



Committee on the Environment, Public Health and Food Safety

2022/0095(COD)

5.6.2023

COMPROMISE AMENDMENTS 1 - 31

Draft report
Alessandra Moretti
(PE738.753v01-00)

Regulation establishing a framework for setting eco-design requirements for sustainable products and repealing Directive 2009/125/EC

Proposal for a regulation
(COM(2022)0142 – C9-0132/2022 – 2022/0095(COD))

Obtenu par CONTEXTE

Compromise Amendment 1

ARTICLE 1 Subject matter and scope

replacing AM 19-21, 260-294, 746, ITRE12, IMCO23, IMCO24

Proposal for a regulation

Article 1

Text proposed by the Commission

This Regulation establishes a framework to improve the environmental sustainability of products and to ensure free movement in the internal market by setting ecodesign requirements that products shall fulfil to be placed on the market or put into service. Those ecodesign requirements, which shall be further elaborated by the Commission in delegated acts, relate to:

- (a) product durability and reliability;
- (b) product reusability;
- (c) product upgradability, reparability, maintenance and refurbishment;
- (d) the presence of substances of concern in products;
- (e) product energy and resource efficiency;
- (f) recycled content in products;
- (g) product remanufacturing **and recycling**;
- (h) products' carbon and environmental footprints;
- (i) products' expected generation of waste materials.

This Regulation also establishes a digital product passport ('product passport'), provides for the setting of mandatory green public procurement criteria and creates a framework to prevent unsold consumer products from being destroyed.

Amendment

This Regulation establishes a framework to improve the environmental sustainability of products **in order to make sustainable products the norm and to reduce their overall environmental footprint over their lifecycle**, and to ensure free movement in the internal market by setting ecodesign requirements that products shall fulfil to be placed on the market or put into service. Those ecodesign requirements, which shall be further elaborated by the Commission in delegated acts, relate to:

- (a) product durability and reliability;
- (b) product reusability;
- (c) product upgradability, reparability, maintenance and refurbishment;
- (d) the presence of substances of concern in products;
- (e) product energy and resource efficiency;
- (f) recycled content in products;
- (g) product remanufacturing;
- (ga) product recycling;**
- (h) products' carbon and environmental footprints;
- (i) products' expected generation of waste materials.

This Regulation also establishes a digital product passport ('product passport'), provides for the setting of mandatory green public procurement criteria and creates a framework to prevent unsold consumer products from being destroyed.

2. This Regulation shall apply to any physical good that is placed on the market or put into service, including components and intermediate products. However, it shall not apply to:

- (a) food as defined in Article 2 of Regulation (EC) No 178/2002;
- (b) feed as defined in Article 3(4) of Regulation (EC) No 178/2002;
- (c) medicinal products for human use as defined in Article 1(2) of Directive 2001/83/EC;
- (d) veterinary medicinal products as defined in Article 4(1) of Regulation (EU) 2019/6;
- (e) living plants, animals and micro-organisms;
- (f) products of human origin;
- (g) products of plants and animals relating directly to their future reproduction.

2. This Regulation shall apply to any physical good that is placed on the market or put into service, including components and intermediate products. However, it shall not apply to:

- (a) food as defined in Article 2 of Regulation (EC) No 178/2002;
- (b) feed as defined in Article 3(4) of Regulation (EC) No 178/2002;
- (c) medicinal products for human use as defined in Article 1(2) of Directive 2001/83/EC;
- (d) veterinary medicinal products as defined in Article 4(1) of Regulation (EU) 2019/6;
- (e) living plants, animals and micro-organisms;
- (f) products of human origin;
- (g) products of plants and animals relating directly to their future reproduction.

Compromise Amendment 2

ARTICLE 2 Definitions

replacing AM 22-32, 295-348, 393, 409-436, 438-455, ITRE13-14, ITRE16-20, IMCO25-IMCO30, IMCO 32-33

Proposal for a regulation

Article 2

- (1) ‘product’ means any physical good that is placed on the market or put into service;
- (2) ‘component’ means a product intended to be incorporated into another product;
- (3) ‘intermediate product’ means a product that requires further manufacturing or transformation such as mixing, coating or assembling to make it suitable for end-users;
- (5) ‘product group’ means a set of products that serve similar purposes and

- (1) ‘product’ means any physical good that is placed on the market or put into service;
- (2) ‘component’ means a product intended to be incorporated into another product;
- (3) ‘intermediate product’ means a product that requires further manufacturing or transformation such as mixing, coating or assembling to make it suitable for end-users;
- (5) ‘product group’ means a set of products that serve similar purposes and

are similar in terms of use, or have similar functional properties, and are similar in terms of consumer perception;

(6) ‘ecodesign’ means the integration of environmental sustainability considerations into the characteristics of a product and the processes taking place throughout the product’s value chain;

(7) ‘ecodesign requirement’ means a performance requirement or an information requirement aimed at making a product more environmentally sustainable;

(8) ‘performance requirement’ means a quantitative or non-quantitative requirement for or in relation to a product to achieve a certain performance level in relation to a product parameter referred to in Annex I;

(9) ‘information requirement’ means an obligation for a product to be accompanied by information as specified in Article 7(2);

(10) ‘supply chain’ means all upstream activities and processes of the value chain of the product, up to the point where the product reaches the end-user;

(11) ‘value chain’ means all activities and processes that are part of the life cycle of a product, as well as its possible remanufacturing;

(12) ‘life cycle’ means the consecutive and interlinked stages of a product’s life, consisting of raw material acquisition or generation from natural resources, pre-processing, manufacturing, storage, distribution, installation, use, maintenance, repair, upgrading, refurbishment and re-use, and end-of-life;

(13) ‘end-of-life’ means the life cycle stage that begins when a product is discarded and ends when the product is returned to nature as a waste product or enters another product’s life cycle;

(14) ‘environmental impact’ means any change to the environment, whether adverse or beneficial, wholly or partially resulting from a product during its life

are similar in terms of use, or have similar functional properties, and are similar in terms of consumer perception;

(6) ‘ecodesign’ means the integration of environmental sustainability considerations into the characteristics of a product and the processes taking place throughout the product’s value chain;

(7) ‘ecodesign requirement’ means a performance requirement or an information requirement aimed at making a product more environmentally sustainable;

(8) ‘performance requirement’ means a quantitative or non-quantitative requirement for or in relation to a product to achieve a certain performance level in relation to a product parameter referred to in Annex I;

(9) ‘information requirement’ means an obligation for a product to be accompanied by information as specified in Article 7(2);

(10) ‘supply chain’ means all upstream activities and processes of the value chain of the product, up to the point where the product reaches the end-user;

(11) ‘value chain’ means all activities and processes that are part of the life cycle of a product, as well as its possible remanufacturing;

(12) ‘life cycle’ means the consecutive and interlinked stages of a product’s life, consisting of raw material acquisition or generation from natural resources, pre-processing, manufacturing, storage, distribution, installation, use, maintenance, repair, upgrading, refurbishment and re-use, and end-of-life;

(13) ‘end-of-life’ means the life cycle stage that begins when a product is discarded and ends when the **waste material of the product** is returned to nature or enters another product’s life cycle;

(14) ‘environmental impact’ means any change to the environment, whether adverse or beneficial, wholly or partially resulting from a product during its life

cycle;

(15) ‘class of performance’ means a range of performance levels in relation to one or more product parameters referred to in Annex I, ordered into successive steps to allow for product differentiation;

(16) ‘remanufacturing’ means an industrial process in which a product is produced from objects that are waste, products or components and in which at least one change is made to the product that affects the safety, performance, purpose or type of the product typically placed on the market with a commercial guarantee;

(17) ‘upgrading’ means enhancing the functionality, performance, capacity or aesthetics of a product;

(18) ‘refurbishment’ means preparing or modifying an object that is **waste or a product** to restore its performance or functionality within the intended use, **range of performance and maintenance** originally conceived at the design stage, or to meet applicable technical standards or regulatory requirements, with the result of making a fully functional product;

(19) ‘maintenance’ means an action carried out to keep a product in a condition where it is able to function as required;

(20) ‘repair’ means returning a defective product or waste to a condition where it fulfils its intended use;

(21) ‘durability’ means the ability of a product to function as required, under specified conditions of use, maintenance and repair, **until a limiting event prevents its functioning**;

(22) ‘reliability’ means the probability that

cycle;

(15) ‘class of performance’ means a range of performance levels in relation to one or more product parameters referred to in Annex I, **based on a common methodology for the product or product group**, ordered into successive steps to allow for product differentiation;

(16) ‘remanufacturing’ means an industrial process in which a product is produced from objects that are waste, products or components and in which at least one change is made to the product that **significantly** affects the safety **or performance**, **or affects the** purpose or type of the product typically placed on the market with a commercial guarantee

(17) ‘upgrading’ means enhancing the functionality, performance, capacity, **safety** or aesthetics of a product;

(18) ‘refurbishment’ means **testing, maintaining or repairing**, an object that is a product **or waste** to restore its performance or functionality within the intended use originally conceived at the design stage, with the result of making a fully functional product;

(19) ‘maintenance’ means an action carried out to keep a product in a condition where it is able to function as required;

(20) ‘repair’ means returning a defective product or waste to a condition where it fulfils its intended use;

(20a) ‘premature obsolescence’ means making available on the market a product with a feature which limits its foreseeable lifetime;

(21) ‘durability’ means the ability of a product to function **and maintain for a certain period of time** its required function **and performance** under **normal** conditions of use, maintenance and repair **until an limiting event prevents its functioning**;

(22) ‘reliability’ means the **high**

a product functions as required under given conditions for a given duration without a limiting event;

(23) ‘environmental footprint’ means a quantification of a product’s environmental impacts, whether in relation to a single environmental impact category or an aggregated set of impact categories based on the Product Environmental Footprint method;

(24) ‘Product Environmental Footprint method’ means the life cycle assessment method to quantify the environmental impacts of products established by Recommendation (EU) 2021/2279;

(25) ‘carbon footprint’ means the sum of greenhouse gas (GHG) emissions and GHG removals in a product system, expressed as CO₂ equivalents and based on a life cycle assessment using the single impact category of climate change;

(27) ‘substance’ means a substance as defined in Article 3, point (1), of Regulation (EC) No 1907/2006;

(29) ‘product passport’ means a set of data specific to a product that includes the information specified in the applicable delegated act adopted pursuant to Article 4 and that is accessible via electronic means through a data carrier in accordance with Chapter III;

(30) ‘data carrier’ means a linear bar code symbol, a two-dimensional symbol or other automatic identification data capture medium that can be read by a device;

(31) ‘unique product identifier’ means a

probability that a product functions as required under given conditions for a given duration without a limiting event;

(23) ‘environmental footprint’ means a quantification of the *life cycle* product’s environmental impacts, whether in relation to a single environmental impact category or an aggregated set of impact categories based on the Product Environmental Footprint method *or other scientific methods developed by international organisations and widely tested in collaboration with different industry sectors and recognised by the Commission*;

(24) ‘Product Environmental Footprint method’ means the life cycle assessment method to quantify the environmental impacts of products established by Recommendation (EU) 2021/2279;

(25) ‘carbon footprint’ means the sum of greenhouse gas (GHG) emissions and GHG removals in a product system, expressed as CO₂ equivalents and based on a life cycle assessment using the single impact category of climate change;

(25a) ‘material footprint’ means the quantification of the materials needed for a product system as the sum of biomass, fossil fuels, metal ores and non-metallic minerals consumed;

(27) ‘substance’ means a substance as defined in Article 3, point (1), of Regulation (EC) No 1907/2006;

(29) ‘product passport’ means a set of data specific to a product that includes the information specified in the applicable delegated act adopted pursuant to Article 4 and that is accessible via electronic means through a data carrier in accordance with Chapter III;

(30) ‘data carrier’ means a linear bar code symbol, a two-dimensional symbol or other automatic identification data capture medium that can be read by a device;

(31) ‘unique product identifier’ means a

unique string of characters for the identification of products that also enables a web link to the product passport;

(32) ‘unique operator identifier’ means a unique string of characters for the identification of actors involved in the value chain of products;

(33) ‘unique facility identifier’ means a unique string of characters for the identification of locations or buildings involved in the value chain of a product or used by actors involved in the value chain of a product;

(34) ‘processing’ means processing as defined in Article 3, point (2), of Regulation (EU) 2018/1807;

(38) ‘self-regulation measure’ means a voluntary agreement or codes of conduct, concluded by industry sectors on their own initiative, which they are responsible for enforcing;

(39) ‘making available on the market’ means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

(40) ‘placing on the market’ means the first making available of a product on the Union market;

(41) ‘putting into service’ means the first use, for its intended purpose, in the Union, of a product;

(42) ‘manufacturer’ means any natural or legal person who manufactures a product or who has such a product designed or manufactured, and markets that product under its name or trademark or, in the absence of such person or an importer, any natural or legal person who places on the market or puts into service a product;;

(43) ‘authorised representative’ means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to

unique string of characters for the identification of products that also enables a web link to the product passport;

(32) ‘unique operator identifier’ means a unique string of characters for the identification of actors involved in the value chain of products;

(33) ‘unique facility identifier’ means a unique string of characters for the identification of locations or buildings involved in the value chain of a product or used by actors involved in the value chain of a product;

(34) ‘processing’ means processing as defined in Article 3, point (2), of Regulation (EU) 2018/1807;

(38) ‘self-regulation measure’ means a voluntary agreement or codes of conduct, concluded by industry sectors on their own initiative, which they are responsible for enforcing;

(39) ‘making available on the market’ means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

(40) ‘placing on the market’ means the first making available of a product on the Union market;

(41) ‘putting into service’ means the first use, for its intended purpose, in the Union, of a product;

(42) ‘manufacturer’ means any natural or legal person who manufactures a product or who has such a product designed or manufactured, and markets that product under its name or trademark or, in the absence of such person or an importer, any natural or legal person who places on the market or puts into service a product;;

(43) ‘authorised representative’ means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to

the manufacturer's obligations under this Regulation;

(44) 'importer' means any natural or legal person established in the Union who places a product from a third country on the Union market;

(45) 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market;

(46) 'economic operator' means the manufacturer, the authorised representative, the importer, the distributor, the dealer and the fulfilment service provider;

(47) 'technical specification' means a document that prescribes technical requirements to be fulfilled by a product, process or service;

(56) 'dealer' means a retailer or any other natural or legal person who offers products for sale, hire or hire purchase, or displays products to customers in the course of a commercial activity, whether or not in return for payment;

(58) 'product presenting a risk' means a

the manufacturer's obligations under this Regulation;

(44) 'importer' means any natural or legal person established in the Union who places a product from a third country on the Union market;

(45) 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market;

(46) 'economic operator' means the manufacturer, the authorised representative, the importer, the distributor, the dealer and the fulfilment service provider;

(46a) 'independent operator' means a natural or legal person who is independent from the manufacturer and is directly or indirectly involved in the refurbishment, repair, maintenance or repurposing of the product, and includes waste management operators, refurbishers, repairers, manufacturers or distributors of repair equipment, tools or spare parts, as well as publishers of technical information, operators offering inspection and testing services, operators offering training for installers, manufacturers, and repairers of equipment;

(46b) 'professional repairer' means a natural or legal person who provides repair or maintenance services on a product, irrespective of whether that person acts within the manufacturer's distribution system or independently;

(47) 'technical specification' means a document that prescribes technical requirements to be fulfilled by a product, process or service;

(56) 'dealer' means a retailer or any other natural or legal person who offers products for sale, hire or hire purchase, or displays products to customers in the course of a commercial activity, whether or not in return for payment;

(58) 'product presenting a risk' means a

product that, by not complying with a requirement set out in or pursuant to this Regulation other than those listed in Article 65(1), may adversely affect the environment or other public interests protected by that requirement;

In addition, the definitions of ‘waste’, ‘hazardous waste’, ‘re-use’, ‘recovery’, ‘preparing for re-use’ and ‘recycling’ in Article 3, points (1), (2), (13), (15), (16) and (17), of Directive 2008/98/EC of the European Parliament and of the Council⁸³ shall apply.

The definitions of ‘market surveillance’, ‘market surveillance authority’, ‘fulfilment service provider’, ‘online interface’, ‘corrective action’, ‘end-user’, ‘recall’, ‘withdrawal’, ‘customs authorities’ and ‘release for free circulation’ in Article 3, points (3), (4), (11), (15), (16), (21), (22), (23), (24) and (25), of Regulation (EU) 2019/1020 shall also apply.

The definitions of ‘SMEs’, ‘small enterprises’ and ‘microenterprises’ in Article 2(1), (2) and (3), of Annex I to Commission Recommendation 2003/361/EC⁸⁴ shall also apply.

product that, by not complying with a requirement set out in or pursuant to this Regulation other than those listed in Article 65(1), may adversely affect the environment or other public interests protected by that requirement;

In addition, the definitions of ‘waste’, ‘hazardous waste’, ‘re-use’, ‘recovery’, ‘preparing for re-use’ and ‘recycling’ in Article 3, points (1), (2), (13), (15), (16) and (17), of Directive 2008/98/EC of the European Parliament and of the Council⁸³ shall apply.

The definitions of ‘market surveillance’, ‘market surveillance authority’, ‘fulfilment service provider’, ‘online interface’, ‘corrective action’, ‘end-user’, ‘recall’, ‘withdrawal’, ‘customs authorities’ and ‘release for free circulation’ in Article 3, points (3), (4), (11), (15), (16), (21), (22), (23), (24) and (25), of Regulation (EU) 2019/1020 shall also apply.

The definitions of ‘SMEs’, ‘small enterprises’ and ‘microenterprises’ in Article 2(1), (2) and (3), of Annex I to Commission Recommendation 2003/361/EC⁸⁴ shall also apply.

The definitions of ‘supplier of a substance or a mixture’ and ‘supplier of an article’ in Article 3, points (32) and (33), of Regulation (EC) 1907/2006 of the European Parliament and of the Council shall apply.

Compromise Amendment 3

ARTICLE 3 Free movement
replacing AM 456-470, IMCO34

Proposal for a regulation **Article 3**

1. Products shall only be placed on the market or put into service if they comply with the ecodesign requirements set out in the delegated acts adopted pursuant to Article 4 applicable to those products.

1. Products shall only be placed on the market or put into service if they comply with the ecodesign requirements set out in the delegated acts adopted pursuant to Article 4 applicable to those products.

2. Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products that comply with the performance requirements set out in delegated acts adopted pursuant to Article 4 for reasons of non-compliance with national performance requirements relating to product parameters referred to in Annex I covered by performance requirements included in such delegated acts.

Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products that comply with the information requirements set out in delegated acts adopted pursuant to Article 4 for reasons of non-compliance with national information requirements relating to product parameters referred to in Annex I covered by information requirements included such delegated act.

3. Paragraph 2 shall not prevent Member States from setting minimum energy performance requirements in accordance with Article 4(1) and system requirements in accordance with Article 8 of Directive 2010/31/EU of the European Parliament and of the Council⁸⁵ .

4. Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products on grounds of non-compliance with national requirements relating to product parameters referred to in Annex I, for which a delegated act adopted pursuant to Article 4 provides that no performance, no information or neither performance nor information requirements are necessary.

5. At trade fair, exhibitions and similar events, Member States shall not prevent the showing of products that do not comply with delegated acts adopted pursuant to Article 4, provided that a visible sign clearly indicates that such products do not comply and that they are not for sale until they have been brought into conformity.

2. Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products that comply with the performance requirements set out in delegated acts adopted pursuant to Article 4 for reasons of non-compliance with national performance requirements relating to product parameters referred to in Annex I covered by performance requirements included in such delegated acts.

Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products that comply with the information requirements set out in delegated acts adopted pursuant to Article 4 for reasons of non-compliance with national information requirements relating to product parameters referred to in Annex I covered by information requirements included such delegated act.

3. Paragraph 2 shall not prevent Member States from setting minimum energy performance requirements in accordance with Article 4(1) and system requirements in accordance with Article 8 of Directive 2010/31/EU of the European Parliament and of the Council⁸⁵ .

4. Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products on grounds of non-compliance with national requirements relating to product parameters referred to in Annex I, for which a delegated act adopted pursuant to Article 4 provides that no performance, no information or neither performance nor information requirements are necessary.

5. At trade fair, exhibitions and similar events, Member States shall not prevent the showing of products that do not comply with delegated acts adopted pursuant to Article 4, provided that a visible sign clearly indicates that such products do not comply and that they are not for sale until they have been brought into conformity.

ARTICLE 4 Empowerments to adopt delegated acts + Annex VI

replacing AM 33, 471-498, 1006-1007, 1024-1025 ITRE21, ITRE22, IMCO35-IMCO40

Proposal for a regulation

Article 4

The Commission is empowered to adopt delegated acts in accordance with Article 66 to supplement this Regulation by establishing ecodesign requirements for, or in relation to, products to improve their environmental sustainability. Those requirements shall include the elements listed in Annex VI and shall be established in accordance with Articles 5, 6 and 7 and Chapter III. The empowerment to adopt ecodesign requirements includes the power to establish that no performance requirements, no information requirements or neither performance nor information requirements are necessary for certain specified product parameters referred to in Annex I.

The Commission is empowered to adopt delegated acts in accordance with Article 66 to supplement this Regulation by establishing ecodesign requirements for, or in relation to, products to improve their environmental sustainability. Those requirements shall include the elements listed in Annex VI and shall be established in accordance with Articles 5, 6 and 7 and Chapter III. The empowerment to adopt ecodesign requirements includes the power to establish that no performance requirements, no information requirements or *that in exceptional cases* neither performance nor information requirements are necessary for certain specified product parameters referred to in Annex I.

The empowerment to adopt ecodesign requirements includes the power to establish that no ecodesign requirements apply for imported second-hand products or product groups, for a limited period of time, where on the basis of the impact assessment conducted under Article 5(4) (b) the Commission concludes that:

a) it is relevant to exempt a given imported second-hand product or product group on account of the substantial share that it represents on the relevant EU second-hand product market and the genuine consumer demand that it responds to; and

b) such an exemption would not undermine the achievement of the objectives of this Regulation and the broader application of ecodesign requirements on the relevant EU product market; and

c) the resource savings due to the placing

on the market of the imported second-hand product or product group outweighs the benefits of the ecodesign requirements for new products or product groups.

When establishing ecodesign requirements in delegated acts referred to in the first subparagraph, the Commission shall also supplement this Regulation by specifying the applicable conformity assessment procedures from among the modules set out in Annex IV to this Regulation and Annex II to Decision No 768/2008/EC, with the adaptations necessary in view of the product or ecodesign requirements concerned, in accordance with Article 36.

Delegated acts referred to in the first subparagraph may also supplement this Regulation by:

- (a) requiring manufacturers, their authorised representatives or importers to make parts of the technical documentation related to the relevant product digitally available to the Commission or market surveillance authorities without request, in accordance with Article 30(3);
- (b) requiring manufacturers, their authorised representatives or importers to make available to the Commission information on the quantities of a product covered by those delegated acts placed on the market or put into service, in accordance with Article 31(1);
- (c) requiring products placed on the market to be able to measure the energy they consume or their performance in relation to other relevant product parameters referred to in Annex I while in use, in accordance with Article 31(2);

When establishing ecodesign requirements in delegated acts referred to in the first subparagraph, ***the Commission shall provide economic operators with sufficient time to adjust to the new requirements, particularly taking into consideration the needs of micro and SMEs.*** The Commission shall also supplement this Regulation by specifying the applicable conformity assessment procedures from among the modules set out in Annex IV to this Regulation and Annex II to Decision No 768/2008/EC, with the adaptations necessary in view of the product or ecodesign requirements concerned, in accordance with Article 36.

