

Ecodesign for Sustainable Products Regulation

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APPLiA's Recommendations on the ESPR Proposal

In light of the EU's proposed Ecodesign for Sustainable Products Regulation (ESPR), APPLiA has put together a number of recommendations towards an effective enactment of the inherent measures. If correctly implemented, the ESPR has the potential to establish a win-win scenario for both the environment and European manufacturers. Designed as a kind of catch-all legislation, it is imperative for the proposal to be fully harmonised with all existing/upcoming EU legislation, with an eye to avoid double or cascading product requirements. This is the case for the proposed requirements related to "substances of concern", among others, where chemicals legislation is already in place. Another example is provided by the proposed Digital Product Passport. Its introduction should ensure bringing an added value to users, avoiding unnecessary and burdensome replications of information in databases already existing, i.e. EPREL and SCIP. In this context, the successful experience of the Ecodesign Directive comes into play, providing a good precedent towards the implementation of legislation on a product group-specific basis by means of a clear methodology assessing relevant, individual aspects across the product's lifecycle. Future regulations within the ESPR establishing ecodesign requirements should identify the most appropriate variables to improve environmental sustainability, while considering that product parameters can be interdependent and affect each other (e.g. repairability can affect reliability etc.). We recommend considering the possibility to assess these parameters not individually, but in combination to ensure optimum contribution to the EU Green Deal objectives. Building on this, a bankable ESPR must ensure the well-functioning of the EU Single Market, in keeping markets open and cross-border trade for products flowing. Here, harmonisation of both requirements and standards is key, given that sufficient lead-time is granted to the industry for process adaptation, between the publication of legislation and the ultimate application of requirements.

Below, a detailed set of recommendations from the home appliance industry:



- 1. A harmonised approach to support the Single Market*
- 2. A consistent approach with other EU legislation & policies*
- 3. Build on the experiences of the Ecodesign instrument*
- 4. Methodologies that are appropriate, fit for purpose and that consider the trade-offs between the different sustainability goals*
- 5. Legislating the most hazardous substances should remain within the current EU legislative framework*
- 6. A relevant, verifiable & enforceable Digital Product Passport*
- 7. Use the Digital Product Passport as a further opportunity to digitalise product information*
- 8. All ESPR requirements must be implemented with sufficient transition times*
- 9. Harmonised standards are the best tool to provide presumption of conformity of products*
- 10. Effective market surveillance & enforcement of ESPR requirements*

1. A harmonised approach to support the Single Market

The move from a Directive to a Regulation for Ecodesign could ensure obligations will be implemented in a more harmonised way across the EU Member States and secure the functioning of the Single Market. This is something we strongly support. The EU Single Market is a key asset for industry and consumers alike. It is critical to implement the ESPR in a way that focuses on keeping markets open and cross-border trade for products flowing. In this respect, we welcome the safeguards foreseen in Article 3 on Free Movement.

It is imperative that technical requirements on products should also be harmonised at EU level. In recent years, we have experienced many different national provisions and mandatory requirements on products that are not aligned to EU requirements. Some key examples are the microplastic filter for washing machines in France & Luxembourg, the Triman sorting logo in France, and other national product packaging requirements in Bulgaria, Italy, and Spain. This lack of harmonisation not only increases the burden on industry but jeopardises EU competitiveness.

2. A consistent approach with other EU legislation & policies

If implemented correctly, the ESPR has the potential to establish a win-win scenario for both the environment and European manufacturers. We fully support the Commission's aim to propose a "clear and harmonised regulatory framework on product environmental sustainability designed to be coherent and aligned with existing and future sectoral legislation and policies and that the ESPR will not come into play where environmental sustainability requirements are already set at a satisfactory level in EU legislation."¹

¹ Introduction of COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS - On making sustainable products the norm



The ESPR proposal seems a kind of catch-all, bringing together an all-encompassing ecodesign, energy efficiency, labelling, waste, chemical and market surveillance legislation. Policy objectives, choices and incentives across all policy areas must be implemented in a clear and consistent fashion to create a market for sustainable circular business models.

We call for full consistency between all existing chemical, waste, safety, and market surveillance legislation. The requirements for products stemming from the ESPR need be fully harmonised with existing/upcoming EU legislation and existing measures to ensure complementary, consistent, and non-contradictory application and avoid double or cascading product requirements. In addition, we recommend that the principles and definitions set in the ESPR framework should be cross-checked for consistency with relevant legislation, standards, and the EU Taxonomy criteria.

