of horizontal application. It plans to review 33 existing regulatory measures between 2022 and 2026 and adopt five new regulations in 2022 and 2023 under current ecodesign rules, as well as adopt 18 new delegated acts between 2024 and 2027 for new product groups. The Commission expects to employ 54 full-time workers on the new ecodesign rules, more than tripling the number of staffers currently dealing with the repealed legislation.

Products covered by existing measures

According to existing working plans (adopted under the soon-to-be-repealed Ecodesign Directive), the Commission plans to carry out reviews of 38 existing product-specific measures in 2024, and another 8 by 2025, that were previously adopted under the Ecodesign Directive.

As it carries out these reviews, the Commission will already start exploring the introduction of new product-specific requirements on material efficiency aspects, even before the new Regulation enters into force. The reviews will concern products for heating and cooling; product groups with energy labels such as tumble driers and vacuum cleaners; and other reviews such as tyres, computers, and certain household appliances (for more information, see page 13 of the [Staff Working Document](#) accompanying the 2022–2024 Working Plan, p. 13, “Overview of existing EU ecodesign, energy labelling and tyre labelling measures”).

Products covered by new measures initiated under previous working plans

- **Mobile phones and tablets:** Ecodesign requirements including requirements for energy efficiency and material efficiency (durability, reparability, upgradability and recycling aspects), including an energy labelling scheme, which may include a repair score.² Before the end of 2022.
- **Solar photovoltaic modules, inverters and systems:** including possible requirements on carbon footprint.
- **Imaging equipment:** The Commission will launch the preparation of regulatory measures for this product group.
- **ICT products:** Preparatory work is ongoing, including a study on the performance and potential savings, and a review of overall energy consumption of ICT products and of material efficiency and behavioural aspects to identify if and where to regulate them as efficiently as possible.

Indicative list of new energy-related product groups to be studied

² The Commission is exploring the potential of introducing a repair score system based on the standard on the ability to repair, reuse and upgrade (EN 45554) for relevant products, possibly as information on the energy label for specific products such as smart phones and tablets.

The Commission has identified a list of 31 candidates for further work (including products already studied in the past but not regulated so far). The Commission plans initiating exploratory studies to assess possible new measures for the following 5 product groups from the list initial 31 candidates:

- Low temperature emitters (e.g. radiators)
- Professional laundry appliances
- Professional dishwashers
- Universal External Power Supplies (EPS)
- Electric vehicle chargers

Additional product groups covered under the ESPR

For products where there is no specific EU law setting mandatory requirements on environmental sustainability, such as textiles and footwear, the ESPR will be used to set EU rules. While it is certain that the ESPR covers the energy-related product groups in the sections above (given that they were already covered under EU policies for ecodesign and energy-labelling), unclarity remains regarding additional product groups (that are not energy-related), until the Commission adopts its first **Ecodesign for Sustainable Products Regulation working plan**, detailed in the [Communication on making sustainable products the norm](#).

Ecodesign requirements for these additional product groups may be set by delegated acts announced in the Commission's upcoming ESPR working plans, or addressed in the relevant (existing) product-specific legislation. These product groups include:

- Textiles and footwear (see 'EU Strategy for Sustainable and Circular Textiles')
- Construction products (under the revised Construction Products Regulation)
- Batteries (ecodesign requirements to be set primarily under the Batteries regulation)
- Packaging (primarily under the Packaging and Packaging Waste Directive but may be addressed in product-specific ESPR rules)
- Chemicals (the ESPR can restrict the presence of chemicals in products for reasons linked to improving the product's environmental performance along its life cycle)
- Furniture, mattresses and tyres
- Detergents, paints and lubrications
- Iron, steel and aluminium

Interaction with existing product-specific regulation

The proposal's explanatory memorandum highlights that the Regulation will set requirements where existing legislation does not, or where it insufficiently addresses sustainability aspects. The proposal's recital further indicates that the Commission may set out new performance requirements for product groups that are covered by product-specific legislation. According to the example provided in the proposal, while essential requirements for packaging waste are already covered by Directive 94/62/EC³, performance requirements for product groups may complement them in relation to *packaging associated with products*, to further minimise the amount of packaging used and prevent waste generation.

3 European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

1.2 Ecodesign requirements

The Commission will define ecodesign requirements in subsequent delegated acts per product group or range of product groups. The Regulation's definition of products also includes intermediate products.

Products covered by a delegated act **can only be placed on the market or put into service if compliant** with the ecodesign requirements set out in the corresponding legislation. These requirements include both **performance requirements** and **information requirements**.