Delegated acts referred to in the first subparagraph may also supplement this Regulation by:

- (a) requiring manufacturers, their authorised representatives or importers to make parts of the technical documentation related to the relevant product digitally available to the Commission or market surveillance authorities without request, in accordance with Article 30(3);
- (b) requiring manufacturers, their authorised representatives or importers to make available to the Commission information on the quantities of a product covered by those delegated acts placed on the market or put into service, in accordance with Article 31(1);
- (c) requiring products placed on the market to be able to measure the energy they consume or their performance in relation to other relevant product parameters referred to in Annex I while in use, in accordance with Article 31(2);

(ca) specifying the methodology to assess the reparability of a product, define the classes of performance to be displayed by the reparability score, and define the

(d) requiring manufacturers, their authorised representatives or importers to collect, anonymise, or report to the Commission the in-use data referred to in point (c), in accordance with Article 31(3);

(e) requiring the use of online tools to calculate the performance of a product in relation to a product parameter referred to in Annex I, in accordance with Article 32(2);

(f) specifying alternative rules on the declaration of conformity or markings indicating conformity with ecodesign requirements by way of derogation from Articles 37 and 39, in accordance with Article 40;

(g) specifying rules to direct Member States incentives in accordance with Article 57;

(h) establishing requirements applicable to public contracts, including implementation, monitoring and reporting of those requirements by Member States. Those requirements shall be based on the product parameters referred to in Annex I and established in accordance with Article 58.

Proposal for a regulation Annex VI

ANNEX VI

Contents of delegated acts (referred to in Article 4)

The delegated acts adopted pursuant to Article 4 are to specify the following technical elements:

- (1) the definition of the product groups covered;
- (2) the ecodesign requirements for the product groups covered, in line with Article 4 and based on the parameters referred to in Annex I;

product categories to which it shall apply;

(d) requiring manufacturers, their authorised representatives or importers to collect, anonymise, or report to the Commission the in-use data referred to in point (c), in accordance with Article 31(3);

(e) requiring the use of online tools to calculate the performance of a product in relation to a product parameter referred to in Annex I, in accordance with Article 32(2);

(f) specifying alternative rules on the declaration of conformity or markings indicating conformity with ecodesign requirements by way of derogation from Articles 37 and 39, in accordance with Article 40;

(g) specifying rules to direct Member States incentives in accordance with Article 57;

(h) establishing requirements applicable to public contracts, including implementation, monitoring and reporting of those requirements by Member States. Those requirements shall be based on the product parameters referred to in Annex I and established in accordance with Article 58.

ANNEX VI

Contents of delegated acts (referred to in Article 4)

The delegated acts adopted pursuant to Article 4 are to specify the following technical elements:

- (1) the definition of the product groups covered;
- (2) the ecodesign requirements for the product groups covered, in line with Article 4 and based on the parameters referred to in Annex I;

(3) where relevant, the parameters referred to in Annex I for which no ecodesign requirement is necessary;

(4) the test, measurement or calculation standards or methods to be used pursuant to Article 32;

(5) where relevant, the transitional methods, harmonised standards, the reference numbers of which have been published in the Official Journal of the European Union, or common specifications to be used;

(6) the conformity assessment module to be used pursuant to Article 4, second subparagraph, as set out under Annex II to Decision 768/2008/EC. Where the module to be applied is different from the module set out in Annex IV, the factors leading to the selection of that specific procedure.

Where different conformity assessment modules, referred to in Annex II to Decision 768/2008/EC, are to be used pursuant to other Union legislation for the same product, the module defined in the delegated act adopted pursuant to Article 4 shall prevail for the ecodesign requirement concerned;

(7) requirements on information to be provided by manufacturers, including on the elements of the technical documentation to enable the verification of compliance of the product with the ecodesign requirements. Where relevant, any additional information requirements pursuant to Articles 30 and 31;

(8) implementation dates, any staged or transitional measure or periods, taking into **account possible impacts on** SMEs or on specific product groups manufactured primarily by SMEs;

(9) the duration of the transitional period during which Member States are to permit

(3) where relevant, the parameters referred to in Annex I for which no ecodesign requirement is necessary;

(4) the test, measurement or calculation standards or methods to be used pursuant to Article 32;

(5) where relevant, the transitional methods, harmonised standards, the reference numbers of which have been published in the Official Journal of the European Union, or common specifications to be used;

(6) the conformity assessment module to be used pursuant to Article 4, second subparagraph, as set out under Annex II to Decision 768/2008/EC. Where the module to be applied is different from the module set out in Annex IV, the factors leading to the selection of that specific procedure.

Where different conformity assessment modules, referred to in Annex II to Decision 768/2008/EC, are to be used pursuant to other Union legislation for the same product, the module defined in the delegated act adopted pursuant to Article 4 shall prevail for the ecodesign requirement concerned;

(7) requirements on information to be provided by manufacturers, including on the elements of the technical documentation to enable the verification of compliance of the product with the ecodesign requirements. Where relevant, any additional information requirements pursuant to Articles 30 and 31;

(8) implementation dates, any staged or transitional measure or periods, **particularly** taking into **consideration** the **needs of micro and** SMEs or on specific product groups manufactured primarily by **micro and** SMEs;

(9) the duration of the transitional period during which Member States are to permit

the placing on the market or putting into service of products, which comply with the regulations in force in their territory on the date of adoption of the delegated acts adopted pursuant to Article 4;

(10) the date for the evaluation and possible revision of the delegated act, taking into account technological progress.

Compromise Amendment 5

ARTICLE 5 Ecodesign requirements

replacing AM 34-46, 499-624, 626, 642, 643, ITRE23-ITRE40, IMCO41-IMCO47

Proposal for a regulation

Article 5

1. The Commission shall, as appropriate to the relevant product groups and with due consideration for all stages of their life cycle, establish ecodesign requirements to improve the following product aspects:

- (a) durability;
- (b) reliability;
- (c) reusability;
- (d) upgradability;
- (e) reparability;
- (f) possibility of maintenance and refurbishment;
- (g) presence of substances of concern;
- (h) energy use or energy efficiency;
- (i) resource use or resource efficiency;
- (j) recycled content;
- (k) possibility of remanufacturing *and recycling*;
- (l) possibility of recovery of materials;
- (m) environmental impacts, including

the placing on the market or putting into service of products, which comply with the regulations in force in their territory on the date of adoption of the delegated acts adopted pursuant to Article 4;

(10) the date for the evaluation and possible revision of the delegated act, taking into account technological progress.

1. The Commission shall, as appropriate to the relevant product groups and with due consideration for all stages of their life cycle, establish ecodesign requirements to improve the following product aspects:

- (a) durability;
- (b) reliability;
- (c) reusability;
- (d) upgradability;
- (e) reparability;
- (f) possibility of maintenance and refurbishment;
- (g) presence of substances of concern *in products*;
- (h) energy use or energy efficiency;
- (i) resource use or resource efficiency;
- (j) recycled content;
- (k) possibility of remanufacturing;
- (ka) possibility of recycling;*
- (l) possibility of recovery of materials;
- (m) environmental impacts, including

carbon and environmental footprint;
(n) expected generation of waste materials.

2. Ecodesign requirements shall be established for a specific product group.

However, where two or more product groups display technical similarities allowing a product aspect referred to in paragraph 1 to be improved based on a common requirement, ecodesign requirements may be **established horizontally** for those product groups.

A horizontal ecodesign requirement established pursuant to the second subparagraph may cover products falling in the scope of a self-regulation measure established as a valid alternative pursuant to Article 18(3), where the Commission considers that that self-regulation measure does not address the product aspect covered by that horizontal ecodesign requirement.

3. Ecodesign requirements shall, as appropriate, include:

(a) performance requirements as set out in Article 6;

(b) information requirements as set out in Article 7.

4. When preparing ecodesign requirements, the Commission shall:

(a) take into account the following elements:

(i) Union climate, **environmental and energy efficiency priorities and other related Union priorities**;

carbon and environmental footprint;
(n) expected generation of waste materials;

2. Ecodesign requirements shall be established for a specific product group.

Where two or more product groups display technical similarities allowing a product aspect referred to in paragraph 1 to be improved based on a common requirement, ecodesign requirements for those product groups. **Those horizontal requirements may be further specified through the establishment of ecodesign requirements for a specific product group covered by a horizontal ecodesign requirement.**

A horizontal ecodesign requirement established pursuant to the second subparagraph may cover products falling in the scope of a self-regulation measure established as a valid alternative pursuant to Article 18(3), where the Commission considers that that self-regulation measure does not address the product aspect covered by that horizontal ecodesign requirement.

3. Ecodesign requirements shall, as appropriate, include:

(a) performance requirements as set out in Article 6;

(b) information requirements as set out in Article 7.

4. When preparing ecodesign requirements, the Commission shall **ensure consistency and avoid conflicting requirements with other Union legislation and shall**:

(a) take into account the following elements:

(i) Union **objectives in the fields of**:

- climate, **notably the objective to achieve climate neutrality at the latest by 2050 as set out in Regulation (EU) 2021/1119**;

- **environment, including biodiversity, resource efficiency**

(ii) relevant Union legislation, including the extent to which it addresses the relevant product aspects listed in paragraph 1;

(iii) self-regulation measures, as provided for in Article 18;

(iv) relevant national environmental legislation;

(v) relevant European and international standards;

(b) carry out an impact assessment based on best available evidence and analyses, and as appropriate on additional studies and research results produced under European funding programmes. ***In doing so, the Commission shall ensure that the depth of analysis of the product aspects listed in paragraph 1 is proportionate to their significance.*** The establishment of ecodesign requirements on the ***most significant*** aspects ***of a product among those*** listed in paragraph 1 shall not be unduly delayed by uncertainties regarding the possibility to establish ecodesign requirements to improve other aspects of that product;

and security and reduction of the environmental, material and consumption footprints, and staying within the planetary boundaries as set out in the 8th Environmental Action Programme;

- non-toxicity;

- energy efficiency; and

- other related Union objectives;

(ii) relevant Union legislation, including the extent to which it addresses the relevant product aspects listed in paragraph 1 ***and the do no significant harm principle within the meaning of Article 17 of Regulation 2020/852;***

(iia) relevant international agreements;

(iii) self-regulation measures, as provided for in Article 18;

(iv) relevant national environmental legislation;

(v) relevant European and international standards;

(va) prioritisation of measures in accordance with the waste hierarchy in accordance with Directive 2008/98/EC;

(b) carry out an impact assessment based on best available evidence and analyses, and as appropriate on additional studies and research results produced under European funding programmes. The establishment of ecodesign requirements on the ***product*** aspects listed in paragraph 1 shall not be unduly delayed by uncertainties regarding the possibility to establish ecodesign requirements to improve other aspects of that product. ***In the impact assessments, the Commission shall:***

(i) ensure that all the product aspects listed in paragraph 1 are analysed and that the depth of analysis of the product

aspects listed in paragraph 1 is proportionate to their significance;

(ii) ensure that trade-offs between the different product aspects listed in paragraph 1 are analysed;

(iii) provide an assessment of the expected reduction of the environmental, carbon and material footprints by the new ecodesign requirements;

(iv) provide an assessment of the fulfilment of criteria established in Article 4(1)(2) on imported second hand products, where relevant;

(v) provide an assessment of any relevant impacts on human health;

(vi) provide an assessment of the minimum level of performance of a product or a product group, that needs to be potentially attained in the future in order for that product or product group to be in line with the Union's objectives as listed in point 4a(i);

Where appropriate, the impact assessment shall also be used to support the setting of criteria on green public procurement, Ecolabel, as well as other economic incentives in order to improve consistency between different policy instruments.

(c) take into consideration relevant technical information used as a basis for or derived from Union legislation or instruments, including Regulation (EC) No 66/2010, Directive 2010/75/EU, technical screening criteria adopted pursuant to Regulation (EU) 2020/852 and green public procurement criteria;

(c) take into consideration relevant technical information used as a basis for or derived from Union legislation or instruments, including Regulation (EC) No 66/2010, Directive 2010/75/EU, technical screening criteria adopted pursuant to Regulation (EU) 2020/852 and green public procurement criteria;

(ca) take into consideration the protection of confidential business information;

(cb) take into consideration any feedback provided by public consultations;

(d) take into account the views expressed by the Ecodesign Forum referred to in Article 17.

(d) take into account the views expressed by the Ecodesign Forum referred to in Article 17.

5. Ecodesign requirements shall meet the

5. Ecodesign requirements shall meet the

following criteria:

(a) there shall be no significant negative impact on the functionality of the product, from the perspective of the user;

(b) there shall be no adverse effect on the health and safety of persons;

(c) there shall be no significant negative impact on consumers in terms of the affordability of relevant products, also taking into account access to second-hand products, durability and the life cycle cost of products;

(d) there shall be no disproportionate negative impact on the competitiveness of economic actors, **at least** of SMEs;

(e) there shall be no proprietary technology imposed on manufacturers or other economic actors;

(f) there shall be no disproportionate administrative burden on manufacturers or other economic actors.

6. The Commission shall, where appropriate, require supply chain actors to:

(a) provide, upon request, manufacturers, notified bodies and competent national authorities with available information related to their supplies or services that is relevant in order to verify compliance with ecodesign requirements;

(b) allow, in the absence of information referred to in point (a), manufacturers to assess their supplies or services in order to verify compliance with ecodesign requirements and give access to relevant documents or facilities to those manufacturers;

(c) enable notified bodies and competent

following criteria:

(a) there shall be no significant negative impact on the functionality **or safety** of the product, from the perspective of the user;

(b) there shall be no adverse effect on the health and safety of persons;

(c) there shall be no significant negative impact on consumers in terms of the affordability of relevant products, also taking into account access to second-hand products, **including imported second hand products**, durability and the life cycle cost of products;

(d) there shall be no disproportionate negative impact on the competitiveness of economic actors, **in particular of micro and SMEs**;

(e) there shall be no proprietary technology imposed on manufacturers or other economic actors;

(f) there shall be no disproportionate administrative burden on manufacturers or other economic actors, **in particular for micro and SMEs**;

(fa) there shall be sufficient time given to manufacturers or other economic actors to adjust to the new requirements, particularly taking into consideration the needs of micro and SMEs.

6. The Commission shall, where appropriate, require supply chain actors to:

(a) provide, upon request, manufacturers, notified bodies and competent national authorities with available information related to their supplies or services that is relevant in order to verify compliance with ecodesign requirements;

(b) allow, in the absence of information referred to in point (a), manufacturers to assess their supplies or services in order to verify compliance with ecodesign requirements and give access to relevant documents or facilities to those manufacturers;

(c) enable notified bodies and competent

national authorities to verify the correctness of information related to their activities and relevant for verifying compliance with ecodesign requirements.

7. The Commission shall, where appropriate, identify appropriate means of verification for specific ecodesign requirements, including directly on the product or on the basis of the technical documentation.

8. The Commission shall publish relevant studies and analyses used in the establishment of ecodesign requirements in accordance with this Regulation.

national authorities to verify the correctness of information related to their activities and relevant for verifying compliance with ecodesign requirements.

7. The Commission shall, where appropriate, identify appropriate means of verification for specific ecodesign requirements, including directly on the product or on the basis of the technical documentation.

8. The Commission shall publish relevant studies and analyses *once available, including the impact assessments referred to in paragraph 4, point (b)*, used in the establishment of ecodesign requirements in accordance with this Regulation.

Compromise Amendment 6

ARTICLE 5a Durability and reparability of products

replacing AM 625, 627, 628, 1049-1050 IMCO48

Proposal for a regulation Article 5 a (new)

Article 5a

Durability and reparability of products

1. When setting the ecodesign requirements pursuant to Article 5(1), the Commission shall ensure that manufacturers do not limit the durability of a product making it prematurely obsolete, in particular as a result of the design of a specific feature, the use of consumables, spare parts, or non-provision of software updates or accessories within an appropriate period of time.

2. When setting the ecodesign requirements pursuant to Article 5(1), the Commission shall ensure that manufacturers do not limit the

reparability of products by impeding the disassembly of key components or limiting access to repair information and spare parts exclusively to authorised repairers.

Compromise Amendment 7

ARTICLE 6 Performance requirements, Annex I, Annex II, Article 2 point 28,

replacing AM 47, 629-643, 89-94, 1092-1121, ITRE 75-ITRE80, 95-97, 1122-1129, 349-392

Proposal for a regulation Article 6

Text proposed by the Commission

1. Products shall comply with performance requirements related to the product aspects listed in Article 5(1), as laid down in the delegated acts adopted pursuant to Article 4.

2. Performance requirements referred to in paragraph 1 shall be based on the product parameters referred to in Annex I and shall, as appropriate, include:

(a) minimum or maximum levels in relation to a specific product parameter referred to in Annex I or a combination thereof;

(b) non-quantitative requirements that aim to improve performance in relation to one or more product parameters referred to in Annex I;

(c) requirements related to the functional performance of a product.

3. Performance requirements based on the product parameter set out in Annex I, point (f), shall not restrict the presence of substances in products for reasons relating primarily to chemical safety.

Amendment

1. Products shall comply with performance requirements related to the product aspects listed in Article 5(1), as laid down in the delegated acts adopted pursuant to Article 4.

2. Performance requirements referred to in paragraph 1 shall be based on the **relevant** product parameters referred to in Annex I and shall, as appropriate, include:

(a) minimum or maximum levels in relation to a specific product parameter referred to in Annex I or a combination thereof;

(b) non-quantitative requirements that aim to improve performance in relation to one or more product parameters referred to in Annex I;

(c) requirements related to the functional performance of a product.

3. Performance requirements based on the product parameter set out in Annex I, point (f), shall not restrict the presence of substances in products for reasons relating primarily to chemical safety, **unless there is an unacceptable risk to human health**

4. When establishing performance requirements, the Commission shall follow the procedure set out in Annex II.

ANNEX I

Product parameters

The following parameters *may*, as appropriate, and where necessary supplemented by others, be used as a basis for improving the product aspects referred to in Article 5(1):

(a) durability and reliability of the product or its components as expressed through the product's guaranteed lifetime, technical lifetime, mean time between failures, indication of real use information on the product, resistance to stresses or ageing mechanisms;

(b) ease of repair and maintenance as expressed through: characteristics, availability *and* delivery time of spare parts, modularity, compatibility with commonly available spare parts, availability of repair and maintenance instructions, number of materials and components used, use of standard components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, ease of non-destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed;

(c) ease of upgrading, re-use, remanufacturing and refurbishment as expressed through: number of materials and components used, use of standard

or the environment, arising from the use of a substance present in the product or product component when it is placed on the market or during the subsequent stages of its lifecycle.

4. When establishing performance requirements, the Commission shall follow the procedure set out in Annex II.

ANNEX I

Product parameters

The following parameters *shall*, as appropriate, and where necessary supplemented by others, be used, *individually or combined*, as a basis for improving the product aspects referred to in Article 5(1):

(a) durability and reliability of the product or its components as expressed through the product's guaranteed lifetime, technical lifetime, mean time between failures, indication of real use information on the product, resistance to stresses or ageing mechanisms;

(b) ease of repair and maintenance, *while taking into consideration product safety*, as expressed through: characteristics, availability, delivery time *and affordability* of spare parts, modularity, compatibility with commonly available *tools and* spare parts, availability of repair and maintenance instructions, number of materials and components used, use of standard components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and *whether specialised tools are* needed, ease of non-destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed;

(c) ease of upgrading, re-use, remanufacturing and refurbishment as expressed through: number of materials and components used, use of standard

components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, ease of non-destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed, conditions of access to test protocols or not commonly available testing equipment, availability of guarantees specific to remanufactured or refurbished products, conditions for access to or use of technologies protected by intellectual property rights, modularity;

(d) ease **and** quality of recycling as expressed through: use of easily recyclable materials, safe, easy and non-destructive access to recyclable components and materials or components and materials containing hazardous substances, material composition and homogeneity, possibility for high-purity sorting, number of materials and components used, use of standard components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, ease of non-destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed;

(e) avoidance of technical solutions detrimental to re-use, upgrading, repair, maintenance, refurbishment, remanufacturing and recycling of products and components;

(f) use of substances, on their own, as constituents of substances or in mixtures, during the production process of products, or leading to their presence in products, including once these products become waste;

components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, ease of non-destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed, conditions of access to test protocols or not commonly available testing equipment, availability of guarantees specific to remanufactured or refurbished products, conditions for access to or use of technologies protected by intellectual property rights, modularity;

(d) ease, quality **and economic viability** of recycling as expressed through: use of easily recyclable materials, safe, easy and non-destructive access to recyclable components and materials or components and materials containing hazardous substances **and** material composition and homogeneity, possibility for high-purity sorting, **design for recycling**, number of materials and components used, use of standard components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, ease of non-destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed;

(e) avoidance of technical solutions detrimental to re-use, upgrading, repair, maintenance, refurbishment, remanufacturing and recycling of products and components, **while taking into consideration product safety**;

(ea) avoidance of premature obsolescence;

(f) use of substances, **and in particular the use of substances of concern**, on their own, as constituents of substances or in mixtures, during the production process of products, or leading to their presence in products, including once these products

(g) consumption of energy, water and other resources in one or more life cycle stages of the product, including the effect of physical factors or software and firmware updates on product efficiency and including the impact on deforestation;

(h) use or content of recycled materials;

(i) weight and volume of the product and its packaging, and the product-to-packaging ratio;

(j) incorporation of used components

(k) quantity, characteristics and availability of consumables needed for proper use and maintenance;

(l) the environmental footprint of the product, expressed as a quantification, in accordance with the applicable delegated act, of a product's life cycle environmental impacts, whether in relation to one or more environmental impact categories or an aggregated set of impact categories;

(m) the carbon footprint of the product;

(n) microplastic release;

(o) emissions to air, water or soil released in one or more life cycle stages of the product;

(p) amounts of waste generated, including plastic waste and packaging waste and their ease of re-use, and amounts of hazardous waste generated;

(q) conditions for use.

become waste;

(g) consumption of energy, water and other resources in one or more life cycle stages of the product, including the effect of physical factors or software and firmware updates on product efficiency and including the impact on deforestation;

(h) use or content of recycled materials;

(ha) use or content of sustainably sourced renewable materials;

(hb) use or content of critical raw materials:

(i) weight and volume of the product and its packaging, and the product-to-packaging ratio;

(j) incorporation of used components

(k) quantity, characteristics and availability of consumables needed for proper use and maintenance;

(l) the environmental footprint of the product, expressed as a quantification, in accordance with the applicable delegated act, of a product's life cycle environmental impacts, whether in relation to one or more environmental impact categories or an aggregated set of impact categories;

(m) the carbon footprint of the product;

(ma) the material footprint of the product;

(n) microplastic ***and nanoplastic*** release;

(o) emissions to air, water or soil released in one or more life cycle stages of the product;

(p) amounts of waste generated, including plastic waste and packaging waste and their ease of re-use, ***ease of recycling***, and amounts of hazardous waste generated;

(q) conditions for use, ***including the environmental impact and benefits during use;***

(qa) impacts on human health

(qb) secure and sustainable supply of raw materials :

ANNEX II

Procedure for defining performance requirements

Performance requirements shall be set as follows:

(1) A technical, environmental and economic analysis shall select a number of representative models of the product or products in question on the market and identify the technical options for improving the product performance in relation to the parameters referred to in Annex I - in view of product-specific or horizontal requirements - taking into account the economic viability of the options and avoiding any significant increase of other life cycle environmental impacts, and significant loss of performance or of usefulness for consumers.