Today's Ecodesign Directive already addresses repair, reusability, and recyclability, with resource efficiency requirements on several products from March 2021. The precedents set by these existing requirements, such as the professional repairer concept to ensure consumer safety, should be continued in new requirements to come.

3. Build on the experiences of the Ecodesign instrument

The current Ecodesign Directive has been successful in delivering environmental and energy efficiency objectives for energy-related products, regulating measurable, verifiable parameters of the product based on a clear and transparent methodology. Any requirement, whether it be performance or information, must be measurable on the product and designed so that they can be efficiently enforced by Market Surveillance Authorities (MSAs). Unless tested in a cost-efficient manner and within a short enough time span, MSAs will never be able to catch non-compliant products before they disappear from the market. Additionally, measurements must be supported by harmonised standards listed in the OJEU², developed by appropriate standardisation bodies.

Only a solid standardisation base can secure reliable, accurate, reproducible checks of product requirements which are enforceable at a reasonable cost. Building on the horizontal work already done in the scope of the EN 4555X series of standards, APPLiA supports the further development of product specific standardisation requests to EU standardisation bodies.

We support that the ESPR continues the good practice of setting product-specific Ecodesign requirements via implementing legislation, on a product group-specific basis, to take into account individual characteristics and specificities of products. Even within individual categories of equipment in our sector, the products and their environmental impacts differ significantly. Product sustainability requirements must be evaluated to ensure they will ultimately lead to more sustainable products. The right balance needs to be found in relation to environmental impact and circularity thus the scope of the impact assessment should be as broad as possible to evaluate all possible impacts.

² Official Journal of the European Union



Requirements set at horizontal, or component level pose the risk of setting double regulation at product level. Such double legislation impedes the ability of industry players to innovate while increasing the cost of products without creating additional environmental benefit. In the home appliance sector, we have examples of double and cascading legislative requirements within Ecodesign when components within products have been directly regulated as well as the product itself being regulated e.g lamps inside some appliances, fans, and motors.

Nevertheless, there may be some requirements that could be appropriate to be set at a horizontal level by the ESPR, such as information requirements linked to the Digital Product Passport (DPP) that are relevant for numerous product groups. These could be effective if there is no risk of double, multiple, or cascading regulation for products also subject to product specific information requirements under the ESPR.

4. Methodologies that are appropriate, fit for purpose and that consider the trade-offs between the different sustainability goals

The ESPR proposal lacks a clear methodology to assess ecodesign requirements, but it hints that a mix of Life Cycle Analysis (LCA) and circularity concepts should be used when assessing future product requirements. The home appliances sector believes that an indicative methodology to integrate sustainability and circularity aspects is essential to ensure the applicability of the ESPR.

Given the expertise that our sector has accumulated over the years with experience of the Ecodesign and Energy Labelling legislation for energy-related products, only indicators and/or parameters that are measurable, enforceable (potentially by MSAs and in practice through a transparent mechanism), relevant and maintain the industry's competitiveness, can ensure the best results on the market.³

The methodology must take into account several environmental dimensions of a product and should assess the variables that consider the individual aspects across the whole lifecycle of a product, from material extraction until the end of its life. Not all the material-efficiency variables will have the same relevancy for all the product groups, and this will be an important aspect when it comes to future product regulations within the ESPR, where an assessment will need to be performed for the different individual product groups. For these reasons, when it comes to specific requirements, future regulations within the ESPR establishing ecodesign requirements for products should consider the life cycle of the product and identify the most appropriate variables to improve sustainability, while considering that parameters can

³ APPLiA supports the application of the "SMERC" principles in the assessment of product-related sustainability requirements. Requirements must be:

- **Specific** – considered on a product group-specific basis.
- **Measurable** – methodologies behind the legislative requirements must be clear, credible, reliable and lead to reproducible, comparable results. close to the real-life use of the products,
- **Enforceable** – it must be possible to verify and enforce requirements through market surveillance.
- **Relevant** – for the environment and consumers and fulfil the overall policy goals. There must be evidence of clear and significant potential for substantial improvement.

Competition friendly – there must be no significant negative impact on the industry's competitiveness.



be interdependent and impact each other (e.g. repairability can affect reliability etc.). Therefore, we recommend considering the possibility to assess these parameters in the future product regulations not individually, but in *combination*.