Performance requirements

In preparing a delegated act, the Commission will, with consideration of all stages of a product's lifecycle and by carrying out impact assessments, evaluate the possibility to set ecodesign requirements on the following aspects:

1. product durability and reliability; reusability; upgradability; reparability;
2. ease of maintenance and refurbishment of products
3. the presence of substances of concern in products;
4. product energy and resource efficiency;
5. ease of remanufacturing and recycling of products, including high-quality recycling;
6. ease of recovery of materials or energy from products;
7. environmental impacts of products, including their carbon and environmental footprints;
8. expected generation of waste materials of products, including packaging and its ease of re-use

In addition, the Commission's [2022–2024 Working Plan](#) indicates that the Commission will also assess the possibility of establishing more product-specific requirements on the following aspects:

9. Recycled content
10. Durability, firmware and software
11. Scarce, environmentally relevant and critical raw materials

The performance requirements for products are to be based on a wide variety of parameters set out in the [Annex I to the Regulation](#). The requirements could include minimum/maximum levels as well as non-quantitative requirements.

The requirements in the delegated acts are to account for the impact on functionality; health and safety; affordability; SMEs; administrative burden.

The delegated acts may require supply chain actors to provide information related to their suppliers where relevant for compliance with the ecodesign requirements. They may also enable authorities to verify the correctness of information related to their activities relevant for compliance.

Information requirements

The delegated acts will lay down ecodesign-related **information requirements** that cover the same product sustainability aspects as listed above (under 'performance requirements', e.g. product durability, reusability, reparability...).

These information requirements may require products to be accompanied by information on the performance of the product in relation to parameters referred to in [Annex I](#), as well as information for consumers on installation, use, repairs, and disposal.

The delegated acts will stipulate how the required information should be made available, such as by displaying it directly on the product, its packaging, or on a label; on a website or mobile app; or in the product passport.

1.3 EU digital product passport

Products covered by delegated acts can only be placed on the market or put into service if a product passport is available. These product passports should improve traceability, facilitate verification of compliance, and inform actors along the value chain (including consumers and economic operators). The delegated acts will further specify relevant aspects related to the information (access, type of data, layout, etc.). The delegated acts may exempt product groups of the required product passport.

The legislative proposal stipulates certain requirements for product passports, such as the inclusion of a physical data carrier (e.g. barcode) and formatting requirements. The applicable delegated acts will define the specific access rights at product group level. Economic operators will be required to provide dealers with a digital copy of the data carrier to make it accessible to customers if the product is not physically accessible (e.g. distance sales).

Labels

Delegated acts for product groups may require specific information to be made available on a label (e.g. on the product or its packaging, in digital format or displayed online).

2. SECONDARY PROVISIONS

2.1 Compliance and obligations of economic operators

Manufacturers

Before placing products on the market, manufacturers are required to ensure that they have been designed and manufactured in accordance with the requirements set out in the applicable delegated acts, and that they are accompanied by the required information and product passport. Additional requirements (such as on conformity assessments) can be found directly in the proposal.

Testing, measurement and calculation methods

For the purposes of compliance (and verification thereof) with ecodesign requirements, the proposal sets out that tests, measurements and calculations should use state-of-the-art methods that are reliable and reproducible. These methods may be specified in the relevant delegated acts.

Member States will designate a notifying authority that will be responsible for setting up and carrying out the procedures for the assessment and notification of conformity assessment bodies.

Member States are required to lay down the rules on penalties applicable to infringements of the provisions of the Regulation.

2.2 Prioritisation and planning

To implement the ESPR, the Commission will adopt a working plan, covering at least 3 years, laying down a list of product groups for which it plans to adopt delegated acts as well as the aspects for which it intends to adopt delegated acts of horizontal application.

This working plan will prioritise products based on potential contribution to achieving EU climate, environmental, and energy objectives; the potential for improving product sustainability aspects; volumes of

sales and trade in the EU; and the distribution of environmental impacts and waste generation across the value chain.

By the end of 2022, the Commission will launch a public consultation on the categories of products to be selected under the first Ecodesign for Sustainable Products Regulation working plan.

2.3 Involvement of stakeholders

The Ecodesign Forum

To ensure that the Commission maintains a balanced participation of interested parties, the Commission will establish an expert group that will provide input on its implementation activities. These parties will be able to contribute to defining and reviewing delegated acts (e.g. for product groups), reviewing the effectiveness of market surveillance mechanisms, and assessing any **self-regulation measures**.

While requirements for packaging are covered by the PPWD, performance requirements for products or product groups may complement them in relation to packaging associated with products.

The European Circular Business Hub

The Commission will set up a new European Circular Business Hub to bring different stakeholders together, to identify bottlenecks and to support the uptake of circular business models, channel information and services including awareness raising, cooperation, training and exchanges of best practices.

3. NEXT STEPS

- After its publication and adoption by the European Commission on 30 March 2022, the Regulation will go through the ordinary legislative process; the Council of the EU (the Member States) and the European Parliament will begin to develop their position in the coming weeks and months.
- By the end of 2022, the Commission will launch a public consultation on the categories of products to be selected under the first Ecodesign for Sustainable Products Regulation working plan.
- The Regulation specifies that, within 8 years following the entry into force of the Directive, the Commission will carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the sustainability of products.
- The Directive will enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.