The technical, environmental and economic analysis shall also identify, for the parameter under consideration, the best-performing products and technologies available on the market.

The performance of products available on international markets and benchmarks set in other countries' legislation shall be taken into consideration during the analysis referred to in the first subparagraph as well as when setting requirements.

Based on this analysis, and taking into account economic and technical feasibility, including the availability of key resources and technologies, as well as the potential for improvement, levels or non-quantitative requirements shall be defined.

ANNEX II

Procedure for defining performance requirements

Performance requirements shall **contribute to achieving the objectives mentioned in Article 5(4) point a) and take into account the results of the relevant impact assessments. The performance requirements shall** be set as follows:

(1) A technical, environmental and economic analysis shall select a number of representative models of the product or products in question on the market and identify the technical options for improving the product performance in relation to the parameters referred to in Annex I - in view of product-specific or horizontal requirements - taking into account the economic **viability** of the options and avoiding any significant increase of other life cycle environmental impacts, and significant loss of performance or of usefulness for consumers.

The technical, environmental and economic analysis shall also identify, for the parameter under consideration, the best-performing products and technologies available on the market **as well as expected technology improvements. It shall also take into account existing sectoral roadmaps as set out in Regulation (EU) 2021/1119.**

The performance of products available on international markets and benchmarks set in other countries' legislation shall be taken into consideration during the analysis referred to in the first subparagraph as well as when setting requirements.

Based on this analysis, and taking into account **the adverse effects on human health and the environment of the product over its life cycle, the planetary boundaries, the** economic and technical feasibility, including the availability of key resources and technologies, as well as the

Any concentration limit for substances as referred to in Annex I, point (f), shall be based on a thorough analysis of the sustainability of the substances and their identified alternatives, and shall not have significant adverse effects on human health or the environment. Any performance requirement on substances as referred to in Annex I, point (f), shall take into consideration existing chemical safety assessments performed by the relevant Union bodies for the substances concerned, as well as safe and sustainable by design criteria for chemicals and materials developed by the Commission. Proposed concentration limits shall also consider aspects of enforceability, such as analytical detection limits.

Where relevant, the analysis referred to in the first subparagraph shall take into account the likely impacts of climate change on the product during its prospective lifetime, and the product's potential to improve climate resilience throughout its life cycle.

A sensitivity analysis covering the relevant factors, such as the price of energy or other resources, the cost of raw materials and necessary technologies, production costs, discount rates, and, where appropriate, external environmental costs, including avoided greenhouse gas emissions, must be carried out.

(2) For the development of the technical, environmental and economic analyses, relevant information available in the framework of other Union activities shall be taken into account and shall include technical information used as a basis for or derived from Regulation (EC) No 66/2010, Directive 2010/75/EU and Green Public Procurement criteria.

That shall also apply for information available from existing programmes applied in other parts of the world for

potential for improvement, levels or non-quantitative requirements shall be defined.

Any concentration limit for substances as referred to in Annex I, point (f), shall be based on a thorough analysis of the sustainability of the substances and their identified alternatives, and shall not have significant adverse effects on human health or the environment. Any performance requirement on substances as referred to in Annex I, point (f), shall take into consideration existing chemical safety assessments performed by the relevant Union bodies for the substances concerned, as well as safe and sustainable by design criteria for chemicals and materials developed by the Commission. Proposed concentration limits shall also consider aspects of enforceability, such as analytical detection limits.

Where relevant, the analysis referred to in the first subparagraph shall take into account the likely impacts of climate change on the product during its prospective lifetime, and the product's potential to improve climate resilience throughout its life cycle.

A sensitivity analysis covering the relevant factors, such as the price of energy or other resources, the cost of raw materials and necessary technologies, production costs, discount rates, and, where appropriate, external environmental costs, including avoided greenhouse gas emissions, must be carried out.

(2) For the development of the technical, environmental and economic analyses, relevant information available in the framework of other Union activities shall be taken into account and shall include technical information used as a basis for or derived from Regulation (EC) No 66/2010, Directive 2010/75/EU and Green Public Procurement criteria.

That shall also apply for information available from existing programmes applied in other parts of the world for

setting the specific ecodesign requirement of products traded with the Union's economic partners.

Proposal for a regulation

Article 2 - point 28

(28) 'substance of concern' means a substance that:

- (a) meets the criteria laid down in Article 57 *and is identified in accordance with Article 59(1)* of Regulation (EC) No 1907/2006; or
- (b) is classified in Part 3 of Annex VI to Regulation (EC) No 1272/2008 in one of the following hazard classes or hazard categories:
 - carcinogenicity categories 1 and 2,
 - germ cell mutagenicity categories 1 and 2,
 - reproductive toxicity categories 1 and 2, [to be added in the course of the legislative procedure once Regulation (EC) No 1272/2008 contains these hazard classes: Persistent, Bioaccumulative, Toxic (PBTs), very Persistent very Bioaccumulative (vPvBs); Persistent, Mobile and Toxic (PMT), very Persistent very Mobile (vPvM); Endocrine disruption],
 - respiratory sensitisation category 1,
 - skin sensitisation category 1,
 - chronic hazard to the aquatic environment categories 1 to 4,
 - hazardous to the ozone layer,
 - specific target organ toxicity – repeated exposure categories 1 and 2,
 - specific target organ toxicity – single exposure categories 1 and 2;

setting the specific ecodesign requirement of products traded with the Union's economic partners.

(28) 'substance of concern' means a substance that:

- (a) meets the criteria laid down in Article 57 of Regulation (EC) No 1907/2006; or
- (b) is classified in Part 3 of Annex VI to Regulation (EC) No 1272/2008 in one of the following hazard classes or hazard categories:
 - carcinogenicity categories 1 and 2,
 - germ cell mutagenicity categories 1 and 2,
 - reproductive toxicity categories 1 and 2, [to be added in the course of the legislative procedure once Regulation (EC) No 1272/2008 contains these hazard classes: Persistent, Bioaccumulative, Toxic (PBTs), very Persistent very Bioaccumulative (vPvBs); Persistent, Mobile and Toxic (PMT), very Persistent very Mobile (vPvM); Endocrine disruption],
 - respiratory sensitisation category 1,
 - skin sensitisation category 1,
 - chronic hazard to the aquatic environment categories 1 to 4,
 - hazardous to the ozone layer,
 - specific target organ toxicity – repeated exposure categories 1 and 2,
 - specific target organ toxicity – single exposure categories 1 and 2;

- substances regulated under the

Regulation (EU) No 2019/1021;
- specific restricted substances
listed in Annex XVII of
Regulation (EC) No 1907/2006

or

(c) negatively affects the re-use and recycling of materials in the product in which it is present;

or

(c) negatively affects the re-use and recycling of materials in the product in which it is present;

Compromise Amendment 8

ARTICLE 7 Information requirements

replacing AM 48-53, 644-735, 737-740,744, ITRE41-ITRE42, IMCO49, IMCO50

Proposal for a regulation **Article 7**

Text proposed by the Commission

1. Products shall comply with information requirements related to the product aspects listed in Article 5(1), as laid down in the delegated acts adopted pursuant to Article 4.
2. The information requirements referred to in paragraph 1 shall:
 - (a) include, as a minimum, requirements related to the product passport referred to in Chapter III and requirements related to substances of concern referred to in paragraph 5; and
 - (b) as appropriate, require products to be accompanied by:
 - (i) information on the performance of the product in relation to the product parameters referred to in Annex I;
 - (ii) information for consumers and other end-users on how to install, use, maintain and repair the product in order to minimise its impact on the environment and to ensure optimum durability, as well as on

Amendment

1. Products shall comply with information requirements related to product aspects listed in Article 5(1), as laid down in the delegated acts adopted pursuant to Article 4.
2. The information requirements referred to in paragraph 1 shall:
 - (a) include, as a minimum, requirements related to the product passport referred to in Chapter III and requirements related to substances of concern referred to in paragraph 5; and
 - (b) as appropriate, require products to be accompanied by:
 - (i) information on the performance of the product in relation to the product parameters referred to in Annex I;
 - (ii) **clear and easily understandable** information for consumers and other end-users, on how to install, use, maintain and repair the product in order to minimise its impact on the

how to return or dispose of the product at end-of-life;

(iii) information for treatment facilities on disassembly, recycling, or disposal at end-of-life;

(iv) other information that may influence the way the product is handled by parties other than the manufacturer in order to improve performance in relation to product parameters referred to in Annex I.

Where a delegated acts contains horizontal ecodesign requirements for two or more product groups as referred to in Article 5(2), second subparagraph, point (a) of this paragraph shall not apply.

3. Information requirements based on the product parameter set out in Annex I, point (f), shall not provide obligations on the labelling of substances or mixtures for reasons relating primarily to their hazards to health or the environment.

4. When establishing the information requirements referred to in paragraph 2, point (b), point (i), the Commission shall, as appropriate, determine classes of performance.

Those classes of performance shall correspond to statistically significant improvements in performance levels.

environment and to ensure optimum durability, as well as on how to return or dispose of the product at end-of-life;

(ia) clear and easily understandable information for consumers and other end-users, on how to install third-party operating systems;

(ib) relevant information for providers of repair and refurbishment services and operators involved in preparing for reuse, reuse, repair and disassembly;

(iii) information for treatment facilities on disassembly, recycling, or disposal at end-of-life;

(iv) other information that may influence the way the product is handled by parties other than the manufacturer in order to improve performance in relation to product parameters referred to in Annex I.

Where a delegated acts contains horizontal ecodesign requirements for two or more product groups as referred to in Article 5(2), second subparagraph, point (a) of this paragraph shall not apply.

3. Information requirements based on the product parameter set out in Annex I, point (f), shall not provide obligations on the labelling of substances or mixtures for reasons relating primarily to their hazards to health or the environment.

4. When establishing the information requirements referred to in paragraph 2, point (b), point (i), the Commission shall, as appropriate, determine classes of performance.

Those classes of performance shall correspond to statistically significant improvements in performance levels **and shall use as the minimum level the minimum performance requirements established pursuant to Article 6.**

4a. Where appropriate, based on the evidence provided in the impact assessment referred to in Article 5(4), point (b), information requirements on the performance of the product related to reparability shall take the form of a reparability score to enable end-users to easily compare the performance of products. The methodology to assess the reparability of products shall be developed according to the specificities of product categories and specified in the relevant delegated act adopted under Article 4. That delegated act shall also define the content and layout of the label containing the reparability score, as appropriate, in accordance with Article 14, using clear and easy-to-understand language and pictograms, to avoid overload of information for consumers.

When available, the methodology to assess the reparability of products may include other relevant aspects of a product, such as durability, reliability or robustness, and be further specified in the relevant delegated act taking into account specificities of the product category.

5. The information requirements referred to in paragraph 1 shall enable the tracking of all substances of concern throughout the life cycle of products, unless such tracking is already enabled by another delegated act adopted pursuant to Article 4 covering the products concerned, and shall include at least the following:

(a) the name of the substances of concern present in the product;

(b) the location of the substances of concern within the product;

(c) the concentration, maximum concentration or concentration range of the substances of concern, at the level of the

5. The information requirements referred to in paragraph 1 shall enable the tracking of all substances of concern **present in the product as placed on the market, in accordance with a threshold-based approach**, throughout the life cycle of products, unless such tracking is already enabled by another delegated act adopted pursuant to Article 4 covering the products concerned, and shall include at least the following:

(a) the **IUPAC** name of the substances of concern present in the product (**including the chemical identification number, i.e. EINECS or ELINCS number or CAS number**);

(b) the location of the substances of concern within the product;

(c) the concentration, maximum concentration or concentration range of the substances of concern, at the level of the

product, its main components, or spare parts;

(d) relevant instructions for the safe use of the product;

(e) information relevant for disassembly.

Where the Commission sets out information requirements in a delegated act adopted pursuant to Article 4, it shall:

(a) establish which substances fall under the definition in Article 2(28), point (c), for the purposes of the product groups covered;

(b) lay down deadlines for the entry into application of the information requirements referred to in the first subparagraph, with possible differentiation between substances; and

(c) provide exemptions for substances of concern or information elements from the information requirements referred to in the first subparagraph.

Exemptions referred to in the second subparagraph, point (c), may be provided based on the technical feasibility or relevance of tracking substances of concern, the need to protect confidential business information and in other duly justified cases.

Substances of concern falling under the definition in Article 2(28), point (a), shall not be exempted from the information requirement referred to in the first subparagraph if they are present in the relevant products, their main components or spare parts in a concentration above 0,1 % weight by weight.

6. Information requirements shall indicate the manner in which the required information shall be made available.

The required information shall, as

product, its main components, or spare parts;

(d) relevant instructions for the safe use *of the product and environmentally sound management* of the product *at the end of its life*;

(e) information relevant for disassembly *and preparation for reuse*.

Where the Commission sets out information requirements in a delegated act adopted pursuant to Article 4, it shall:

(a) establish which substances fall under the definition in Article 2(28), point (c), for the purposes of the product groups covered;

(b) lay down deadlines for the entry into application of the information requirements referred to in the first subparagraph, with possible differentiation between substances; and

(c) provide exemptions for substances of concern or information elements from the information requirements referred to in the first subparagraph.

Exemptions referred to in the second subparagraph, point (c), may be provided based on the technical feasibility or relevance of tracking substances of concern, *the existence of analytical methods to detect and quantify them*, the need to protect confidential business information and in other duly justified cases.

Substances of concern falling under the definition in Article 2(28), point (a) shall not be exempted from the information requirement referred to in the first subparagraph if they are present in the relevant products, their main components or spare parts in a concentration above 0,1 % weight by weight.

6. Information requirements shall indicate the manner in which the required information shall be made available.

The required information shall, as

appropriate, be provided in at least one of the following manners:

- (a) on the product itself;
- (b) on the product's packaging;
- (c) in the product passport referred to in Article 8;
- (d) on a label referred to in Article 14;
- (e) in a user manual;

- (f) on a free access website or application.

Information *ensuring the traceability of substances pursuant to paragraph 5* shall be *given either on the product or* be accessible through a data carrier included on the product.

7. The information to be supplied pursuant to information requirements shall be provided in a language which can be easily understood by consumers and other end-users, as determined by the Member State in which the product is to be made available on the market or put into service.

appropriate, be provided in at least one of the following manners:

- (a) on the product itself;
- (b) on the product's packaging;
- (c) in the product passport referred to in Article 8;
- (d) on a label referred to in Article 14;
- (e) in a user manual *or other documentation accompanying the product*;

- (f) on a free access website or application.

Information *that is essential to the health, safety, and rights of end-users shall be provided and shall be accessible in physical form with* the product *and* be accessible through a data carrier included on the product.

Information relevant for an informed purchasing decision shall be provided to consumers prior to the purchase of a product.

7. The information to be supplied pursuant to information requirements shall be provided in a language which can be easily understood by consumers and other end-users, as determined by the Member State in which the product is to be made available on the market or put into service

7a. The information to be supplied pursuant to information requirements shall be provided in accordance with accessibility requirements under Directive (EU) 2019/882.

Compromise Amendment 9

ARTICLE 8 Product passport and ANNEX III

replacing AM 54-58, 747-807, 809, 810, 1130-1133, ITRE44-ITRE46, ITRE53, IMCO51-IMCO58, 1009

**Proposal for a regulation
Article 8**

1. The information requirements referred to in Article 7(1) shall provide that products can only be placed on the market or put into service if a product passport is available in accordance with the applicable delegated act adopted pursuant to Article 4 and Articles 9 and 10.

2. The requirements related to the product passport laid down in the delegated acts adopted pursuant to Article 4 shall, as appropriate for the product groups covered, specify the following:

(a) the information to be included in the product passport pursuant to Annex III;

(b) the types of data carrier to be used;

(c) the layout in which the data carrier shall be presented and its positioning;

(d) whether the product passport is to correspond to the model, batch, or item level;

(e) the manner in which the product passport shall be made accessible to customers before they are bound by a sales contract, including in case of distance selling;

(f) the actors that shall have access to information in the product passport and to what information they shall have access, including customers, end-users, manufacturers, importers and distributors, dealers, repairers, remanufacturers, recyclers, competent national authorities, **public interest** organisations and the Commission, or any organisation acting on their behalf;

(g) the actors that may introduce or update the information in the product passport,

1. The information requirements referred to in Article 7(1) shall provide that products can only be placed on the market or put into service if a product passport is available in accordance with the applicable delegated act adopted pursuant to Article 4 and Articles 9 and 10. ***The information in the product passport shall be accurate, complete and up to date.***

2. The requirements related to the product passport laid down in the delegated acts adopted pursuant to Article 4 shall, as appropriate for the product groups covered, specify the following:

(a) the information to be included in the product passport pursuant to Annex III ***with specific consideration for confidential business information.***

(b) the types of data carrier to be used;

(c) the layout in which the data carrier shall be presented and its positioning;

(d) whether the product passport is to correspond to the model, batch, or item level;

(e) the manner in which the product passport shall be made accessible to customers before they are bound by a sales contract, including in case of distance selling;

(f) the actors that shall have access to information in the product passport and to what information they shall have access, including customers, end-users, manufacturers, importers and distributors, dealers, ***professional*** repairers, ***independent operators, refurbishers,*** remanufacturers, recyclers, competent national authorities, ***civil society*** organisations, ***researchers, trade unions*** and the Commission, or any organisation acting on their behalf;

(g) the actors that ***shall*** introduce or update the information in the product

including where needed the creation of a new product passport, and what information they may introduce or update, including manufacturers, repairers, maintenance professionals, remanufacturers, recyclers, competent national authorities, and the Commission, or any organisation acting on their behalf;

(h) the period for which the product passport shall remain available.

3. The requirements referred to in paragraph 2 shall:

(a) ensure that actors along the value chain, **in particular consumers, economic operators and competent national authorities**, can access product information relevant to them;

(b) facilitate the verification of product compliance by competent national authorities; **and**

(c) improve traceability of products along the value chain.

4. When establishing the requirements related to the product passport, the Commission may exempt product groups from the requirement set out in paragraph 1 of this Article where:

(a) technical specifications are not available in relation to the essential requirements included in Article 10; or

(b) other Union law includes a system for the digital provision of information related to a product group for which the Commission considers that it achieves the objectives referred to in paragraph 3, points (a) and (b).

passport, including where needed the creation of a new product passport, **that shall be linked to the product passport or passports of the original product**, and what information they may introduce or update, including manufacturers, **professional** repairers, **independent operators, refurbishers**, maintenance professionals, remanufacturers, recyclers, competent national authorities, and the Commission, or any organisation acting on their behalf, **avoiding duplication of information ad reporting**.

(h) the period **during** which the product passport shall remain available, **which shall correspond to at least the expected lifetime of a specific product**.

3. The requirements referred to in paragraph 2 shall:

(a) ensure that actors along the value chain, can **easily** access product information relevant to them;

(b) facilitate the verification of product compliance by competent national authorities;

(c) improve traceability of products along the value chain; **and**:

4. When establishing the requirements related to the product passport, the Commission may exempt product groups from the requirement set out in paragraph 1 of this Article where:

(a) technical specifications are not available in relation to the essential requirements included in Article 10; or

(b) other Union law includes a system for the digital provision of information related to a product group for which the Commission considers that it achieves the objectives referred to in paragraph 3, points (a) and (b);

Proposal for a regulation

Annex III

Text proposed by the Commission

The requirements related to the product passport laid down in the delegated acts adopted pursuant to Article 4 shall specify what information shall or may be included in the product passport from among the following elements:

- (a) information required under Articles 7(2) and 8(2) or by other Union law applicable to the relevant product group;
- (b) the unique product identifier at the level indicated in the applicable delegated act adopted pursuant to Article 4;
- (c) the Global Trade Identification Number as provided for in standard ISO/IEC 15459-6 or equivalent of products or their parts;
- (d) relevant commodity codes, such as a TARIC code as defined in Council Regulation (EEC) No 2658/871;
- (e) compliance documentation and information required under this Regulation or other Union law applicable to the product, such as the declaration of conformity, technical documentation or conformity certificates;
- (f) user manuals, instructions, warnings or safety information, as required by other Union legislation applicable to the product;
- (g) information related to the manufacturer, such as its unique operator identifier and the information referred to in Article 21(7);
- (h) unique operator identifiers other than that of the manufacturer;
- (i) unique facility identifiers;
- (j) information related to the importer, including the information referred to in Article 23(3) and its EORI number;
- (k) the name, contact details and unique

Amendment

The requirements related to the product passport laid down in the delegated acts adopted pursuant to Article 4 shall specify what information shall or may be included in the product passport from among the following elements:

- (a) information required under Articles 7(2) and 8(2) or by other Union law applicable to the relevant product group;
- (b) the unique product identifier at the level indicated in the applicable delegated act adopted pursuant to Article 4;
- (c) the Global Trade Identification Number as provided for in standard ISO/IEC 15459-6 or equivalent of products or their parts;
- (d) relevant commodity codes, such as a TARIC code as defined in Council Regulation (EEC) No 2658/871;
- (e) compliance documentation and information required under this Regulation or other Union law applicable to the product, such as the declaration of conformity, technical documentation or conformity certificates;
- (f) user manuals, instructions, warnings or safety information, as required by other Union legislation applicable to the product;
- (g) information related to the manufacturer, such as its unique operator identifier and the information referred to in Article 21(7);
- (h) unique operator identifiers other than that of the manufacturer;
- (i) unique facility identifiers;
- (j) information related to the importer, including the information referred to in Article 23(3) and its EORI number;
- (k) the name, contact details and unique

operator identifier code of the economic operator established in the Union responsible for carrying out the tasks set out in Article 4 of Regulation (EU) 2019/1020, or Article 15 of Regulation (EU) [...] on general product safety, or similar tasks pursuant to other EU legislation applicable to the product.

The delegated acts adopted pursuant to Article 4 shall identify information relevant to ecodesign requirements that manufacturers may include in the product passport in addition to the information required pursuant to Article 8(2), point (a), including information on specific voluntary labels applicable to the product. That shall include whether an EU Ecolabel has been awarded to the product in line with Regulation (EC) No 66/2010.

operator identifier code of the economic operator established in the Union responsible for carrying out the tasks set out in Article 4 of Regulation (EU) 2019/1020, or Article 15 of Regulation (EU) [...] on general product safety, or similar tasks pursuant to other EU legislation applicable to the product.