Finally, the methodology must take into consideration the trade-offs between different political objectives on how to address circularity and sustainability in products, resulting in different design choices and environmental impacts. Multiple ways are possible when it comes to increasing circularity and sustainability of products, which makes the assessment and quantification for methodologies a complex issue. Such a complex situation cannot be tackled by using one single mandatory methodology, such as the Product Environmental Footprint method suggested by the European Commission. This methodology should only be used where appropriate and there cannot be a one size fits all approach.

5. Legislating the most hazardous substances should remain within the current EU legislative framework

There is already an appropriate and complete EU Framework Regulation put in place to effectively analyse and manage chemicals, chemicals in articles and complex products. This includes the REACH Regulation (EC) No 1907/2006, the RoHS Directive 2011/65/EU, the F-Gas Regulation (EU) 517/2014 and the POP Regulation (EU) 2019/1021. These existing rules should remain the primary set of legislation and have the leading role in risk-assessing and managing chemicals in materials, articles, and in complex products. Chemicals are already well regulated by these other EU chemical legislation.

Setting requirements related to "substances of concern," as defined in the ESPR, could ultimately lead to double requirements on products that are already subject to other legislative frameworks and generate an atmosphere with a great lack of legal clarity and certainty when it comes to compliance, not only to Ecodesign rules, but also to chemicals legislation.

We fully support Recital 22 of the proposed ESPR that outlines that the proposed Regulation also should not result in the duplication or replacement of restrictions of substances covered by the RoHS Directive. The RoHS Directive is functioning well and has been successfully amended in 2017 to strengthen a circular economy which supports the 'repair as produced' principle of the Directive as well as Article 9 of the revised Waste Framework Directive (EU) 2018/851 on prevention of waste. Furthermore, RoHS has an international value and influence that proves its relevancy and should be preserved. It improved a harmonised level-playing field for economic operators, which has been ensured through an easier identification of electric and electronic equipment (EEE) on the market through the CE marking, which promotes an EU harmonised implementation of a conformity-detection system in the field of substances. Finally, the RoHS Directive is considered as a *lex specialis* for our sector and has its value when considering EEE specificities with clear requirements and processes, such as the exemptions. For this reason, setting additional chemical requirements to products' components could only bring confusion and unnecessary overlaps with existing sets of rules. We therefore strongly recommend that chemicals should not be further regulated under the ESPR.



In line with the SCIP database, APPLiA manufacturers are expected to electronically provide information pursuant to Article 33(1) of REACH Regulation (EC) No 1907/2006 to the European Chemicals Agency (ECHA). In this context, policymakers should abstain from setting new harmonised tracking-systems, prior to thoroughly impact-assessing the results and added-benefits (if any) stemming from existing and upcoming new obligations about information on substances of very high concern in supply chains.

6. A relevant, verifiable & enforceable Digital Product Passport

We are in favour of a relevant, verifiable, and enforceable Digital Product Passport (DPP), which relies on already existing databases such as SCIP and EPREL to avoid unnecessary and burdensome replication and where all stakeholders contribute to delivering relevant information to the DPP.

We support that the information requirements of the DPP should be limited to that which is essentially relevant for key stakeholders over the lifetime of a product and where they can contribute correct and relevant information. It is crucial to ensure that information collected in the DPP will ultimately add value and be available only on a need-to-know basis. The burden put on companies must be proportionate, and data must be of added value for the different actors in the value chain, including economic operators.

Not all information is relevant or appropriate to be shared with all stakeholders. It must be thoroughly assessed on a sector by sector, product by product level with a cost/benefit analysis to ensure effective application and that the efforts and impacts of having a DPP positively contribute to a significant increase in the sustainability of products. This should also include assessment of the potential impacts of an increased digital and environmental footprint of the DPP and of the registry of such DPPs.

We recommend industry plays an active role in the development of the DPP, given its considerable knowledge about information in value chains, existing systems and what is relevant to be included to each potential user. Given the complexities of the supply chain, suppliers of components in products placed on the market in the EU should be obliged to provide information to the DPP. The information collected and stored in the system should also be of benefit to producers.