The delegated acts adopted pursuant to Article 4 shall identify information relevant to ecodesign requirements that manufacturers may include in the product passport in addition to the information required pursuant to Article 8(2), point (a), including information on specific voluntary labels applicable to the product. That shall include whether an EU Ecolabel has been awarded to the product in line with Regulation (EC) No 66/2010.

Compromise Amendment 10

ARTICLE 9 General requirements for the product passport

replacing AM 812-836, ITRE47, ITRE48, IMCO59-IMCO61

Proposal for a regulation Article 9

Text proposed by the Commission

1. A product passport shall meet the following conditions:

(a) it shall be connected through a data carrier to a unique product identifier;

(b) the data carrier shall be physically present on the product, its packaging or on documentation accompanying the product, as specified in the applicable delegated act adopted pursuant to Article 4;

(c) the data carrier and the unique product identifier shall comply with standard ('ISO/IEC') 15459:2015;

Amendment

1. A product passport shall meet the following conditions:

(a) it shall be connected through a data carrier to a unique product identifier **which shall identify the product, independently of any product passport's identifier and of any internet domain name;**

(b) the data carrier shall be physically present on the product, its packaging or on documentation accompanying the product, as specified in the applicable delegated act adopted pursuant to Article 4;

(c) the data carrier and the unique product identifier shall comply with standard ('ISO/IEC') 15459:2015;

(d) all information included in the product passport shall be based on open, standards, developed with an inter-operable format and shall be machine-readable, structured, and searchable, in accordance with the essential requirements set out in Article 10;

(e) the information included in the product passport shall refer to the product model, batch, or item as specified in the delegated act adopted pursuant to Article 4;

(f) the access to information included in the product passport shall be regulated in accordance with the essential requirements set out in Article 10 and the specific access rights at product group level shall be identified in the applicable delegated act adopted pursuant to Article 4.

The Commission is empowered to adopt delegated acts in accordance with Article 66 to amend the first subparagraph, point (c), of this Article in light of technical and scientific progress by replacing the standard referred to in that point or adding other European or international standards with which the data carrier and the unique identifiers shall comply for the purposes of meeting the conditions set out in this Article.

2. Where other Union legislation requires or allows the inclusion of specific information in the product passport, that information may be added to the information to be included in the product passport pursuant to the applicable delegated act adopted pursuant to Article 4.

3. The economic operator placing the product on the market shall provide dealers with a digital copy of the data carrier to allow **the dealer** to make it accessible to customers where they cannot physically access the product. The economic operator

(d) all information included in the product passport shall be based on open standards, developed with an inter-operable format and shall be machine-readable, structured, and searchable, **and shall be transferable through an open inter-operable data exchange network without vendor lock-in** in accordance with the essential requirements set out in Article 10;

(da) personal data related to the end-user of the product shall not be stored in the product passport;

(e) the information included in the product passport shall refer to the product model, batch, or item as specified in the delegated act adopted pursuant to Article 4;

(f) the access to information included in the product passport shall be regulated in accordance with the essential requirements set out in Article 10 and the specific access rights at product group level shall be identified in the applicable delegated act adopted pursuant to Article 4.

The Commission is empowered to adopt delegated acts in accordance with Article 66 to amend the first subparagraph, point (c), of this Article in light of technical and scientific progress by replacing the standard referred to in that point or adding other European or international standards with which the data carrier and the unique identifiers shall comply for the purposes of meeting the conditions set out in this Article.

2. Where other Union legislation requires or allows the inclusion of specific information in the product passport, that information may be added to the information to be included in the product passport pursuant to the applicable delegated act adopted pursuant to Article 4.

3. The economic operator placing the product on the market shall provide dealers **and online marketplaces** with a digital copy of the data carrier to allow **them** to make it accessible to customers where they cannot physically access the product. The

shall provide that digital copy free of charge and within 5 working days *of* the *dealer's* request.

economic operator shall provide that digital copy free of charge and within 5 working days *after receiving* the request.

Compromise Amendment 11

ARTICLE 10 Technical design and operation of the product passport

replacing AM 59-63, 837-854, ITRE49-ITRE54, IMCO62

Proposal for a regulation

Article 10

Text proposed by the Commission

The technical design and operation of the product passport shall comply with the following essential requirements:

(a) product passports shall be fully interoperable with other product passports required by delegated acts adopted pursuant to Article 4 in relation to the technical, semantic and organisational aspects of end-to-end communication and data transfer;

(b) consumers, economic operators and other relevant actors shall have free access to the product passport based on their respective access rights set out in the applicable delegated act adopted pursuant to Article 4;

(c) the data included in the product

Amendment

The technical design and operation of the product passport shall comply with the following essential requirements:

(a) product passports shall be fully interoperable with other product passports required by delegated acts adopted pursuant to Article 4 in relation to the technical, semantic and organisational aspects of end-to-end communication and data transfer;

(aa) product passports shall be interoperable with existing product databases, such as the SCIP database and the EPREL database, whenever feasible and relevant;

(b) customers, end-users, manufacturers, importers and distributors, dealers, ***professional*** repairers, ***independent operators, refurbishers***, remanufacturers, recyclers, competent national authorities, ***civil society*** organisations, ***trade unions*** and other relevant actors shall have free ***of charge and easy*** access to the product passport based on their respective access rights set out in the applicable delegated act adopted pursuant to Article 4;

(ha) product passports shall be designed and operated so that user-friendliness is ensured;

(c) the data included in the product

passport shall be stored the economic operator responsible for its creation or by operators authorised to act on their behalf;

(d) if the data included in the product passport is stored or otherwise processed by operators authorised to act on their behalf, those operators shall not be allowed to sell, re-use or process such data, in whole or in part, beyond what is necessary for the provision of the relevant storing or processing services;

(e) the product passport shall remain available for the period specified in delegated acts adopted pursuant to Article 4, including after an insolvency, a liquidation or a cessation of activity in the Union of the economic operator that created the product passport;

(f) the rights to access and to introduce, modify or update information in product passport shall be restricted based on the access rights specified in delegated acts adopted pursuant to Article 4;

(g) data authentication, reliability and integrity shall be ensured;

(h) product passports shall be designed and operated so that a high level of security and privacy is ensured and fraud is avoided.

passport shall be stored **by** the economic operator responsible for its creation or by operators authorised to act on their behalf;

(d) if the data included in the product passport is stored or otherwise processed by operators authorised to act on their behalf, those operators shall not be allowed to sell, re-use or process such data, in whole or in part, beyond what is necessary for the provision of the relevant storing or processing services;

(e) the product passport shall remain available for the period specified in delegated acts adopted pursuant to Article 4, including after an insolvency, a liquidation or a cessation of activity in the Union of the economic operator that created the product passport;

(f) the rights to access and to introduce, modify or update information in product passport shall be restricted based on the access rights specified in delegated acts adopted pursuant to Article 4;

(g) data authentication, reliability and integrity shall be ensured;

(h) product passports shall be designed and operated so that a high level of security and privacy is ensured and fraud is avoided.

Compromise Amendment 12

ARTICLE 11 Unique operator identifier and unique facility identifier

replacing AM 856-858

Proposal for a regulation

Article 11

Text proposed by the Commission

1. The unique operator identifiers referred to in Annex III, points (g) and (h), and the unique facility identifiers referred to in Annex III, point (i), shall comply with the ISO/IEC standard 15459:2015.

2. Where a unique operator identifier

Amendment

1. The unique operator identifiers referred to in Annex III, points (g) and (h), and the unique facility identifiers referred to in Annex III, point (i), shall comply with the ISO/IEC standard 15459:2015.

2. Where a unique operator identifier

referred to in Annex III, point (h), is not yet available, the economic operator creating the product passport shall request a unique operator identifier on behalf of the relevant actor.

Before issuing a request as referred to in the first subparagraph, the economic operator creating the product passport shall seek confirmation from the actor concerned that no unique operator identifier exists and shall provide the supply chain actor concerned with full details of the released unique operator identifier.

3. Where a unique facility identifier referred to in Annex III, point (i), is not yet available, the economic operator creating the product passport shall request a unique facility identifier on behalf of the actor responsible for the relevant location or building.

Before issuing a request as referred to in the first subparagraph, the economic operator creating the product passport shall seek confirmation from the responsible actor that no unique facility identifier exists and provide the responsible actor with the full details of the released unique facility identifier.

4. The Commission is empowered to adopt delegated acts in accordance with Article 66 to amend paragraph 1 of this Article in light of technical and scientific progress by replacing the standard referred to in that paragraph or adding European or international standards with which unique operator identifiers referred to in Annex III, points (g) and (h), and unique facility identifiers referred to in Annex III, point (i), may comply for the purposes of meeting the conditions set out in this Article.

Compromise Amendment 13

ARTICLE 12 Product passport registry

replacing AM 859-864, ITRE55

referred to in Annex III, point (h), is not yet available, the economic operator creating the product passport shall request a unique operator identifier on behalf of the relevant actor.

Before issuing a request as referred to in the first subparagraph, the economic operator creating the product passport shall seek confirmation from the actor concerned that no unique operator identifier exists and shall provide the supply chain actor concerned with full details of the released unique operator identifier.

3. Where a unique facility identifier referred to in Annex III, point (i), is not yet available, the economic operator creating the product passport shall request a unique facility identifier on behalf of the actor responsible for the relevant location or building.

Before issuing a request as referred to in the first subparagraph, the economic operator creating the product passport shall seek confirmation from the responsible actor that no unique facility identifier exists and provide the responsible actor with the full details of the released unique facility identifier.

4. The Commission is empowered to adopt delegated acts in accordance with Article 66 to amend paragraph 1 of this Article in light of technical and scientific progress by replacing the standard referred to in that paragraph or adding European or international standards with which unique operator identifiers referred to in Annex III, points (g) and (h), and unique facility identifiers referred to in Annex III, point (i), may comply for the purposes of meeting the conditions set out in this Article.

Proposal for a regulation

Article 12

Text proposed by the Commission

1. The Commission shall set up and maintain a registry storing information included in the product passports required by delegated acts adopted pursuant to Article 4.

The registry referred to in the first subparagraph shall at least include a list of the data carriers and unique product identifiers referred to in Article 9(1).

The Commission shall ensure that the information stored in the registry referred to in the first subparagraph is processed securely and in compliance with Union law, including applicable rules on the protection of personal data.

2. The Commission shall, in the delegated acts adopted pursuant to Article 4, specify the information which, in addition to being included in the product passport, shall be stored in the registry referred to in paragraph 1, taking into account at least the following criteria:

(a) the need to allow for the verification of the authenticity of the product passport;

(b) the relevance of information for improving the efficiency and effectiveness of market surveillance checks and customs controls in relation to products covered by delegated acts adopted pursuant to Article 4;

(c) the need to avoid disproportionate administrative burden for economic operators.

3. In relation to its responsibility to establish and manage the registry referred to in paragraph 1 and the processing of any personal data that might result from that activity, the Commission shall be regarded as controller as defined in Article 3, point (8), of Regulation (EU) 2018/1725.

Amendment

1. The Commission shall set up and maintain a registry storing information included in the product passports required by delegated acts adopted pursuant to Article 4.

The registry referred to in the first subparagraph shall at least include a list of the data carriers and unique product identifiers referred to in Article 9(1).

The Commission shall ensure that the information stored in the registry referred to in the first subparagraph is processed securely and in compliance with Union law, including applicable rules on the protection of personal data.

2. The Commission shall, in the delegated acts adopted pursuant to Article 4, specify the information which, in addition to being included in the product passport, shall be stored in the registry referred to in paragraph 1, taking into account at least the following criteria:

(a) the need to allow for the verification of the authenticity of the product passport;

(b) the relevance of information for improving the efficiency and effectiveness of market surveillance checks and customs controls in relation to products covered by delegated acts adopted pursuant to Article 4;

(c) the need to avoid disproportionate administrative burden for economic operators.

3. In relation to its responsibility to establish and manage the registry referred to in paragraph 1 and the processing of any personal data that might result from that activity, the Commission shall be regarded as controller as defined in Article 3, point (8), of Regulation (EU) 2018/1725.

4. The economic operator placing the product on the market or putting it into service shall upload, in the registry referred to in paragraph 1, the information referred to in paragraph 2.

5. The Commission, competent national authorities and customs authorities shall have access to the registry referred to in this Article for carrying out their duties pursuant to Union legislation.

4. The economic operator placing the product on the market or putting it into service shall upload, in the registry referred to in paragraph 1, the information referred to in paragraph 2.

5. The Commission, competent national authorities and customs authorities shall have access to the registry referred to in this Article for carrying out their duties pursuant to Union legislation.

Compromise Amendment 30

ARTICLE 12 a (new) Comparison platform

replacing AM 855

Proposal for a regulation

Article 12 a (new)

Text proposed by the Commission

Amendment

1. Within [12] months after the entry into force of the Regulation, the Commission shall set up and maintain a publicly accessible online tool allowing stakeholders to compare information included in the product passports stored by the economic operator as per Article 10(c). The tool shall be designed to guarantee that stakeholders can search for the information in line with their respective access rights pursuant to Article 10(1)(b).

Compromise Amendment 14

Article 14 Labels

replacing Amendments 64, 65, 866-871, IMCO63, IMCO64

Proposal for a regulation

Article 14 – paragraph 1

Text proposed by the Commission

Amendment

1. Where the information requirements

1. Where the information requirements

referred in Article 7(1) specify that information shall be included in a label pursuant to Article 7(6), point (d), the delegated acts adopted pursuant to Article 4 shall specify:

- (a) the content of the label;
- (b) the layout of the label **taking account** visibility and legibility;
- (c) the manner in which the label shall be displayed to customers including in case of distance selling, taking into account the requirements set out in Article 26 and the implications for the relevant economic operators;
- (d) where appropriate, electronic means for generating labels.

Proposal for a regulation Article 14 – paragraph 2

Text proposed by the Commission

2. Where an information requirement entails the inclusion in a label of the class of performance of a product as referred to in Article 7(4), the layout of the label referred to in paragraph 1, point (b), shall **enable** customers to easily compare product performance in relation to the relevant product parameter and to choose better performing products.

Proposal for a regulation Article 14 – paragraph 3

Text proposed by the Commission

3. For energy-related products, where information on a relevant product parameter, including on classes of performance referred to in Article 7(4), cannot be incorporated in the energy label established pursuant to Regulation (EU) 2017/1369, the Commission, after assessing the best way to communicate about this particular information, may, if

referred in Article 7(1) specify that information shall be included in a label pursuant to Article 7(6), point (d), the delegated acts adopted pursuant to Article 4 shall specify:

- (a) the content of the label;
- (b) the layout of the label **ensuring** visibility and legibility;
- (c) the manner in which the label shall be displayed to customers including in case of distance selling, taking into account the requirements set out in Article 26, **the requirements set out in Directive (EU) 2019/882**, and the implications for the relevant economic operators;
- (d) where appropriate, electronic means for generating labels.

Amendment

2. Where an information requirement entails the inclusion in a label of the class of performance of a product as referred to in Article 7(4), the layout of the label referred to in paragraph 1, point (b), shall **be clear and easily understandable, enabling** customers to easily compare product performance in relation to the relevant product parameter and to choose better performing products.

Amendment

3. For energy-related products, where information on a relevant product parameter, including on classes of performance referred to in Article 7(4), cannot be incorporated in the energy label established pursuant to Regulation (EU) 2017/1369, the Commission, after assessing the best way to communicate about this particular information, may, if

appropriate, require the establishment of a label in accordance with this Regulation.

appropriate, require the establishment of a label in accordance with this Regulation.

Proposal for a regulation

Article 14 – paragraph 4

Text proposed by the Commission

4. When establishing the information requirements referred to in paragraph 1, the Commission shall, where appropriate, require the label to include data carriers or other means to allow customers to access additional information on the product, including means allowing access to the product passport referred to in Article 8.

Amendment

4. When establishing the information requirements referred to in paragraph 1, the Commission shall, where appropriate, require the label to include data carriers or other means to allow customers to access additional information on the product, including means allowing access to the product passport referred to in Article 8.

Proposal for a regulation

Article 14 – paragraph 5

Text proposed by the Commission

5. The Commission may adopt implementing acts establishing common requirements for the layout of the labels required pursuant to Article 7(6), point (d).
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(3).

Amendment

5. The Commission may adopt implementing acts establishing common requirements for the layout of the labels required pursuant to Article 7(6), point (d).
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(3).

Compromise Amendment 15

Article 15 Mimicking Labels

replacing AM 870-874

Proposal for a regulation

Article 15 – paragraph 1

Text proposed by the Commission

Where delegated acts adopted pursuant to Article 4 do not require products to have a label, those products may not be placed on the market or put into service if they supply or display labels which are likely to mislead or confuse customers with respect

Amendment

Products ***shall*** not be placed on the market or put into service if they supply or display labels which are likely to mislead or confuse customers with respect to the labels provided for in Article 14, ***including where delegated acts adopted pursuant to***

to the labels provided for in Article 14.

Article 4 do not require products to have a label.

Compromise Amendment 16

Article 16 Prioritisation and planning

replacing AMs 66-68, 875-895, ITRE56-ITRE59

Proposal for a regulation

Article 16 – paragraph 1

Text proposed by the Commission

1. When prioritising products to be covered by ecodesign requirements in accordance with this Regulation, the Commission shall take into account their potential contribution to achieving Union climate, environmental and energy efficiency objectives, as well as the following criteria:

(a) the potential for improving the product aspects listed in Article 5(1) without entailing disproportionate costs, taking into account in particular:

- (i) the absence or insufficiency of Union law or failure of market forces or self-regulation measures adopted in accordance with Article 18 to address the objective properly; and
- (ii) the disparity in the performance of products available on the market with equivalent functionality in relation to the product aspects listed in Article 5(1);

(b) the volume of sales and trade of the product within the Union;

(c) the distribution of the environmental impacts, energy use and waste generation across the value chain, in particular whether they take place within the Union;

(d) the need to regularly review and adapt delegated acts adopted pursuant to Article 4 in light of technological and market developments.

Amendment

1. When prioritising products to be covered by ecodesign requirements in accordance with this Regulation, the Commission shall take into account their potential contribution to achieving Union climate, environmental and energy efficiency objectives, as well as the following criteria:

(a) the potential for improving the product aspects listed in Article 5(1) without entailing disproportionate costs, taking into account in particular:

- (i) the absence or insufficiency of Union law or failure of market forces or self-regulation measures adopted in accordance with Article 18 to address the objective properly; and
- (ii) the disparity in the performance of products available on the market with equivalent functionality in relation to the product aspects listed in Article 5(1);

(b) the volume of sales and trade of the product within the Union;

(c) the distribution of the ***climate and resource use*** environmental impacts, energy use, and waste generation across the value chain;

(d) the need to regularly review and adapt delegated acts adopted pursuant to Article 4 in light of technological and market developments.

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

2. The Commission shall adopt **and regularly update** a working plan, **covering a period of at least 3 years, setting** out a list of product groups for which it intends to establish ecodesign requirements in accordance with this Regulation. That list shall include products aspects referred to in Article 5(1) for which the Commission intends to adopt horizontal ecodesign requirements established pursuant to Article 5(2), second subparagraph.

When adopting or updating the working plan referred to in the first subparagraph, the Commission shall take into account the criteria set out in paragraph 1 of this Article and shall consult the Ecodesign Forum referred to in Article 17.

Amendment

2. The Commission shall adopt **a working plan and make it publicly available, together with the relevant preparatory documents. The working plan shall set** out a list of product groups for which it intends to establish ecodesign requirements in accordance with this Regulation **and the estimated timelines for their establishment.** That list shall include products aspects referred to in Article 5(1) for which the Commission intends to adopt horizontal ecodesign requirements established pursuant to Article 5(2), second subparagraph. **The working plan shall cover a period of at least 3 years and it shall be regularly updated.**

When adopting or updating the working plan referred to in the first subparagraph, the Commission shall take into account the criteria set out in paragraph 1 of this Article and shall consult the Ecodesign Forum referred to in Article 17 **within an appropriate timeframe.**

The Commission shall present the draft working plan and its updates to the European Parliament before its adoption.

For the period 2024-2027, the Commission shall consider prioritising the following product groups in the first working plan that is to be adopted no later than 3 months after the entry into force of this Regulation. If any of the product groups is not included in the working plan, the Commission shall provide a justification for its decision in the working plan:

- **iron, steel**
- **aluminium**
- **textiles, notably garments and footwear**
- **furniture, including mattresses**

- *tyres*
- *detergents*
- *paints*
- *lubricants*
- *chemicals*
- *energy related products, whose implementing measures need to be revised or newly defined*
- *ICT products and other electronics.*

The absence of adequate performance and information requirements on the environment and carbon footprint for cement under Regulation 2022/0094 by 2027 shall trigger the inclusion of cement as a priority product category in the next working plan of this Regulation.

Proposal for a regulation
Recitals 42 a (new)

Text proposed by the Commission

Amendment

(42a) The cement industry, as one of the most energy, material and carbon intensive sector, is currently responsible for around 7% of global and 4% of EU CO₂ emissions^{1a}, which makes it a key sector to align with the Paris climate agreement and the EU climate objectives as quickly as possible. While construction products, including cement, are covered under Regulation 2022/0094, they remain under the scope of this Regulation. To avoid a lack of product requirements urgently needed to reach our climate and environment objectives, the absence of adequate performance and information requirements for these products under Regulation 2022/0094 should trigger their inclusion in the next working plan of this Regulation.

^{1a} *Decarbonisation options for the cement industry, EUR 31378 EN, Publications Office of the European Union,*

Compromise Amendment 17

Article 17 Ecodesign Forum

replacing AM 69-71, 896-914, ITRE60, ITRE61

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

The Commission shall ensure that when it conducts its activities, it observes a balanced participation of Member States' representatives and all interested parties involved with the product or product group in question, such as industry, including SMEs and craft industry, trade unions, traders, retailers, importers, environmental protection *groups* and consumer organisations. ***These parties shall contribute in particular to preparing ecodesign requirements, examining the effectiveness of the established market surveillance mechanisms and assessing self-regulation measures.***

To that end, the Commission shall establish an expert group, in which those parties shall meet, referred to as the 'Ecodesign Forum'.

Amendment

The Commission shall ensure that when it conducts its activities, it observes a balanced participation of Member States' representatives and all interested parties involved with the product or product group in question, such as industry, including SMEs, ***social enterprises*** and craft industry, ***waste management operators, standardisation organisations***, trade unions ***and associations***, traders, retailers, importers, environmental protection ***organisations***, consumer organisations, ***researchers and other experts***.

The parties referred to in the first paragraph shall contribute in particular to preparing ecodesign requirements, and examining the effectiveness of the established market surveillance mechanisms and assessing self-regulation measures.

To that end, the Commission shall establish an expert group, in which those parties shall meet, referred to as the 'Ecodesign Forum'.

The Commission shall publish on its website the upcoming meetings of the Ecodesign Forum', ensuring that relevant parties are informed in sufficient time before a consultation takes place.

The Ecodesign Forum shall carry out its tasks in full transparency. The

Commission shall publish the adopted conclusions and minutes of the meetings of the Ecodesign Forum and all other relevant documents on the website of the Commission.

The Ecodesign Forum may request the Commission to prepare ecodesign requirements for a particular product group. The Commission shall take such a request into consideration.

Compromise Amendment 18

Article 18 Self-regulation measures, Annex VII

replacing AM 72-78, 88, 915-936, 1135, 1136, ITRE62, ITRE63, ITRE81-ITRE83

Proposal for a regulation

Article 18 – Title

Text proposed by the Commission

Article 18

Self-regulation measures

Amendment

Article 18

Self-regulation measures

Proposal for a regulation

Article 18 – paragraph 1

Text proposed by the Commission

1. Two or more economic operators may submit a self-regulation measure establishing ecodesign requirements for products to the Commission as an alternative to a delegated act adopted pursuant to Article 4. Those operators shall provide evidence that the criteria referred to in paragraph 3, points (a) to (e), are fulfilled. With respect to paragraph 3, point (a), that evidence shall consist of a structured technical, environmental and economic analysis, justifying the ecodesign requirements and objectives of the self-regulation measure, and assessing the impacts of the ecodesign requirements set in that self-regulation measure.

Amendment

1. Two or more economic operators may submit a self-regulation measure establishing ecodesign requirements for products to the Commission as an alternative to a delegated act adopted pursuant to Article 4, ***if the products are not included in the working plan.*** Those operators shall provide evidence that the criteria referred to in paragraph 3, points (a) to (e), are fulfilled. With respect to paragraph 3, point (a), that evidence shall consist of a structured technical, environmental and economic analysis, justifying the ecodesign requirements and objectives of the self-regulation measure, and assessing the impacts of the ecodesign requirements set in that self-regulation measure.

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

2. The self-regulation measure shall contain the following information:
- (a) a list of the economic operators that are signatories to the self-regulation measure;
 - (b) the ecodesign requirements applicable to products covered by the self-regulation measure;
 - (c) a detailed, transparent and objective monitoring plan, with clearly identified responsibilities for industry and independent inspectors, including the criteria set out in point 6 of Annex VII;
 - (d) rules on information to be reported by signatories and on testing and inspections.

The information referred to in this paragraph shall be kept up-to-date and be available on a publicly accessible website.

Proposal for a regulation
Article 18 – paragraph 3

Amendment

2. The **submitted** self-regulation measure shall contain the following information:
- (a) a list of the economic operators that are signatories to the self-regulation measure;
 - (b) the ecodesign requirements, **as set out in Article 5**, applicable to products covered by the self-regulation measure;
 - (c) a detailed, transparent and objective monitoring plan, with clearly identified responsibilities for industry and independent inspectors, including the criteria set out in point 6 of Annex VII;
 - (d) rules on information to be reported by signatories and **rules** on testing and inspections.
 - (da) rules on consequences of non-compliance of a signatory;**
 - (e) an explanation on how the submitted self-regulation measure improves the environmental sustainability of products in line with the objectives of this Regulation and ensures the free movement in the internal market more quickly or at a lesser expense than a delegated act adopted pursuant to Article 4;**

The information referred to in this paragraph shall be kept up-to-date and be available on a publicly accessible website **of the Commission. The economic operators shall notify without delay the Commission of any changes to the self-regulation measure, in particular any changes to the signatories.**

3. The Commission shall assess the proposed self-regulation measure, and, where necessary, shall seek scientific advice from Union decentralised agencies. On the basis of that assessment, it shall establish whether it is a valid alternative to a delegated act adopted pursuant to Article 4 where the following criteria are fulfilled:

(a) the self-regulation measure contributes to improving the environmental sustainability of products and ensuring the free movement in the internal market quickly or at a lesser expense than a delegated act adopted pursuant to Article 4;

(b) the market share in terms of volume of the signatories to the self-regulation measure in relation to the products covered by that measure is at least 80 % of units placed on the market or put into service;

(c) the self-regulation measure complies with the criteria set out in Annex VII;

(d) the product covered by the self-regulation measure does not fall within the scope of a delegated act adopted pursuant to Article 4;

(e) the self-regulation measure is in line with Union legislation and international trade commitments of the Union.

The Commission shall adopt **an implementing** act containing a list of self-regulation measures established as valid alternatives to a delegated act adopted pursuant to Article 4. That **implementing** act shall be adopted in accordance with the advisory procedure referred to in Article 67(2).

3. The Commission shall assess the proposed self-regulation measure, and, where necessary, shall seek scientific advice from Union decentralised agencies. **The Commission shall also consult the Ecodesign forum on the submitted self-regulation measure.** On the basis of that assessment, it shall establish whether it is a valid alternative to a delegated act adopted pursuant to Article 4 where the following criteria are fulfilled:

(a) the self-regulation measure contributes to improving the environmental sustainability of products **in line with the objectives of this Regulation** and ensuring the free movement in the internal market **more** quickly or at a lesser expense than a delegated act adopted pursuant to Article 4;

(b) the market share in terms of volume of the signatories to the self-regulation measure in relation to the products covered by that measure is at least 80 % of units placed on the market or put into service;

(c) the self-regulation measure complies with the criteria set out in Annex VII;

(d) the product covered by the self-regulation measure does not fall within the scope of a delegated act adopted pursuant to Article 4;

(e) the self-regulation measure is in line with Union legislation and international trade commitments of the Union.

The Commission shall adopt **a delegated act in accordance with Article 66** containing a list of self-regulation measures established as valid alternatives to a delegated act adopted pursuant to Article 4. That **delegated** act shall be adopted in accordance with the advisory procedure referred to in Article 67(2).

**Proposal for a regulation
Article 18 – paragraph 4**

Text proposed by the Commission

4. The Commission may at any point in time request the signatories of a self-regulation measure to submit a revised and updated version of that measure in view of relevant market or technological developments within the product group concerned or where it has reason to believe that the criteria set out in paragraph 3 are no longer fulfilled.

Proposal for a regulation
Article 18 – paragraph 5

Text proposed by the Commission

5. Once a self-regulation measure has been listed in an **implementing** act adopted pursuant to paragraph 3, second subparagraph, the signatories of that measure shall report to the Commission, at regular intervals set out in that **implementing** act, on the progress towards achieving the objectives of the self-regulation measures and to demonstrate that the criteria set in paragraph 3, points (a) to (e), remain fulfilled. **Those** reports shall **also** be made available on a publicly accessible website.

Proposal for a regulation
Article 18 – paragraph 6

Amendment

4. The Commission may at any point in time request the signatories of a self-regulation measure to submit a revised and updated version of that measure in view of relevant market or technological developments within the product group concerned or where it has reason to believe that the criteria set out in paragraph 3 are no longer fulfilled. **The signatories shall submit a revised and updated version of that measure within three months following the request made by the Commission.**

Amendment

5. Once a self-regulation measure has been listed in a **delegated** act adopted pursuant to paragraph 3, second subparagraph, the signatories of that measure shall report to the Commission, at regular intervals set out in that **delegated** act, on the progress towards achieving the objectives of the self-regulation measures and to demonstrate that the criteria set in paragraph 3, points (a) to (e), remain fulfilled. **Where a signatory does not comply with the requirements of the self-regulation measure, it shall take corrective action. The independent inspector shall notify the Commission of lack of compliance of a signatory. Progress reports, including compliance reports made by the independent inspector, and notifications about lack of compliance and corresponding corrective action shall be made available on a publicly accessible website of the Commission.**

Text proposed by the Commission

6. Where the Commission considers, based on information received pursuant to paragraphs 4 or 5, that a self-regulation measure no longer fulfils the criteria set out in paragraph 3, it shall delete it from the list referred to in that paragraph. In such cases, the Commission may decide to adopt ecodesign requirements applicable to the product covered by that self-regulation measure.

**Proposal for a regulation
Annex VII**

Text proposed by the Commission

ANNEX VII

**Criteria for self-regulation measures
(referred to in Article 18)**

The following non-exhaustive list of indicative criteria *may* be used to assess self-regulation measures as an alternative to a delegated act adopted pursuant to Article 4 of this Regulation:

1. Openness of participation

Self-regulation measures must be open to the participation of any operators placing on the market a product covered by the self-regulation measure, including third country operators, both in the preparatory and in the implementation phases. Economic operators intending to establish a self-regulation measure should make a public announcement of their intention to do so before the process of developing the measure is started.

2. Sustainability and added value

Self-regulation measures must respond to the policy objectives of this Regulation and must be consistent with the economic and social dimensions of sustainable development. Self-regulation measures

Amendment

6. Where the Commission considers, based on information received pursuant to paragraphs 2, 4 or 5, that a self-regulation measure no longer fulfils the criteria set out in paragraph 3, it shall delete it from the list referred to in that paragraph. In such cases, the Commission may decide to adopt ecodesign requirements applicable to the product covered by that self-regulation measure.

Amendment

ANNEX VII

**Criteria for self-regulation measures
(referred to in Article 18)**

The following non-exhaustive list of indicative criteria *shall* be used to assess self-regulation measures as an alternative to a delegated act adopted pursuant to Article 4 of this Regulation:

1. Openness of participation

Self-regulation measures must be open to the participation of any operators placing on the market a product covered by the self-regulation measure, including third country operators, both in the preparatory and in the implementation phases. Economic operators intending to establish a self-regulation measure should make a public announcement of their intention to do so before the process of developing the measure is started.

2. Sustainability and added value

Self-regulation measures must respond to the policy objectives of this Regulation and must be consistent with the economic and social dimensions of sustainable development. Self-regulation measures

must have an integrated approach to the protection of the interests of consumers, health, quality of life and economic interests.

3. Representativeness

Industry and their associations taking part in a self-regulation measure must represent a large majority of the relevant economic sector, in accordance with Article 18(3), first subparagraph, point (b). Care must be taken to ensure respect for Union competition legislation, in particular Article 101 of the Treaty on the Functioning of the European Union regarding anti-competitive agreements.

4. Quantified and staged objectives

The objectives defined by the signatories in their self-regulation measures must be set in clear and unambiguous terms, starting from a well-defined baseline. If the self-regulation measure covers a long time-span, interim targets must be included. It must be possible to monitor compliance with objectives and interim targets in an affordable and credible way using clear and reliable indicators.

5. Involvement of civil society

With a view to ensuring transparency, self-regulation measures must be publicised, including online and via other electronic means of disseminating information.

Stakeholders including Member States, industry, environmental NGOs and consumers' associations must be invited to comment on a self-regulation measure.

6. Monitoring and reporting

An independent inspector must monitor compliance of signatories with the self-regulation measure. The self-regulation measure must empower the independent inspector to verify compliance with the requirements of the self-regulation

must have an integrated approach to the protection of *the environment*, interests of consumers, health, quality of life *and economic interests*.

3. Representativeness

Industry and their associations taking part in a self-regulation measure must represent a large majority of the relevant economic sector, in accordance with Article 18(3), first subparagraph, point (b). Care must be taken to ensure respect for Union competition legislation, in particular Article 101 of the Treaty on the Functioning of the European Union regarding anti-competitive agreements.

4. Quantified and staged objectives

The objectives defined by the signatories in their self-regulation measures must be set in clear, *quantifiable* and unambiguous terms, starting from a well-defined baseline. If the self-regulation measure covers a long time-span, interim targets must be included. It must be possible to monitor compliance with objectives and interim targets in an affordable and credible way using clear and reliable indicators.

5. Involvement of civil society

With a view to ensuring transparency, self-regulation measures must be publicised, including online *on a publicly accessible website of the Commission* and via other electronic means of disseminating information.

Stakeholders including Member States, industry *within the Union and in third countries*, environmental NGOs and consumers' associations must be invited to comment on a self-regulation measure.

6. Monitoring and reporting

An independent inspector must monitor compliance of signatories with the self-regulation measure. The self-regulation measure must empower the independent inspector to verify compliance with the requirements of the self-regulation

measure. It must also lay down the procedure to select an independent inspector and how it will be ensured that the inspector is free of conflict of interest and has the necessary skills for verifying compliance with the requirements set out in the self-regulation measure.

Every year, each signatory must report all the information and data necessary for the independent inspector to reliably verify the signatory's compliance with the self-regulation measure.

The independent inspector must draw up a compliance report at end of each one-year reporting period.

Where a signatory *has not complied* with the requirements of the self-regulation measure, it must take corrective action.

7. Cost-effectiveness of administering a self-regulation measure

The cost of administering the self-regulation measure, in particular as regards monitoring, must not lead to a disproportionate administrative burden, as compared to their objectives and to other available policy instruments.

Compromise Amendment 19

Article 19 Micro, small and medium-sized enterprises

replacing AM 937-949, ITRE64, ITRE65-ITRE66

Proposal for a regulation Article 19 – paragraph 1

measure. It must also lay down the procedure to select an independent inspector and how it will be ensured that the inspector is free of conflict of interest and has the necessary skills for verifying compliance with the requirements set out in the self-regulation measure.

Every year, each signatory must report all the information and data necessary for the independent inspector to reliably verify the signatory's compliance with the self-regulation measure.

The independent inspector must draw up a compliance report at end of each one-year reporting period.

Where a signatory *does not comply* with the requirements of the self-regulation measure, it must take corrective action. *The independent inspector must notify the other signatories participating in the self-regulation measure of a lack of compliance by a signatory and of the corrective action the signatory intends to take. If the signatory has not undertaken sufficient corrective action within three months, it must be dismissed from the self-regulation measure.*

7. Cost-effectiveness of administering a self-regulation measure

The cost of administering the self-regulation measure, in particular as regards monitoring, must not lead to a disproportionate administrative burden, as compared to their objectives and to other available policy instruments.

Text proposed by the Commission

1. In the context of programmes from which SMEs can benefit, the Commission shall take into account initiatives which help SMEs to integrate environmental sustainability aspects including energy efficiency in their value chain.

**Proposal for a regulation
Article 19 – paragraph 2**

Text proposed by the Commission

2. When adopting delegated acts pursuant to Article 4 the Commission shall, where appropriate, accompany those acts with guidelines covering specificities of SMEs active in the product or product group sector affected for facilitating the application of this Regulation by SMEs.

**Proposal for a regulation
Article 19 – paragraph 3**

Text proposed by the Commission

3. Member States shall take appropriate measures to help SMEs apply ecodesign requirements set out in delegated acts adopted pursuant to Article 4..

Those measures shall at least include ensuring the availability of one-stop shops or similar mechanisms to raise awareness and create networking opportunities for SMEs to adapt to requirements.

Amendment

1. In the context of programmes from which **micro-enterprises and** SMEs can benefit, the Commission shall take into account initiatives which help **micro-enterprises and** SMEs to integrate environmental sustainability aspects including energy efficiency in their value chain.

Amendment

2. When adopting delegated acts pursuant to Article 4 the Commission shall, where appropriate, accompany those acts with guidelines covering specificities of **micro-enterprises and** SMEs active in the product or product group sector affected for facilitating the application of this Regulation by **micro-enterprises and** SMEs. **The Commission shall consult micro-enterprises' and SMEs' representative organisations in the drafting of the guidelines.**

Amendment

3. Member States shall take appropriate measures to help **micro-enterprises and** SMEs apply ecodesign requirements set out in delegated acts adopted pursuant to Article 4. **When preparing such measures, Member States shall consult micro-enterprises' and SMEs' representative organisations.**

Those measures shall at least include ensuring the availability of one-stop shops or similar mechanisms to raise awareness and create networking opportunities for **micro-enterprises and** SMEs to adapt to requirements. **Those measures shall also**

at least include specific mechanisms to facilitate compliance with the requirements set out in Articles 8 to 12a and with conducting life cycle assessments.

In addition, without prejudice to applicable State aid rules, such measures may include:

- (a) financial support, including by giving fiscal advantages *and* providing physical and digital infrastructure investments;
- (b) access to finance;
- (c) specialised management and staff training;
- (d) organisational and technical assistance.

In addition, without prejudice to applicable State aid rules, such measures may include:

- (a) financial support, including by giving fiscal advantages, *enabling participation in the Ecodesign Forum*, providing physical and digital infrastructure investments;
- (b) access to finance;
- (c) specialised management and staff training;
- (d) organisational and technical assistance.

Compromise Amendment 20

ARTICLE 20 Destruction of unsold consumer products
replacing AM 79-84, 950-1001 + AMs 394-408, ITRE 15, IMCO 31

Proposal for a regulation **Chapter VI – title**

Text proposed by the Commission

VI Destruction of unsold consumer products

Proposal for a regulation **Article 20**

1. An economic operator that discards unsold consumer products directly, or on behalf of another economic operator, shall disclose:

- (a) the number of unsold consumer products discarded per year, differentiated per type or category of products;
- (b) the reasons for the discarding of products;
- (c) the delivery of discarded products to preparing for re-use, remanufacturing,

Amendment

VI Destruction of unsold consumer products

1. An economic operator that discards unsold consumer products directly, or on behalf of another economic operator, shall disclose:

- (a) the number *and percentage* of unsold consumer products discarded per year, differentiated per type or category of products;
- (b) the reasons for the discarding of products;
- (c) the delivery of discarded products to *donation*, preparing for re-use,

recycling, energy recovery and disposal operations in accordance with the waste hierarchy as defined by Article 4 of Directive 2008/98/EC.

The economic operator shall disclose that information on a freely accessible website *or otherwise make it publicly available, until a delegated act adopted pursuant to paragraph 3 starts applying to the category of unsold consumer products discarded by the operator in question.*

2. The Commission *may* adopt implementing acts setting out the format for the disclosure of the information referred to in paragraph 1, including the type or category and how the information is to be verified.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(3).

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 66 to supplement this Regulation by prohibiting economic operators to destroy unsold consumer products *in the Union*, where the destruction of unsold consumer products falling within a certain product group has *significant* environmental impact.

In the delegated acts adopted pursuant to the first subparagraph, the Commission shall set out certain exemptions to those prohibitions where it is appropriate in view of:

(a) health and safety concerns;

remanufacturing, recycling, energy recovery and disposal operations in accordance with the waste hierarchy as defined by Article 4 of Directive 2008/98/EC.

The economic operator shall disclose that information on a freely accessible website *of the Commission, until a delegated act adopted pursuant to paragraph 3 starts applying to the category of unsold consumer products discarded by the operator in question.*

2. The Commission *shall* adopt implementing acts setting out the format for the disclosure of the information referred to in paragraph 1, including the type or category and how the information is to be verified.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(3).

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 66 to supplement this Regulation by prohibiting economic operators to destroy unsold consumer products, where the destruction of unsold consumer products falling within a certain product group has *non-negligible* environmental impact.

On the basis of information provided under paragraph 1, the Commission shall by 2 years after the entry into force of this Regulation and every 3 years thereafter publish a report on the destruction of unsold goods. In that report, the Commission shall identify the products for which it considers necessary to adopt a delegated act prohibiting the destruction of unsold goods.

In the delegated acts adopted pursuant to the first subparagraph, the Commission shall set out certain exemptions to those prohibitions where it is appropriate in view of:

(a) health, *hygiene* and safety concerns;

(b) damage to products as a result of their handling or detected after a product has been returned *by a consumer*;

(c) fitness of the product for the purpose for which it is intended, taking into account, where applicable, Union and national law and technical standards;

(d) refusal of products for donation, preparing for re-use or remanufacturing.

4. When preparing a delegated act adopted pursuant to paragraph 3, the Commission shall:

(a) assess the prevalence and environmental impact of the destruction of specific consumer products;

(b) take into account the information disclosed by economic operators pursuant to paragraph 1;

(c) carry out an impact assessment based on best available evidence and analyses, and on additional studies as necessary.

The Commission shall consult the Ecodesign Forum referred to in Article 17, and take account of its views on possible prohibitions of destruction of unsold consumer products referred to in paragraph 3, prior to the preparation of the delegated acts setting out those prohibitions.

5. Where unsold consumer products are destroyed under an exemption referred to in paragraph 3, second subparagraph, the responsible economic operator shall disclose on a freely accessible website or otherwise make publicly available:

(a) the number of unsold consumer products destroyed;

(b) the reasons for their destruction, referring to the applicable exemption;

(c) the delivery of the products destroyed to recycling, energy recovery and disposal operations in accordance with the waste hierarchy as defined by Article 4 of

(b) damage to products *that cannot be repaired in a cost-effective manner* as a result of their handling or detected after a product has been returned;

deleted

(d) refusal of products for donation, preparing for re-use or remanufacturing;

(da) counterfeit products.

4. When preparing a delegated act adopted pursuant to paragraph 3, the Commission shall:

(a) assess the prevalence and environmental impact of the destruction of specific consumer products;

(b) take into account the information disclosed by economic operators pursuant to paragraph 1;

(c) carry out an impact assessment based on best available evidence and analyses, and on additional studies as necessary.

The Commission shall consult the Ecodesign Forum referred to in Article 17, and take account of its views on possible prohibitions of destruction of unsold consumer products referred to in paragraph 3, prior to the preparation of the delegated acts setting out those prohibitions.

5. Where unsold consumer products are destroyed under an exemption referred to in paragraph 3, second subparagraph, the responsible economic operator shall disclose on a freely accessible website or otherwise make publicly available:

(a) the number *and percentage* of unsold consumer products destroyed;

(b) the reasons for their destruction, referring to the applicable exemption;

(c) the delivery of the products destroyed to recycling, energy recovery and disposal operations in accordance with the waste hierarchy as defined by Article 4 of

Directive 2008/98/EC.

The details and format for the disclosure of information provided in the implementing act adopted pursuant to paragraph 2 shall apply to the information to be disclosed pursuant to this paragraph, unless the delegated act adopted pursuant to paragraph 3 provides otherwise.

6. This Article shall not apply to SMEs.

However, the Commission may, in the delegated acts adopted pursuant to paragraph 3, provide that the prohibition to destroy unsold consumer products referred to in paragraph 3 or the disclosure obligation referred to in paragraph 4 shall apply to:

(a) medium-sized enterprises, where there is sufficient evidence that they account for a substantial proportion of unsold consumer products being destroyed;

(b) microenterprises, small enterprises or medium-sized enterprises, where there is sufficient evidence that they may be used to circumvent the prohibition to destroy unsold consumer products referred to in paragraph 3 or the disclosure obligation referred to in paragraph 4.

Proposal for a regulation **Article 2 - points 35-37**

(35) ‘destruction’ means the intentional damaging or discarding of a product as waste with the exception of discarding for the only purpose of delivering a product for preparing for re-use or remanufacturing operations;

(36) ‘consumer product’ means any product, excluding components and intermediate products, primarily intended for consumers as defined in Article 2, point (2), of Directive (EU) 2019/771;

(37) ‘unsold consumer product’ means any

Directive 2008/98/EC.

The details and format for the disclosure of information provided in the implementing act adopted pursuant to paragraph 2 shall apply to the information to be disclosed pursuant to this paragraph, unless the delegated act adopted pursuant to paragraph 3 provides otherwise.