While there are potential benefits of the DPP, such as better transparency in the value chain and easier access to data, the information in the DPP needs to be correct and trustworthy for the DPP to be a success. This is also important to ensure that competition is not distorted by companies/importers that provide no, incomplete, or incorrect information. If this has no practical negative consequence, such actors gain a competitive advantage over companies who try to provide correct and complete information. Therefore, to prevent a scenario that would promote incorrect behaviour, effective enforcement of the content in the DPP is essential. We therefore recommend that the criteria for the type of information to be included in the DPP must be legally and strictly defined by the European Commission, in a centralised manner and applicable to all relevant supply chain actors as well. Data security and access rights should be a priority to ensure any confidential, business sensitive information is protected from unauthorised access and liability for data loss and other technical damage must be clarified.



There should not only be coherency and consistency between energy labelling, performance labelling and DPP information requirements but also compatibility with other information systems at international level to avoid any trade restrictions.

In terms of granularity of the information, to ensure a more manageable system, the DPP should, at least initially, be applicable at product model level rather for each, and every individual unit placed on the market. A stepwise approach to the implementation of the DPP, based on selected pilot product cases, could test its technical and regulatory functionality.

7. Use the Digital Product Passport as a further opportunity to digitalise product information

To reduce waste and enable consumers to play a more active role in the green and digital transitions, we would see a key opportunity of the DPP to allow producers to provide relevant product information via digitally generated information/labels instead of paper versions. This would also be an alternative to having to affix a label on the packaging of the product, which is subject to complexities due to different languages and the limited space on packaging for very small products.

8. All requirements set by the EPR must be implemented with sufficient transition times

Given the impacts on production and innovation of products, we strongly recommend that a sufficient lead-time should be granted between the publication of legislation and the application of new product requirements, particularly in view of the need for developing harmonised standards. Industry needs to adapt their processes for implementing new or updated legal requirements, through complex supply chains. Therefore, sufficient transition periods should be allowed by legislation. For new technologies to be developed and brought to the market they need a proper, predictable framework to unleash their potential.

9. Harmonised standards are the best tool to provide presumption of conformity of products

Harmonised standards remain the best tool to provide presumption of conformity and accommodate state-of-the-art. We would recommend that the Commission refrain from issuing its own technical/common specifications and including them in the regulations. Requirements must be based on scientific assessment methods through recognised European or ISO /IEC/ITU international standards and must be reliable and ensure reproducible results. Standardisation bodies and global standards, which also rely on technical expertise from industry and relevant stakeholders, should be used in the design of the new requirements. Definitions must be clear and comprehensible and if possible, based on related standards to avoid misunderstandings.



Ecodesign is a CE marking legislation with a clearly defined conformity assessment procedure which allows manufacturers the choice between internal design control (Annex IV) and the management system (Annex V), referring to the modules described in Annex II of Decision 768/2008/EC. For home appliances this implies Module A. CE marking ensures the principle of presumption of conformity (i.e., when a manufacturer uses harmonised standards which references are listed under respective legislation in the Official Journal of the European Union, then its products are considered to be compliant until proved to the contrary by the authorities). For these reasons, APPLiA supports this demonstrated practice of self-assessment rather than mandatory third-party assessment as it makes the whole system more complex with unnecessary bottlenecks and costs, without contributing to overall higher levels of compliance.

10. Effective market surveillance & enforcement of ESPR requirements

APPLiA has always been advocating for strong, well-coordinated, efficient Market Surveillance in the EU and has put a lot of emphasis on the physical testing of products. Ensuring effective enforcement and market surveillance will drive the success of the ESPR. Only feasible, efficient and functional market surveillance providing good and fair opportunities for manufacturers will promote this level playing field for EU and non-EU producers. Harmonisation of market surveillance activities across Member States can avoid a duplication of work, waste of resources and promote more effective information sharing.

For legal requirements set by the ESPR to be effectively enforced by authorities:

- 1 / The methodology leaves no or minimal room for interpretation - the result must not have the potential to be subjective or open to interpretation or manipulation. The same result should be possible no matter who makes the evaluation (according to the standards).
- 2 / There is available and scientific sufficient laboratory capacity.
- 3 / There are resources available to ensure enforcement activity of Member States.

APPLiA - Home Appliance Europe represents home appliance manufacturers from across Europe. By promoting innovative, sustainable policies and solutions for EU homes, APPLiA has helped build the sector into an economic powerhouse, with an annual turnover of EUR 53 billion, investing over EUR 1.6 billion in R&D activities and creating nearly 1 million jobs.