6. This Article shall not apply to SMEs.

However, the Commission may, in the delegated acts adopted pursuant to paragraph 3, provide that the prohibition to destroy unsold consumer products referred to in paragraph 3 or the disclosure obligation referred to in paragraph 4 shall apply to

(a) medium-sized enterprises, where there is sufficient evidence that they account for a substantial proportion of unsold consumer products being destroyed;

(b) microenterprises, small enterprises or medium-sized enterprises, where there is sufficient evidence that they may be used to circumvent the prohibition to destroy unsold consumer products referred to in paragraph 3 or the disclosure obligation referred to in paragraph 4.

6a. The Commission shall provide economic operators with sufficient time to adjust to new requirements.

(35) ‘destruction’ means the intentional damaging or discarding of a product as waste with the exception of discarding for the only purpose of delivering a product for preparing for re-use, ***refurbishing*** or remanufacturing operations;

(36) ‘consumer product’ means any product, excluding components and intermediate products, primarily intended for consumers as defined in Article 2, point (2), of Directive (EU) 2019/771;

(37) ‘unsold consumer product’ means any

consumer product that has not been sold or that has been returned by a consumer in view of their right of withdrawal in accordance with Article 9 of Directive (EU) 2011/83/EU;

consumer product *fit for consumption or sale* that has not been sold *including surplus, excessive inventory, overstock and deadstock, including products* returned by a consumer in view of their right of withdrawal in accordance with Article 9 of Directive (EU) 2011/83/EU;

Compromise Amendment 29

ARTICLE 20a Destruction of unsold consumer products - ban

replacing AM 85, 1002-1004, 437

**Proposal for a regulation
Article 20 a (new)**

Text proposed by the Commission

Amendment

Article 20a

1. One year after the entry into force of this Regulation, the destruction of unsold consumer products by economic operators shall be prohibited for the following product categories:

(a) textiles and footwear;

(b) electrical and electronic equipment.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 66 to supplement this Regulation to set out certain exemptions from the prohibitions referred to in paragraph 1 where it is appropriate taking into account the following:

(a) health, hygiene and safety concerns;

(b) damage to products that cannot be repaired in a cost-effective manner as a result of their handling or detected after a product has been returned;

(c) refusal of products for donation, preparing for re-use or remanufacturing;

(d) counterfeit products.

3. Where unsold products are destroyed under an exemption referred to in paragraph 2, the responsible economic

operator shall disclose on a freely accessible website or otherwise make publicly available:

(a) the number and percentage of unsold products destroyed;

(b) the reasons for their destruction, referring to the applicable exemption;

(c) the delivery of the products destroyed to recycling, energy recovery and disposal operations in accordance with the waste hierarchy as defined by Article 4 of Directive 2008/98/EC.

The details and format for the disclosure of information provided in the implementing act adopted pursuant to Article 20(2) shall apply to the information to be disclosed pursuant to this paragraph, unless the delegated act adopted pursuant to paragraph 2 provides otherwise.

4. This Article shall not apply to SMEs.

However, the Commission may, in the delegated acts adopted pursuant to paragraph 2, provide that the prohibition to destroy unsold consumer products referred to in paragraph 1 or the disclosure obligation referred to in paragraph 3 shall apply to:

(a) medium-sized enterprises, where there is sufficient evidence that they account for a substantial proportion of unsold consumer products being destroyed;

(b) microenterprises, small enterprises or medium-sized enterprises, where there is sufficient evidence that they may be used to circumvent the prohibition to destroy unsold consumer products referred to in paragraph 1 or the disclosure obligation referred to in paragraph 3.

Proposal for a regulation

Article 2 - subparagraph 3 a (new)

Text proposed by the Commission

Amendment

The definition of ‘electrical and electronic equipment’ or ‘EEE’ in Article

3, point (1)(a) of Directive 2012/19/EU of the European Parliament and of the Council shall apply.

Proposal for a regulation

Recital 46

Text proposed by the Commission

(46) The destruction of unsold consumer products, such as textiles and footwear, by economic operators is becoming a widespread environmental problem across the Union, in particular due to the rapid growth of online sales. It amounts to a loss of valuable economic resources as goods are produced, transported and afterwards destroyed without ever being used for their intended purpose. It is therefore necessary, in the interest of environmental protection, that this Regulation establishes a framework to prevent the destruction of unsold products primarily intended for consumers pursuant to Directive (EU) 2019/771 of the European Parliament and of the Council⁶⁹, including products that have been returned by a consumer in view of their right of withdrawal as laid down by Directive (EU) 2011/83/EU of the European Parliament and of the Council⁷⁰. This will reduce the environmental impact of those products by reducing the generation of waste and by dis-incentivising overproduction of products. In addition, given that several Member States have introduced national legislation on the destruction of unsold consumer products thereby creating market distortions, harmonised rules on the destruction of unsold consumer products are necessary to ensure that distributors, retailers and other economic operators are subject to the same rules and incentives across Member States.

Proposal for a regulation

Recital 47

Amendment

(46) The destruction of unsold consumer products, such as textiles and footwear **as well as electrical and electronic equipment devices** by economic operators is becoming a widespread environmental problem across the Union, in particular due to the rapid growth of online sales. It amounts to a loss of valuable economic resources as goods are produced, transported and afterwards destroyed without ever being used for their intended purpose. It is therefore necessary, in the interest of environmental protection, that this Regulation establishes a framework to prevent the destruction of unsold products primarily intended for consumers pursuant to Directive (EU) 2019/771 of the European Parliament and of the Council⁶⁹, including products that have been returned by a consumer in view of their right of withdrawal as laid down by Directive (EU) 2011/83/EU of the European Parliament and of the Council⁷⁰. This will reduce the environmental impact of those products by reducing the generation of waste and by dis-incentivising overproduction of products. In addition, given that several Member States have introduced national legislation on the destruction of unsold consumer products thereby creating market distortions, harmonised rules on the destruction of unsold consumer products are necessary to ensure that distributors, retailers and other economic operators are subject to the same rules and incentives across Member States.

Text proposed by the Commission

(47) To dis-incentivise the destruction of unsold consumer products and to further generate data on the occurrence of this practice, this Regulation should introduce a transparency obligation for economic operators holding consumer products in the Union, requiring them to disclose information on the number of unsold consumer products discarded per year. The economic operator should indicate the product type or category, the reasons for their discarding and their delivery for subsequent waste treatment operations. ***While economic operators should be free to determine how to disclose that information in a manner appropriate to their business environment***, it should be considered a best practice to include the required information in a publicly available non-financial statement drafted in accordance with Article 19a of Directive 2013/34/EU of the European Parliament and of the Council⁷¹ where applicable.

Proposal for a regulation
Recital 48

Text proposed by the Commission

(48) In order to avoid the destruction of unsold consumer products, where the destruction of such products is prevalent, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by prohibiting the destruction of such products. Given the wide range of products that may potentially be destroyed without ever being sold or used, it is necessary to establish such empowerment in this Regulation. However, the prohibition set in the delegated acts should apply to specific product groups to be determined based on an assessment by the Commission of the extent to which the destruction of such products takes place in practice, taking into account the information made available by economic

Amendment

(47) To dis-incentivise the destruction of unsold consumer products and to further generate data on the occurrence of this practice, this Regulation should introduce a transparency obligation for economic operators holding consumer products in the Union, requiring them to disclose information on the number of unsold consumer products discarded per year ***on a website of the Commission***. Economic operators should indicate the product type or category, the reasons for their discarding and their delivery for subsequent waste treatment operations. It should ***also*** be considered a best practice to include the required information in a publicly available non-financial statement drafted in accordance with Article 19a of Directive 2013/34/EU of the European Parliament and of the Council⁷¹ where applicable.

Amendment

(48) In order to avoid the destruction of unsold consumer products, where the destruction of such products is prevalent, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by prohibiting the destruction of such products. Given the wide range of products that may potentially be destroyed without ever being sold or used, it is necessary to establish such empowerment in this Regulation. However, the prohibition set in the delegated acts should apply to specific product groups to be determined based on an assessment by the Commission of the extent to which the destruction of such products takes place in practice, taking into account the information made available by economic

operators where appropriate. To ensure that this obligation is proportionate, the Commission should consider specific exemptions under which destroying unsold consumer products may still be permitted, for instance in view of health and safety concerns. To monitor the effectiveness of this prohibition and to dis-incentivise circumvention, economic operators should be required to disclose the number of unsold consumer products destroyed and the reasons for their destruction under applicable exemptions. Finally, to avoid any undue administrative burden on SMEs, they should be exempted from the obligations to disclose their unsold discarded products and from the prohibition to discard specific products groups set in delegated acts. However, where there is reasonable evidence that **SMEs** may be used to circumvent those obligations, the Commission should be able to require, in those delegated acts, for some product groups, that these obligations also apply to micro, small or medium sized enterprises.

operators where appropriate. To ensure that this obligation is proportionate, the Commission should consider specific exemptions under which destroying unsold consumer products may still be permitted, for instance in view of health and safety concerns. ***The Commission should also provide economic operators with sufficient time to adjust to the new requirements of such ban.***

To monitor the effectiveness of this prohibition and to dis-incentivise circumvention, economic operators should be required to disclose the number of unsold consumer products destroyed and the reasons for their destruction under applicable exemptions. Finally, to avoid any undue administrative burden on **small, medium and micro-enterprises**, they should be exempted from the obligations to disclose their unsold discarded products and from the prohibition to discard specific products groups set in delegated acts. However, where there is reasonable evidence that **small, medium, micro-enterprises** may be used to circumvent those obligations, the Commission should be able to require, in those delegated acts, for some product groups, that these obligations also apply to micro, small or medium sized enterprises. ***One year after the entry into force of this Regulation, the destruction of unsold consumer products by economic operators should be prohibited for textiles and footwear as well as for electrical and electronic equipment, given that sufficient evidence exists to demonstrate that the destruction of such products is taking place and is harmful for the environment.***

Compromise Amendment 21

ARTICLE 25a Obligations of suppliers

replacing AMs 87, 736, 741-743, 808/811, 1008, 1010, 1016, 1017, 1022, ITRE43, ITRE69, IMCO45

Proposal for a regulation
Article 25 a (new)

Text proposed by the Commission

Amendment

Article 25a

Obligations of suppliers

The supplier of a substance or a mixture or the supplier of an article shall provide free of charge all the relevant information to the economic operators to facilitate its compliance with the performance and information requirements set out in this regulation.

Compromise Amendment **22**

ARTICLE 26 Obligations related to labels

replacing AM 1011-1015, 1018-1021, ITRE67, ITRE68, IMCO79

Proposal for a regulation

Article 26

Obligations related to labels

Obligations related to labels

1. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 14, the economic operator placing the product on the market or putting it into service shall ensure that products are accompanied, for each individual unit and free of charge, by printed labels in accordance with that delegated act.

2. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 14, the economic operator placing the product on the market or putting it into service shall deliver printed labels or digital copies of the label to the dealer free of charge, promptly and in any event within 5 working days of the dealer's request.

3. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 14, the economic operator placing the product on

1. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 14, the economic operator placing the product on the market or putting it into service shall ensure that products are accompanied, for each individual unit and free of charge, by printed labels in accordance with that delegated act.

2. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 14, the economic operator placing the product on the market or putting it into service shall deliver printed labels or digital copies of the label to the dealer free of charge, promptly and in any event within 5 working days of the dealer's request.

3. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 14, the economic operator placing the product on

the market or putting it into service shall ensure that its labels are accurate and shall, as part of the applicable conformity assessment procedure, produce technical documentation sufficient to enable the accuracy to be assessed.

4. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 14, the economic operator placing the product on the market or putting it into service shall:

(a) make reference to the information included in the label, in visual advertisements or in technical promotional material for a specific model in accordance with the relevant delegated act adopted pursuant to Article 4;

(b) not provide or display other labels, marks, symbols or inscriptions that are likely to mislead or confuse customers with respect to the information included on the label.

the market or putting it into service shall ensure that its labels are accurate and shall, as part of the applicable conformity assessment procedure, produce technical documentation sufficient to enable the accuracy to be assessed.

4. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 14, the economic operator placing the product on the market or putting it into service shall:

(a) make reference to the information included in the label, in visual advertisements or in technical promotional material for a specific model in accordance with the relevant delegated act adopted pursuant to Article 4;

(b) not provide or display other labels, marks, symbols or inscriptions that are likely to mislead or confuse customers with respect to the information included on the label ***by mimicking mandatory labels or providing information contradicting or not consistent with mandatory labels.***

These restrictions do not comprise the EU Ecolabel pursuant to Regulation (EC) No 66/2010 and other nationally or regionally recognised EN ISO 14024 type 1-Ecolabels as referred to in that Regulation

Compromise Amendment 23

ARTICLE 31 Monitoring and reporting obligations of economic operators
replacing AM 1039-1045, ITRE70, IMCO91, IMCO92

Proposal for a regulation

Article 31

1. When requiring manufacturers, their authorised representatives or importers to make available to the Commission, information on the quantities of a product covered by delegated acts adopted pursuant to Article 4, third subparagraph, point (b), the Commission shall take into account the following criteria:

(a) the availability of evidence on the

1. When requiring manufacturers, their authorised representatives or importers to make available to the Commission, information on the quantities of a product covered by delegated acts adopted pursuant to Article 4, third subparagraph, point (b), the Commission shall take into account the following criteria:

(a) the availability of evidence on the

market penetrations of the relevant product in order to facilitate the review of delegated acts adopted pursuant to Article 4 applicable to that product;

(b) the need to avoid disproportionate administrative burden for economic operators.

The Commission shall specify the period of time to which the information referred to in the first subparagraph shall relate. That information shall be differentiated per product model.

The Commission shall ensure that the resulting data is processed securely and in compliance with Union law.

The Commission shall specify in those delegated acts the means through which the relevant information shall be made available and its periodicity.

2. When requiring a product to be able to measure the energy it consumes or its performance in relation to other relevant product parameters referred to in Annex I while in use, pursuant to Article 4, third subparagraph, point (c), the Commission shall take into account the following criteria:

- (a) the usefulness of in-use data for end-users to understand and manage the energy use or performance of the product;
- (b) the technical feasibility of recording in-use data;
- (c) the need to avoid disproportionate administrative burden for economic operators.

Products covered by a requirement set pursuant to Article 4, third subparagraph, point (c), shall record the resulting in-use data and make it visible to the end-user.

3. When requiring manufacturers, their authorised representatives or importers to collect, anonymise or report to the Commission in-use data referred to in paragraph 2, pursuant to Article 4, third subparagraph, point (d), the Commission

market penetrations of the relevant product in order to facilitate the review of delegated acts adopted pursuant to Article 4 applicable to that product;

(b) the need to avoid disproportionate administrative burden for economic operators.

The Commission shall specify the period of time to which the information referred to in the first subparagraph shall relate. That information shall be differentiated per product model.

The Commission shall ensure that the resulting data is processed securely and in compliance with Union law.

The Commission shall specify in those delegated acts the means through which the relevant information shall be made available and its periodicity.

2. When requiring a product to be able to measure the energy it consumes or its performance in relation to other relevant product parameters referred to in Annex I while in use, pursuant to Article 4, third subparagraph, point (c), the Commission shall take into account the following criteria:

- (a) the usefulness of in-use data for end-users to understand and manage the energy use or performance of the product;
- (b) the technical feasibility of recording in-use data;
- (c) the need to avoid disproportionate administrative burden for economic operators.

Products covered by a requirement set pursuant to Article 4, third subparagraph, point (c), shall record the resulting in-use data and make it visible to the end-user.

3. When requiring manufacturers, their authorised representatives or importers to collect, anonymise or report to the Commission in-use data referred to in paragraph 2, pursuant to Article 4, third subparagraph, point (d), the Commission

shall take into account the following criteria:

(a) the usefulness of in-use data for the Commission when reviewing ecodesign requirements or assisting market surveillance authorities with statistical information for their risk-based analysis;

(b) the need to avoid disproportionate administrative burden for economic operators.

Such requirements referred to in the first subparagraph may in particular consist of:

(a) collecting the in-use data if it can be accessed remotely via the internet, **unless** the end-user **expressly refuses** to make **that** data available;

(b) anonymising the data collected under point (a) and report it to the Commission at least once a year. The economic operator shall include the product database identification number of the model as referred to in Article 12(5) of Regulation (EU) No 2017/1369 and, if relevant to their performance, geographical information on the products.

The Commission shall specify the details and format for reporting the in-use data as referred to in the second subparagraph, point (b).

4. The Commission shall periodically assess the in-use data received pursuant to paragraph 3 and shall, where appropriate, publish aggregated datasets.

Compromise Amendment 24

ARTICLE 57 Member State incentives
replacing AM 1056-1061

Proposal for a regulation **Article 57**

1. Member States incentives relating to

shall take into account the following criteria:

(a) the usefulness of in-use data for the Commission when reviewing ecodesign requirements or assisting market surveillance authorities with statistical information for their risk-based analysis;

(aa) the need to ensure protection of data and data privacy;

(b) the need to avoid disproportionate administrative burden for economic operators.

Such requirements referred to in the first subparagraph may in particular consist of:

(a) collecting the in-use data if it can be accessed remotely via the internet **following explicit consent by** the end-user **in accordance with Regulation (EU) 2016/679** to make **the** data available;

(b) anonymising the data collected under point (a) and report it to the Commission at least once a year. The economic operator shall include the product database identification number of the model as referred to in Article 12(5) of Regulation (EU) No 2017/1369 and, if relevant to their performance, geographical information on the products.

The Commission shall specify the details and format for reporting the in-use data as referred to in the second subparagraph, point (b).

4. The Commission shall periodically assess the in-use data received pursuant to paragraph 3 and shall, where appropriate, publish aggregated datasets.

1. Member States incentives relating to

products covered by a delegated act adopted pursuant to Article 4 that determines classes of performance in accordance with Article 7(4), in relation to a product parameter referred to in Annex I, shall concern the highest two classes of performance that are populated at Union level or, where relevant, products with an EU Ecolabel, unless otherwise specified in that delegated act.

2. Where a delegated act adopted pursuant to Article 4 determines classes of performance pursuant to Article 7(4), in relation to more than one product parameter referred to in Annex I or where classes of performance are established both under Regulation (EU) 2017/1369 and under this Regulation, the Commission may further specify in the delegated acts adopted pursuant to Article 4, third subparagraph, point (g), which product parameters the Member States incentives shall concern.

When doing so, the Commission shall take into account the following criteria:

- (a) the number of products in each class of performance;
- (b) the relative affordability of the products in each class of performance;
- (c) the need to ensure sufficient demand for more environmentally sustainable products.

3. Where a delegated act adopted pursuant to Article 4 does not determine classes of performance, the Commission may specify in the delegated acts adopted pursuant to Article 4, third subparagraph, point (g), requirements related to product parameters that products concerned by Member State incentives shall meet.

When doing so, the Commission shall take into account the following criteria:

- (a) the relative affordability of the products meeting those requirements;
- (b) the need to ensure sufficient demand for more environmentally sustainable

products covered by a delegated act adopted pursuant to Article 4 that determines classes of performance in accordance with Article 7(4), in relation to a product parameter referred to in Annex I, shall concern the highest two classes of performance that are populated at Union level or, where relevant, products with an EU Ecolabel, unless otherwise specified in that delegated act.

2. Where a delegated act adopted pursuant to Article 4 determines classes of performance pursuant to Article 7(4), in relation to more than one product parameter referred to in Annex I or where classes of performance are established both under Regulation (EU) 2017/1369 and under this Regulation, the Commission may further specify in the delegated acts adopted pursuant to Article 4, third subparagraph, point (g), which product parameters the Member States incentives shall concern.

When doing so, the Commission shall take into account the following criteria:

- (a) the number of products in each class of performance;
- (b) the relative affordability of the products in each class of performance;
- (c) the need to ensure sufficient demand for more environmentally sustainable products.

3. Where a delegated act adopted pursuant to Article 4 does not determine classes of performance, the Commission may specify in the delegated acts adopted pursuant to Article 4, third subparagraph, point (g), requirements related to product parameters that products concerned by Member State incentives shall meet.

When doing so, the Commission shall take into account the following criteria:

- (a) the relative affordability of the products meeting those requirements;
- (b) the need to ensure sufficient demand for more environmentally sustainable

products.

products.

Compromise Amendment 25

ARTICLE 58 Green public procurement

replacing AM 1062-1072, ITRE72, IMCO95-IMCO102

Proposal for a regulation

Article 58 – title

Text proposed by the Commission

Green public procurement

Proposal for a regulation

Article 58

1. Requirements pursuant to Article 4, third subparagraph, point (h) for public contracts awarded by contracting authorities, as defined in Article 2(1) of Directive 2014/24/EU or Article 3(1) of Directive 2014/25/EU, or contracting entities, as defined in Article 4(1) of Directive 2014/25/EU, **may** take the form of mandatory technical specifications, selection criteria, award criteria, contract performance clauses, or targets, as appropriate.

2. When establishing requirements pursuant to Article 4, third subparagraph, point (h), for public contracts, the Commission shall take into account the following criteria:

- (a) the value and volume of public contracts awarded for that given product group or for the services or works using the given product group;
- (b) the need to ensure sufficient demand for more environmentally sustainable

Amendment

Green public procurement

1. ***Without prejudice to Directives 2014/24/EU and 2014/25/EU,*** requirements pursuant to Article 4, third subparagraph, point (h) for public contracts awarded by contracting authorities, as defined in Article 2(1) of Directive 2014/24/EU or Article 3(1) of Directive 2014/25/EU, or contracting entities, as defined in Article 4(1) of Directive 2014/25/EU, ***shall*** take the form of mandatory technical specifications, selection criteria, award criteria, contract performance clauses, or targets, as appropriate.

1a. Member States, together with the Commission, shall provide assistance to national contracting authorities to upskill and reskill staff in charge of green public procurement.

2. When establishing requirements pursuant to Article 4, third subparagraph, point (h), for public contracts, the Commission shall take into account the following criteria:

- (a) the value and volume of public contracts awarded for that given product group or for the services or works using the given product group;
- (b) ***environmental benefits and*** the need to ensure sufficient demand for more

products;

(c) the economic feasibility for contracting authorities or contracting entities to buy more environmentally sustainable products, without entailing disproportionate costs.

environmentally sustainable products;

(c) the economic feasibility for contracting authorities or contracting entities to buy more environmentally sustainable products, without entailing disproportionate costs.

Compromise Amendment 26

Articles 59(3a) and 66 Exercise of the delegation
replacing AM 1076, 1073

Proposal for a regulation Article 59 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In order to carry out market surveillance in relation to this Regulation and the delegated acts adopted pursuant to Article 4, Member States shall ensure that their market surveillance authorities have the necessary resources, including sufficient budgetary and other resources, such as a sufficient number of competent personnel, expertise, procedures and other arrangements for the proper performance of their duties

Proposal for a regulation Article 66

Text proposed by the Commission

Amendment

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 4, Article 9(1), second subparagraph, Article 11(4), Article 20(3), and Article 61(1) shall be conferred on the Commission for a period of **six** years from [**one month after the** entry into force of this act]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the **six**-year period. The delegation of power shall be tacitly extended for periods

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 4, Article 9(1), second subparagraph, Article 11(4), Article 20(3), and Article 61(1) shall be conferred on the Commission for a period of **five** years from [**the date of** entry into force of this act]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the **five**-year period. The delegation of power shall be tacitly extended for periods of an

of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 4, Article 9(1), second subparagraph, Article 11(4), Article 20(3), and Article 61(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State acting in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 4, Article 9(1), second subparagraph, Article 11(4), Article 20(3), and Article 61(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 4, Article 9(1), second subparagraph, Article 11(4), Article 20(3), and Article 60(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State acting in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 4, Article 9(1), second subparagraph, Article 11(4), Article 20(3), and Article 61(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Compromise Amendment **27**

Article 68 Penalties

replacing AM 1077-1079

Proposal for a regulation
Article 68

Text proposed by the Commission

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive, **taking into account the extent of non-compliance and the number of units of non-complying products placed on the Union market**. Member States shall notify the Commission of those provisions by [one year after the date of application of this Regulation] at the latest and shall notify it without delay of any subsequent amendment affecting them.

Amendment

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify the Commission of those provisions by [one year after the date of application of this Regulation] at the latest and shall notify it without delay of any subsequent amendment affecting them.

1a. When determining the type and level of penalties to be imposed in case of infringements, the competent authorities of the Member States shall give due regard to the following criteria:

(a) the nature, gravity and duration of the infringement, including the number of units of non-complying products placed on the Union market;

(b) where appropriate, the intentional or negligent character of the infringement;

(c) the financial strength of the natural or legal person held responsible, as indicated for example by the total turnover of the legal person held responsible or the annual income of the natural person held responsible;

(d) the economic benefits derived from the infringement by the natural or legal person held responsible, insofar as they can be determined;

(e) the damage to human health or the environment caused by the infringement, insofar as it can be determined;

(f) any action taken by the natural or legal person held responsible to mitigate or remedy the damage caused;

(g) the level of cooperation of the natural or legal person held responsible with the competent authority;

(h) previous infringements by the natural or legal person held responsible;

(i) any action aiming to circumvent or obstruct administrative controls and

(j) any other aggravating or mitigating factor applicable to the circumstances of the case.

The Member States shall at least be able to impose the following penalties in case of infringements of this Regulation:

(a) fines;

(b) confiscation of revenues gained by the natural or legal person from a transaction related to the infringement;

(c) exclusion from public procurement procedures.

Compromise Amendment 28

Article 69 Evaluation + Article 71 Entry into force

replacing AM 1080-1088, 1091, ITRE71, ITRE73, ITRE74, IMCO113, IMCO114

Proposal for a regulation

Article 69 – title

Text proposed by the Commission

Amendment

Evaluation

Monitoring and evaluation

Proposal for a regulation

Article 69

Text proposed by the Commission

Amendment

The Commission shall compile relevant data on products and product groups subject to ecodesign requirements, including on their life-cycle environmental, carbon and material footprint with a view to evaluating the

No *sooner* than [8 years after the date of application of this Regulation], the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of products. The Commission shall present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the Commission with the information necessary for the preparation of that report.

Where the Commission finds it appropriate, the report shall be accompanied by a legislative proposal for amendment of the relevant provisions of this Regulation.

Proposal for a regulation **Article 69 a (new)**

improvements of the environmental sustainability of those products. On the basis of that data, the Commission shall publish an annual report.

The Commission shall regularly, and at least once every 3 years following the adoption of ecodesign requirements, conduct an evaluation of the adopted requirements in view of identifying the need for potential reviews.

No *later* than [6 years after the date of application of this Regulation], *and every 6 years thereafter*, the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of products. *The Commission shall also evaluate the use of exemptions for imported second-hand products or product groups.*

No later than [4 years after the date of application of this Regulation], the Commission shall consider the inclusion of social sustainability and due diligence requirements within the scope of this Regulation.

The Commission shall present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions, and make it publicly available. Member States shall provide the Commission with the information necessary for the preparation of that report.

Where the Commission finds it appropriate, the report shall be accompanied by a legislative proposal for amendment of the relevant provisions of this Regulation.

Text proposed by the Commission

Amendment

Article 69a

Amendment to Directive (EU) 2020/1828

Point (27) of Annex I to Directive (EU) 2020/1828 shall be replaced by the following:

‘(27) Regulation (EU) .../... of the European Parliament and of the Council ... on establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC.’

Article 71 Entry into force

**Proposal for a regulation
Article 71**

Text proposed by the Commission

Amendment

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Compromise Amendment 31

Replacing AMs 1-18, 98-211, 215-222, 231-233, 237-238, 242-259, IMCO 1-IMCO 15, IMCO 18-20, ITRE 1-ITRE10

**Proposal for a regulation
Recital 1**

Text proposed by the Commission

Amendment

(1) The European Green Deal²⁵ is Europe’s sustainable growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, competitive, climate-neutral and circular economy. It sets the ambitious objective of

(1) The European Green Deal²⁵ is Europe’s sustainable growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, competitive, climate-neutral and circular economy **and toxic-free environment**. It

ensuring that the Union becomes the first climate neutral continent by 2050. It recognises the advantages of investing in the Union's competitive sustainability by building a fairer, greener and more digital Europe. Products have a pivotal role to play in this green transition. Underlining that current production processes and consumption patterns remain too linear and dependent on a throughput of new materials extracted, traded and processed goods and finally disposed of as waste or emissions, the European Green Deal emphasises the urgent need to transition to a circular economy model and stresses the significant progress that remains to be made. It also identifies energy efficiency as a priority for the decarbonisation of the energy sector and for reaching the climate objectives in 2030 and 2050.

²⁵ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions The European Green Deal COM(2019)640 final.

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) To accelerate the transition to a circular economy model, the Commission designed a future-oriented agenda in its Circular Economy Action Plan for a cleaner and more competitive Europe²⁶ (CEAP), with the objective of making the regulatory framework fit for a sustainable future. As set out in this plan, there is currently no comprehensive set of requirements to ensure that all products placed on the Union market become increasingly sustainable and stand the test of circularity. In particular, product design does not sufficiently promote sustainability over the whole life cycle. As a result,

sets the ambitious objective of ensuring that the Union becomes the first climate neutral continent by 2050. It recognises the advantages of investing in the Union's competitive sustainability by building a fairer, greener and more digital Europe. Products have a pivotal role to play in this green transition. Underlining that current production processes and consumption patterns remain too linear and dependent on a throughput of new materials extracted, traded and processed goods and finally disposed of as waste or emissions, the European Green Deal emphasises the urgent need to transition to a circular economy model and stresses the significant progress that remains to be made. It also identifies energy efficiency as a priority for the decarbonisation of the energy sector and for reaching the climate objectives in 2030 and 2050.

²⁵ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions The European Green Deal COM(2019)640 final.

Amendment

(2) To accelerate the transition to a circular economy model, the Commission designed a future-oriented agenda in its Circular Economy Action Plan for a cleaner and more competitive Europe (CEAP), with the objective of making the regulatory framework fit for a sustainable future. ***The plan underlines that, for citizens, the circular economy will provide high-quality, functional and safe products, which are efficient and affordable, last longer and are designed for reuse, repair, and high-quality recycling.*** As set out in this plan, there is currently no comprehensive set of

products are being replaced frequently, involving significant energy and resource use in order to produce and distribute new products and dispose of old ones. It is still too difficult for economic operators and citizens to make sustainable choices in relation to products given that relevant information and affordable options to do so are lacking. This leads to missed opportunities for sustainability and for value-retaining operations, limited demand for secondary materials and obstacles to the adoption of circular business models.

requirements to ensure that all products placed on the Union market become increasingly sustainable and stand the test of circularity. In particular, product design does not sufficiently promote sustainability over the whole life cycle. As a result, products are being replaced frequently, involving significant energy and resource use in order to produce and distribute new products and dispose of old ones. It is still too difficult for economic operators and citizens to make sustainable choices in relation to products given that relevant information and affordable options to do so are lacking. This leads to missed opportunities for sustainability and for value-retaining operations, limited demand for secondary materials and obstacles to the adoption of circular business models.

²⁶ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions A new Circular Economy Action Plan For a cleaner and more competitive Europe COM(2020)98 final.

²⁶ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions A new Circular Economy Action Plan For a cleaner and more competitive Europe COM(2020)98 final.

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) The European Industrial Strategy²⁷ sets out the Union's overarching ambition to foster a 'twin transition' to climate neutrality and digital leadership. It echoes the European Green Deal in pointing to the leading role that Europe's industry must play in this, by reducing its carbon and material footprint and embedding circularity across the economy, and underlines the need to move away from traditional models, and revolutionise the way we design, make, use and dispose of products. The 2021 Update to the Industrial Strategy²⁸ reinforces the main messages of the 2020 Strategy and focuses on the

Amendment

(3) The European Industrial Strategy²⁷ sets out the Union's overarching ambition to foster a 'twin transition' to climate neutrality and digital leadership. It echoes the European Green Deal in pointing to the leading role that Europe's industry must play in this, by reducing its carbon and material footprint and embedding circularity across the economy, and underlines the need to move away from traditional models, and revolutionise the way we design, make, use and dispose of products. The 2021 Update to the Industrial Strategy²⁸ reinforces the main messages of the 2020 Strategy and focuses on the

lessons from the COVID-19 crisis, including the need to foster resilience.

lessons from the COVID-19 crisis, including the need to foster resilience.

²⁷ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions A New Industrial Strategy for Europe COM(2020)102 final.

²⁷ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions A New Industrial Strategy for Europe COM(2020)102 final.

Proposal for a regulation **Recital 3 a (new)**

Text proposed by the Commission

Amendment

(3a) Secure and sufficient availability of critical raw materials is key for a successful European twin transition while ensuring a competitive European industry. It is important that comprehensive information requirements on materials, including on critical raw materials, on products placed on the Union market are set to deliver on the approach outlined in the Communication on Critical Raw Materials Resilience^{1a} and the European Parliament's resolution of 24 November 2021 on a European strategy for critical raw materials^{1b}.

^{1a} ***Commission communication of 3 September 2020 entitled 'Critical Raw Materials Resilience: Charting a Path towards greater Security and Sustainability' (COM (2020)0474)***

^{1b} ***P9_TA(2021)0468***

Proposal for a regulation **Recital 4**

Text proposed by the Commission

Amendment

(4) In the absence of legislation at Union level, diverging national approaches to improving the environmental

(4) In the absence of legislation at Union level, diverging national approaches to improving the environmental

sustainability of products have already emerged, ranging from information requirements on the duration of software compatibility of electronic devices to reporting obligations on handling unsold durable goods. This is an indication that further national efforts to achieve the aims pursued by this Regulation will likely lead to further fragmentation of the internal market. Therefore, in order to safeguard the functioning of the internal market while ensuring a high level of environmental protection, there is a need for a regulatory framework to progressively introduce ecodesign requirements for products. This Regulation will, by making the ecodesign approach initially set out in Directive 2009/125/EC of the European Parliament and of the Council²⁹ applicable to the broadest possible range of products, provide such a framework.

²⁹ Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (Text with EEA relevance) (OJ L 285, 31.10.2009, p. 10).

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) This Regulation will contribute to making products fit for a climate-neutral, resource-efficient and circular economy, reducing waste and ensuring that the performance of frontrunners in sustainability progressively becomes the norm. It should provide for the setting of new ecodesign requirements to improve product durability, reusability, upgradability and repairability, improve possibilities for refurbishment and maintenance, address the presence of hazardous chemicals in products, increase their energy and resource efficiency, reduce their expected generation of waste

sustainability of products have already emerged, ranging from information requirements on the duration of software compatibility of electronic devices to reporting obligations on handling unsold durable goods. This is an indication that further national efforts to achieve the aims pursued by this Regulation will likely lead to further fragmentation of the internal market. Therefore, in order to safeguard the functioning of the internal market while ensuring a high level of environmental protection, there is a need for an **ambitious** regulatory framework to progressively introduce ecodesign requirements for products. This Regulation will, by making the ecodesign approach initially set out in Directive 2009/125/EC of the European Parliament and of the Council²⁹ applicable to the broadest possible range of products, provide such a framework.

²⁹ Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (Text with EEA relevance) (OJ L 285, 31.10.2009, p. 10).

Amendment

(5) This Regulation will **support production and consumption patterns that are aligned with the Union's overall sustainability targets, including climate, environmental, energy, resource-use and biodiversity, while staying within planetary boundaries, by establishing a legislative framework which contributes to enabling** products fit for a climate-neutral, resource-efficient and circular economy, reducing waste and ensuring that the performance of frontrunners in sustainability progressively becomes the norm. It should provide for the setting of new ecodesign requirements to improve

materials and increase recycled content in products, while ensuring their performance and safety, enabling remanufacturing and high-quality recycling and reducing carbon and environmental footprints.

product durability, reusability, upgradability, **recyclability**, and repairability, improve possibilities for refurbishment and maintenance, address the presence of hazardous chemicals in products, increase their energy and resource efficiency, reduce their expected generation of waste materials and increase recycled content in products, while ensuring their performance and safety, enabling remanufacturing and high-quality recycling and reducing carbon and environmental footprints.

Proposal for a regulation
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Practices making products prematurely obsolete or non-functional are negatively affecting consumers, and have a negative impact on the environment due to the increased material use in our economy. To ensure a long lifespan of products for consumers, to reduce the generation of waste and to contribute to sustainable consumption, this Regulation should address such practices, in particular when they are the result of design choices by manufacturers, when software updates or accessories are not provided within an appropriate period of time, or when the functionality of a product is limited when consumers use consumables, spare parts or accessories not provided by the original manufacturer. As reparability is a cornerstone for long lifespans of products, the Regulation should also ensure that disassembly of key components is not impeded, and access to repair information and spare parts are not limited to authorised repairers.

Proposal for a regulation
Recital 6

(6) The European Parliament, in its Resolution of 25 November 2020 ‘Towards a more sustainable single market for business and consumers’³⁰, **welcomed promoting** durable products which are easier to repair, re-use and recycle. In its report on the New Circular Economy Action Plan adopted on 16 February 2021³¹, the European Parliament **further endorsed the agenda presented by the Commission in the CEAP**. It considered that the transition to a circular economy can provide solutions to address the current environmental challenges and the economic crisis brought on by the COVID-19 pandemic. The Council, in its conclusions on ‘Making the Recovery Circular and Green’ adopted on 11 December 2020³², also welcomed the Commission’s intention to submit legislative proposals as part of a comprehensive and integrated sustainable product policy framework that promotes climate neutrality, energy and resource efficiency and a non-toxic circular economy, protects public health and biodiversity, and empowers and protects consumers and public buyers.

³⁰ P9_TA(2020)0318.

³¹ P9_TA(2021)0040.

³² 13852/20.

(6) The European Parliament, in its Resolution of 25 November 2020 ‘Towards a more sustainable single market for business and consumers’³⁰, **called for setting a right framework to ensure the production of** durable products which are easier to repair, re-use and recycle **while providing increased rights for consumers, including information requirements and longer legal guarantee periods**. In its report on the New Circular Economy Action Plan adopted on 16 February 2021³¹, the European Parliament **underlined that sustainable, circular, safe and non-toxic products and materials should become the norm in the Union market and not the exception and should be seen as the default choice, which is attractive, affordable and accessible for all consumers. The European Parliament also called for EU binding targets to significantly reduce EU material and consumption footprints**. It considered that the transition to a circular economy can provide solutions to address the current environmental challenges and the economic crisis brought on by the COVID-19 pandemic. The Council, in its conclusions on ‘Making the Recovery Circular and Green’ adopted on 11 December 2020³², also welcomed the Commission’s intention to submit legislative proposals as part of a comprehensive and integrated sustainable product policy framework that promotes climate neutrality, energy and resource efficiency and a non-toxic circular economy, protects public health and biodiversity, and empowers and protects consumers and public buyers.

³⁰ P9_TA(2020)0318.

³¹ P9_TA(2021)0040.

³² 13852/20.

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) This Regulation should contribute to achieving the Union's climate and energy objectives. In line with the goals set out in the Paris Agreement, ratified by the Union in 2016³³, Regulation (EU) 2021/1119 of the European Parliament and of the Council, the 'European Climate Law'³⁴ establishes a binding Union domestic reduction commitment of net greenhouse gas emissions of at least 55 % by 2030 and enshrines in legislation the target of economy-wide climate neutrality by 2050. In 2021 the Commission adopted the Fit for 55 Package³⁵ to make the Union's climate and energy policies fit for achieving these objectives. To do so, in line with the energy efficiency first principle enshrined in Directive (EU) 2018/2002 of the European Parliament and of the Council³⁶, energy efficiency improvements need to be significantly stepped up, to around 36% in terms of final energy consumption by 2030³⁷. Product requirements established under this Regulation should play a significant role towards this target by substantially decreasing products' energy footprint. These energy efficiency requirements will also reduce consumer vulnerability to energy price increases. As recognised by the Paris Agreement improving the sustainability of consumption and production will also play an important role in addressing climate change.

³³ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

³⁴ Regulation (EU) 2021/1119 of the European Parliament and of the Council of

Amendment

(7) This Regulation should contribute to achieving the Union's climate and energy objectives. In line with the goals set out in the Paris Agreement, ratified by the Union in 2016³³, Regulation (EU) 2021/1119 of the European Parliament and of the Council, the 'European Climate Law'³⁴ establishes a binding Union domestic reduction commitment of net greenhouse gas emissions of at least 55 % by 2030 and enshrines in legislation the target of economy-wide climate neutrality by 2050. In 2021 the Commission adopted the Fit for 55 Package³⁵ to make the Union's climate and energy policies fit for achieving these objectives. To do so, in line with the energy efficiency first principle enshrined in Directive (EU) 2018/2002 of the European Parliament and of the Council³⁶, energy efficiency improvements need to be significantly stepped up, to around 36% in terms of final energy consumption by 2030³⁷. Product requirements established under this Regulation should play a significant role towards this target by substantially decreasing products' energy footprint. These energy efficiency requirements will also reduce consumer vulnerability to energy price increases. As recognised by the Paris Agreement improving the sustainability of consumption and production will also play an important role in addressing climate change.

³³ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

³⁴ Regulation (EU) 2021/1119 of the European Parliament and of the Council of

30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

³⁵https://ec.europa.eu/commission/presscorner/detail/en/IP_21_3541

³⁶ Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency (OJ L 328, 21.12.2018, p. 210).

³⁷ According to the impact assessment accompanying the Climate Target Plan (Stepping up Europe's 2030 climate ambition – Investing in a climate-neutral future for the benefit of our people, COM/2020/562 final) and to the [Energy Efficiency Directive proposal]

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) This Regulation should also contribute to achieving the Union's wider environmental objectives. The 8th Environmental Action Programme³⁸ enshrines in a legal framework the Union's objective of staying within the planetary boundaries and identifies enabling conditions to achieve priority objectives, which include the transition to a non-toxic circular economy. The European Green Deal also calls for the Union to better monitor, report, prevent and remedy air, water, soil and consumer products pollution. This means that chemicals, materials and products have to be *as* safe and sustainable *as possible* by design and during their life cycle, leading to non-toxic material cycles³⁹. In addition, both the European Green Deal and the CEAP recognise that the Union internal market provides a critical mass that is able to influence global standards on product sustainability and product design. This

30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

³⁵https://ec.europa.eu/commission/presscorner/detail/en/IP_21_3541

³⁶ Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency (OJ L 328, 21.12.2018, p. 210).

³⁷ According to the impact assessment accompanying the Climate Target Plan (Stepping up Europe's 2030 climate ambition – Investing in a climate-neutral future for the benefit of our people, COM/2020/562 final) and to the [Energy Efficiency Directive proposal]

Amendment

(8) This Regulation should also contribute to achieving the Union's wider environmental objectives. The 8th Environmental Action Programme³⁸ enshrines in a legal framework the Union's objective of staying within the planetary boundaries and identifies enabling conditions to achieve priority objectives, which include the transition to a non-toxic circular economy. The European Green Deal also calls for the Union to better monitor, report, prevent and remedy air, water, soil and consumer products pollution. This means that chemicals, materials and products have to *be or become* safe and sustainable by design and during their life cycle, leading to non-toxic material cycles³⁹. In addition, both the European Green Deal and the CEAP recognise that the Union internal market provides a critical mass that is able to influence global standards on product sustainability and product design. This

Regulation should therefore play a significant role towards achieving several targets established under the United Nations' Sustainable Development Goals of the UN's 2030 Agenda for Sustainable Development 'Responsible consumption and production'⁴⁰, both inside and outside the Union.

³⁸ Decision (EU) 2022/.... of the European Parliament and of the Council of ... on a General Union Environment Action Programme to 2030 [Add reference when published in OJ – trilogue agreement 2 December 2021].

³⁹ As set out in the EU Action Plan Towards zero pollution for air, water and soil (COM(2021)400 final) and the Chemicals Strategy for Sustainability (COM(2020)667 final), which calls for embracing the zero pollution goals in production and consumption.

⁴⁰ Including in particular targets under SDG 12 ("Responsible consumption and production").

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) Directive 2009/125/EC has been generally successful in fostering the energy efficiency and some circularity aspects of energy-related products, and its approach has the potential to progressively address the sustainability of all products. To deliver on Green Deal commitments, this approach should be extended to other product groups and systematically address key aspects for increasing the environmental sustainability of products with binding requirements. By ensuring that only products that meet those requirements are placed on the Union market, this Regulation should not only improve the free movement of such products by avoiding national disparities, but also reduce the negative life cycle

Regulation should therefore play a significant role towards achieving several targets established under the United Nations' Sustainable Development Goals of the UN's 2030 Agenda for Sustainable Development 'Responsible consumption and production'⁴⁰, both inside and outside the Union.

³⁸ Decision (EU) 2022/.... of the European Parliament and of the Council of ... on a General Union Environment Action Programme to 2030 [Add reference when published in OJ – trilogue agreement 2 December 2021].

³⁹ As set out in the EU Action Plan Towards zero pollution for air, water and soil (COM(2021)400 final) and the Chemicals Strategy for Sustainability (COM(2020)667 final), which calls for embracing the zero pollution goals in production and consumption.

⁴⁰ Including in particular targets under SDG 12 ("Responsible consumption and production").

Amendment

(10) Directive 2009/125/EC has been generally successful in fostering the energy efficiency and some circularity aspects of energy-related products, and its approach has the potential to progressively address the sustainability of all products. To deliver on Green Deal commitments, this approach should be extended to other product groups and systematically address key aspects for increasing the environmental sustainability of products with binding requirements. By ensuring that only products that meet those requirements are placed on the Union market, this Regulation should not only improve the free movement of such products by avoiding national disparities, but also reduce the negative life cycle

environmental impacts of products for which such requirements are set.

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) In order to create an effective and future-proof regulatory framework, it is necessary to allow for the setting of ecodesign requirements on all physical goods placed on the market or put into service, including components and intermediate products. This should allow the Commissions to take into account the broadest range of products possible when prioritising the establishment of ecodesign requirements and thereby maximise their effectiveness. Where needed, specific exemptions should be made when setting ecodesign requirements, for example for products with a particular purpose that could not be fulfilled when complying with ecodesign requirements. In addition, exemptions should be made at the level of the framework for those products for which it is already clear that ecodesign requirements would not be suitable or where other frameworks provide for the setting of such requirements. This should be the case for food and feed as defined in Regulation (EC) No 178/2002 of the European Parliament and of the Council⁴⁴, medicinal products for human use as defined in Directive 2001/83/EC of the European Parliament and of the Council⁴⁵, veterinary medicinal products as defined in Regulation (EU) 2019/6 of the European Parliament and of the Council⁴⁶, living plants, animals and micro-organisms, products of human origin, and products of plants and animals relating directly to their future reproduction.

⁴⁴ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety

environmental impacts of products for which such requirements are set.

Amendment

(11) In order to create an effective and future-proof regulatory framework, it is necessary to allow for the setting of ecodesign requirements on all physical goods placed on the market or put into service, including components and intermediate products. This should allow the Commissions to take into account the broadest range of products possible when prioritising the establishment of ecodesign requirements and thereby maximise their effectiveness. Where needed, specific exemptions should be made when setting ecodesign requirements, for example for products with a particular purpose that could not be fulfilled when complying with ecodesign requirements. In addition, exemptions should be made at the level of the framework for those products for which it is already clear that ecodesign requirements would not be suitable or where other frameworks provide for the setting of such requirements. This should be the case for food and feed as defined in Regulation (EC) No 178/2002 of the European Parliament and of the Council⁴⁴, medicinal products for human use as defined in Directive 2001/83/EC of the European Parliament and of the Council⁴⁵, veterinary medicinal products as defined in Regulation (EU) 2019/6 of the European Parliament and of the Council⁴⁶, living plants, animals and micro-organisms, products of human origin, and products of plants and animals relating directly to their future reproduction.

⁴⁴ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety

Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

⁴⁵ Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

⁴⁶ Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC (OJ L 4, 7.1.2019, p. 43).

Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

⁴⁵ Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

⁴⁶ Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC (OJ L 4, 7.1.2019, p. 43).

Or. en

Proposal for a regulation
Recital 12a

Text proposed by the Commission

Amendment

(12a) The second-hand sector plays a specific role in promoting sustainable production and consumption, including in the development of new circular business models. Due to the specificities of this sector that is based on prolonging the lifetime of a product avoiding it from becoming waste, second hand products, notably products that undergo refurbishment or repair, originating from within the Union should not be considered as new products that are placed on the market or put into service and should therefore not have to comply with ecodesign requirements. Second hand products imported from third countries should comply with ecodesign requirements, but they may be exempted provided that certain conditions are met.

Proposal for a regulation
Recital 13

Text proposed by the Commission

Amendment

(13) In order to improve the

(13) In order to improve the

environmental sustainability of products and to ensure the free movement of products in the internal market, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by setting out ecodesign requirements. Those ecodesign requirements should in principle apply to specific product groups, such as washing machines or washing machines and washer dryers. In order to maximise the effectiveness of ecodesign requirements and to efficiently improve environmental sustainability of products, it should also be possible to set out one or more horizontal ecodesign requirements for a wider range of products groups, such as electronic appliances or textiles. Horizontal ecodesign requirements should be established where the technical similarities of product groups allow their environmental sustainability to be improved based on the same requirements.

environmental sustainability of products and to ensure the free movement of products in the internal market, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by setting out ecodesign requirements. Those ecodesign requirements should in principle apply to specific product groups, such as washing machines or washing machines and washer dryers. In order to maximise the effectiveness of ecodesign requirements and to efficiently improve environmental sustainability of products, it should also be possible to set out one or more horizontal ecodesign requirements for a wider range of products groups, such as electronic appliances or textiles. Horizontal ecodesign requirements should be established where the technical similarities of product groups allow their environmental sustainability to be improved based on the same requirements.

It is important that horizontal requirements are developed in particular on durability and repairability. Sufficient time should be provided to economic operators to adjust to new ecodesign requirements. Those horizontal requirements should take into account potential environmental benefits stemming from the use of one common charger for several products. Therefore, product groups with technical similarities should be required to be equipped with common chargers.

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) In order to allow the Commission to set requirements as appropriate to the product groups covered, ecodesign requirements should include performance and information requirements. Those requirements should be used to improve product aspects **relevant for** environmental sustainability, such as energy efficiency,

Amendment

(14) In order to allow the Commission to set requirements as appropriate to the product groups covered, ecodesign requirements should include performance and information requirements. Those requirements should be used to improve **relevant** product aspects **on** environmental sustainability, such as energy efficiency,

durability, repairability and carbon and environmental footprints. Ecodesign requirements should be transparent, objective, proportionate and in compliance with international trade rules.

durability, repairability, **reusability, recyclability**, and carbon and environmental footprints. Ecodesign requirements should be transparent, objective, proportionate and in compliance with international trade rules. ***Those requirements should also be based on the product parameters referred to in Annex I and, in setting them, the Commission should take into account the Union objectives in the fields of climate, environment and biodiversity, energy efficiency and resource security. They should contribute to decreasing the Union's environmental, material and consumption footprints in order to bring them into planetary boundaries as soon as possible.***

138

Proposal for a regulation **Recital 15**

Text proposed by the Commission

(15) Once a delegated act setting ecodesign requirements is adopted by the Commission for a given product group, Member States should, in order to ensure the functioning of the internal market, no longer be allowed to set national performance requirements based on product parameters covered by such performance requirements laid down in that delegated act, and no longer be allowed to set national information requirements based on product parameters covered by such information requirements laid down in that delegated act. In order to ensure the functioning of the internal market, the Commission should be empowered to establish that no ecodesign requirements in the form of performance requirements and/or in the form of information requirements are necessary in relation to a specific product parameter.

Amendment

(15) Once a delegated act setting ecodesign requirements is adopted by the Commission for a given product group, Member States should, in order to ensure the functioning of the internal market, no longer be allowed to set national performance requirements based on product parameters covered by such performance requirements laid down in that delegated act, and no longer be allowed to set national information requirements based on product parameters covered by such information requirements laid down in that delegated act. In order to ensure the functioning of the internal market, the Commission should be empowered to establish that no ecodesign requirements in the form of performance requirements and/or in the form of information requirements are necessary in relation to a specific product parameter. ***It is important that the Commission duly justify its decision where it decides to not set performance or information requirements.***

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) When establishing ecodesign requirements the Commission should take into account the nature and purpose of the products concerned as well as the characteristics of the relevant markets. For example, defence equipment has to be able to operate under specific and sometimes harsh conditions, which needs to be considered when setting ecodesign requirements. Certain information on defence equipment should not be disclosed and should be protected. Therefore, for military or sensitive equipment ecodesign requirements should take into account the security needs and the characteristics of the defence market, as defined in Directive 2009/81/EC of the European Parliament and of the Council⁴⁸. Similarly, the space industry is strategic for Europe and for its technological non-dependence. As space technologies operate in extreme conditions, any ecodesign requirements for space products should balance sustainability considerations with resilience and expected performance. Further, for medical devices as defined in Article 2(1) of Regulation (EU) 2017/745 on medical devices⁴⁹ and in vitro diagnostic medical devices as defined in Article 2(2) of Regulation (EU) 2017/746 on in vitro diagnostic medical devices⁵⁰, the Commission should take into account of the need to not negatively affect health and safety of patients and users.

⁴⁸ Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

Amendment

(16) When establishing ecodesign requirements the Commission should take into account the nature and purpose of the products concerned as well as the characteristics of the relevant markets. For example, defence equipment has to be able to operate under specific and sometimes harsh conditions, which needs to be considered when setting ecodesign requirements. Certain information on defence equipment should not be disclosed and should be protected. Therefore, for military or sensitive equipment ecodesign requirements should take into account the security needs and the characteristics of the defence market, as defined in Directive 2009/81/EC of the European Parliament and of the Council⁴⁸. Similarly, the space industry is strategic for Europe and for its technological non-dependence. As space technologies operate in extreme conditions, any ecodesign requirements for space products should balance sustainability considerations with resilience and expected performance. Further, for medical devices as defined in Article 2(1) of Regulation (EU) 2017/745 on medical devices⁴⁹ and in vitro diagnostic medical devices as defined in Article 2(2) of Regulation (EU) 2017/746 on in vitro diagnostic medical devices⁵⁰, the Commission should take into account of the need to not negatively affect health and safety of patients and users.

⁴⁸ Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

⁴⁹ Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC (OJ L 117 5.5.2017, p. 1).

⁵⁰ Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117, 5.5.2017, p. 176).

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) ***To avoid duplication of efforts and regulatory burden***, consistency should be ensured between this Regulation and requirements set in or pursuant to other Union legislation, especially products, chemicals and waste legislation⁵¹. However, the existence of empowerments under other Union legislation to set requirements with the same or similar effects as requirements under this Regulation does not limit the empowerments included in this Regulation, unless specified in this Regulation.

⁵¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation of the circular economy package - options to address the interface between chemical, product and waste legislation (COM(2018) 32 final).

144-147

Proposal for a regulation

Recital 18

⁴⁹ Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC (OJ L 117 5.5.2017, p. 1).

⁵⁰ Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117, 5.5.2017, p. 176).

Amendment

(17) Consistency should be ensured between this Regulation and requirements set in or pursuant to other Union legislation, especially products, chemicals, ***packaging*** and waste legislation⁵¹. However, the existence of empowerments under other Union legislation to set requirements with the same or similar effects as requirements under this Regulation does not limit the empowerments included in this Regulation, unless specified in this Regulation.

⁵¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation of the circular economy package - options to address the interface between chemical, product and waste legislation (COM(2018) 32 final).

(18) Delegated acts including ecodesign requirements should, as was the case under Directive 2009/125/EC, undergo a dedicated impact assessment and stakeholder consultation, and should be drawn up in line with the Commission's Better Regulation guidelines, and include an assessment of the international dimension and impacts on third countries. When doing so, the Commission should take due consideration of all aspects of the life cycle of the product and base its impact assessment on best available evidence. When preparing ecodesign requirements the Commission should use a scientific approach and also take into consideration relevant technical information in particular coming from Regulation (EC) No 66/2010 of the European Parliament and of the Council⁵², Directive 2010/75/EU of the European Parliament and of the Council⁵³, technical screening criteria adopted pursuant to Regulation (EU) 2020/852 of the European Parliament and of the Council⁵⁴ and green public procurement criteria⁵⁵.

⁵² Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1).

⁵³ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

⁵⁴ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

⁵⁵ Communication "Public procurement for a better environment" (COM (2008) 400)

(18) Delegated acts including ecodesign requirements should, as was the case under Directive 2009/125/EC, undergo a dedicated impact assessment and stakeholder consultation, and should be drawn up in line with the Commission's Better Regulation guidelines, and include an assessment of the international dimension and impacts on third countries. When doing so, the Commission should take due consideration of all aspects of the life cycle of the product and base its impact assessment on best available evidence. When preparing ecodesign requirements the Commission should use a scientific approach and also take into consideration relevant technical information in particular coming from Regulation (EC) No 66/2010 of the European Parliament and of the Council⁵², Directive 2010/75/EU of the European Parliament and of the Council⁵³, technical screening criteria adopted pursuant to Regulation (EU) 2020/852 of the European Parliament and of the Council⁵⁴ and green public procurement criteria⁵⁵.

⁵² Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1).

⁵³ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

⁵⁴ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

⁵⁵ Communication "Public procurement for a better environment" (COM (2008) 400)

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) In order to take into account the diversity of products, the Commission should select the methods to assess the setting of the ecodesign requirements and, as appropriate, develop them further based on the nature of the product, its most relevant aspects and its impacts over its life cycle. In doing so, the Commission should take account of its experience in assessing the setting of requirements under Directive 2009/125/EC and the continuing efforts to develop and improve science-based assessment tools, such as the update of the methodology for ecodesign of energy-related products, and the Product Environmental Footprint method set out in Commission Recommendation (EU) 2021/2279⁵⁶, including as regards temporary storage of carbon, as well as the development of standards by international and European standardisation organisations, including on the material efficiency of energy-related products. Building on these tools and using dedicated studies when needed, the Commission should further reinforce circularity aspects (such as durability, reparability including reparability scoring, identification of chemicals hindering re-use and recycling) in the assessment of products **and in** the preparation of ecodesign requirements, and should develop new methods or tools where appropriate. New approaches may also be needed for the preparation of mandatory public procurement criteria and for bans on the destruction of unsold consumer products.

⁵⁶ Commission Recommendation (EU) 2021/2279 of 15 December 2021 on the

Amendment

(19) In order to take into account the diversity of products, the Commission should select the methods to assess the setting of the ecodesign requirements and, as appropriate, develop them further based on the nature of the product, its most relevant aspects and its impacts over its life cycle. In doing so, the Commission should take account of its experience in assessing the setting of requirements under Directive 2009/125/EC and the continuing efforts to develop and improve science-based assessment tools, such as the update of the methodology for ecodesign of energy-related products, and the Product Environmental Footprint method set out in Commission Recommendation (EU) 2021/2279⁵⁶, including as regards temporary storage of carbon, as well as the development of standards by international and European standardisation organisations, including on the material efficiency of energy-related products, **as well as the area of electrical engineering**. Building on these tools and using dedicated studies when needed, the Commission should further reinforce circularity aspects (such as durability, reparability including reparability scoring, **recyclability, reusability**, identification of chemicals hindering re-use and recycling) in the assessment of products, **in accordance with a lifecycle approach with a view to** the preparation of ecodesign requirements, and should develop new methods or tools where appropriate. New approaches may also be needed for the preparation of mandatory public procurement criteria and for bans on the destruction of unsold consumer products.

⁵⁶ Commission Recommendation (EU) 2021/2279 of 15 December 2021 on the

use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations.

Proposal for a regulation **Recital 20**

Text proposed by the Commission

(20) Performance requirements should relate to a selected product parameter relevant to the targeted product aspect for which potential for improving environmental sustainability has been identified. Such requirements may include minimum or maximum levels of performance in relation to the product parameter, non-quantitative requirements that aim to improve performance in relation to the product parameter, or requirements related to a product's functional performance to ensure that the selected performance requirements do not negatively impact the ability of the product to perform the function for which it was designed and marketed. Regarding minimum or maximum levels, they may for example take the form of a limit on energy consumption in the use phase or on the quantities of a given material incorporated in the product, a requirement for minimum quantities of recycled content, or a limit on a specific environmental impact category or on an aggregation of all relevant environmental impacts. An example of a non-quantitative requirement is the prohibition of a specific technical solution that is detrimental to product repairability. Performance requirements will be used to ensure the removal of the worst performing products from the market where this is necessary to contribute to the environmental sustainability objectives of the Regulation.

use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations.

Amendment

(20) Performance requirements should relate to a selected product parameter relevant to the targeted product aspect for which potential for improving environmental sustainability has been identified. Such requirements may include minimum or maximum levels of performance in relation to the product parameter, non-quantitative requirements that aim to improve performance in relation to the product parameter, or requirements related to a product's functional performance to ensure that the selected performance requirements do not negatively impact the ability of the product to perform the function for which it was designed and marketed. Regarding minimum or maximum levels, they may for example take the form of a limit on energy consumption in the use phase or on the quantities of a given material incorporated in the product, a requirement for minimum quantities of recycled content ***while taking into consideration the availability of recyclates***, or a limit on a specific environmental impact category or on an aggregation of all relevant environmental impacts. An example of a non-quantitative requirement is the prohibition of a specific technical solution that is detrimental to product repairability. Performance requirements will be used to ensure the removal of the worst performing products from the market ***and to gradually move to the best performing products*** where this is necessary to contribute to the environmental sustainability objectives of the Regulation. ***This Regulation should also consider the use of sustainably-sourced renewable materials in products***

and address the release of nano- and micro-plastics.

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) In order to ensure consistency, performance requirements should complement the implementation of Union legislation on waste. While requirements for placing on the market packaging as a final product are laid down under European Parliament and Council Directive 94/62/EC⁵⁷, this Regulation may complement that Directive by setting product-based requirements focussing on the packaging of specific products when placed on the market. Where relevant, such complementary requirements should contribute in particular to minimising the amount of packaging used, in turn contributing to the prevention of waste generation in the Union.

⁵⁷ 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).

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) Chemical safety is a recognised element of product sustainability. It is based on chemicals' intrinsic hazards to health or the environment in combination with specific or generic exposure, and is addressed by chemicals legislation, such as Regulation (EC) No 1935/2004 of the European Parliament and of the Council⁵⁸, Regulation (EC) No 1907/2006 of the European Parliament and of the Council⁵⁹, Regulation (EC) No 1223/2009 of the European Parliament and of the Council⁶⁰,

Amendment

(21) In order to ensure consistency, performance requirements should complement the implementation of Union legislation on waste. While requirements for placing on the market packaging as a final product are laid down under European Parliament and Council Directive 94/62/EC⁵⁷, this Regulation may complement that Directive by setting product-based requirements focussing on the packaging of specific products when placed on the market. Where relevant, such complementary requirements should contribute in particular to minimising the amount of packaging used, in turn contributing to the prevention of waste generation in the Union.

⁵⁷ 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).

Amendment

(22) Chemical safety is a recognised element of product sustainability. It is based on chemicals' intrinsic hazards to health or the environment in combination with specific or generic exposure, and is addressed by chemicals legislation, such as Regulation (EC) No 1935/2004 of the European Parliament and of the Council⁵⁸, Regulation (EC) No 1907/2006 of the European Parliament and of the Council⁵⁹, Regulation (EC) No 1223/2009 of the European Parliament and of the Council⁶⁰,

Regulation (EU) 2017/745 of the European Parliament and of the Council⁶¹ and Directive 2009/48/EC of the European Parliament and of the Council⁶². This Regulation should not enable the restriction of substances based on chemical safety, as done under other Union legislation.

Similarly, this Regulation should not enable the restriction of substances for reasons related to food safety. Union law on chemicals and food, however, does not allow addressing, through restrictions on certain substances, impacts on sustainability that are unrelated to chemical safety or food safety. To overcome this limitation, this Regulation should allow, under certain conditions, for the restriction, *primarily for reasons other than chemical or food safety*, of substances present in products *or used in their manufacturing processes* which negatively affect products' sustainability. This Regulation also should not result in the duplication or replacement of restrictions of substances covered by Directive 2011/65/EU of the European Parliament and of the Council⁶³, which has as its objective the protection of human health and the environment, including the environmentally sound recovery and disposal of waste from electrical and electronic equipment

⁵⁸ Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (OJ L 338, 13.11.2004, p. 4).

⁵⁹ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals

Regulation (EU) 2017/745 of the European Parliament and of the Council⁶¹ and Directive 2009/48/EC of the European Parliament and of the Council⁶². This Regulation should not enable the restriction of substances based on chemical safety, as done under other Union legislation, *unless there is an unacceptable risk to human health or the environment, arising from the use of a substance present in the product or product component when it is placed on the market or during the subsequent stages of its lifecycle*. This Regulation should not enable the restriction of substances for reasons related to food safety. Union law on chemicals and food, however, does not allow addressing, through restrictions on certain substances, impacts on sustainability that are unrelated to chemical safety or food safety. To overcome this limitation, this Regulation should allow, under certain conditions, for the restriction, of substances present in products which negatively affect products' sustainability. This Regulation should *complement, if necessary, but* not result in the duplication or replacement of restrictions of substances covered by Directive 2011/65/EU of the European Parliament and of the Council⁶³, which has as its objective the protection of human health and the environment, including the environmentally sound recovery and disposal of waste from electrical and electronic equipment

⁵⁸ Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (OJ L 338, 13.11.2004, p. 4).

⁵⁹ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals

Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

⁶⁰ Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ L 342, 22.12.2009, p. 59).

⁶¹ Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117, 5.5.2017, p. 176).

⁶² Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys (OJ L 170, 30.6.2009, p. 1).

⁶³ Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJ L 174, 1.7.2011, p. 88).

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) To improve environmental sustainability of products, information requirements should relate to a selected product parameter relevant to the product aspect, such as the product's environmental footprint *or* its durability. They *may* require manufacturer to make available information on the product's performance in relation to a selected product parameter or other information that may influence the way the product is handled by parties other than the manufacturer in order to improve performance in relation to such a parameter. Such information requirements

Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

⁶⁰ Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ L 342, 22.12.2009, p. 59).

⁶¹ Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117, 5.5.2017, p. 176).

⁶² Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys (OJ L 170, 30.6.2009, p. 1).

⁶³ Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJ L 174, 1.7.2011, p. 88).

Amendment

(23) To improve environmental sustainability of products, information requirements should relate to a selected product parameter relevant to the product aspect, such as the product's environmental *and carbon* footprint *and* its durability. They *should* require manufacturer to make available information on the product's performance in relation to a selected product parameter or other information that may influence the way the product is handled by parties other than the manufacturer in order to improve performance in relation to such a

should be set either in addition to, or in place of, performance requirements on the same product parameter as appropriate. Where a delegated act includes information requirements, it should indicate the method for making the required information available, such as its inclusion on a free-access website, product passport or product label. Information requirements are necessary to lead to the behavioural change needed to ensure that the environmental sustainability objectives of this Regulation are achieved. By providing a solid basis for purchasers and public authorities to compare products on the basis of their environmental sustainability, information requirements are expected to drive consumers and public authorities towards more sustainable choices.

parameter. Such information requirements should be set either in addition to, or in place of, performance requirements on the same product parameter as appropriate. ***It is important that the Commission duly justifies its decision to only set information requirements in place of performance requirements.*** Where a delegated act includes information requirements, it should indicate the method for making the required information available ***and easily accessible***, such as its inclusion on a free-access website, product passport or product label. ***Essential information relating to the health, safety and rights of end-users should always be provided to consumers through physical format and be accessible through a data carrier included on the product.***

Information requirements are necessary to lead to the behavioural change needed to ensure that the environmental sustainability objectives of this Regulation are achieved. ***Information relevant for an informed purchasing decision should be provided to the consumer prior to the purchase of the product.*** By providing a solid basis for purchasers and public authorities to compare products on the basis of their environmental sustainability, information requirements are expected to drive consumers and public authorities towards more sustainable choices.

²⁶ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions A new Circular Economy Action Plan For a cleaner and more competitive Europe COM(2020)98 final.

²⁶ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions A new Circular Economy Action Plan For a cleaner and more competitive Europe COM(2020)98 final.

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) Where delegated acts include information requirements, they may in addition determine classes of performance in relation to one or more relevant product parameters, in order to facilitate comparison between products on the basis of that parameter. Classes of performance should enable differentiation of products based on their relative sustainability and could be used by both consumers and public authorities. As such, they are intended to drive the market towards more sustainable products.

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) Information on the presence of substances of concern in products is a key element to identify and promote products that are sustainable. The chemical composition of products determines largely their functionalities and impacts, as well as the possibilities for their re-use or for recovery once they become waste. The Chemicals Strategy for Sustainability⁶⁴ calls for minimising the presence of substances of concern in products, and ensuring the availability of information on chemical content and safe use, by introducing information requirements and tracking the presence of substances of concern throughout the life cycle of materials and products. Regulation (EC) No 1272/2008 of the European Parliament and of the Council⁶⁵ and other existing chemicals legislation such as Regulation (EC) No 1223/2009 already ensure communication on hazards to health or the

Amendment

(24) Where delegated acts include information requirements, they may in addition determine classes of performance in relation to one or more relevant product parameters, in order to facilitate comparison between products on the basis of that parameter. Classes of performance should enable differentiation of products based on their relative sustainability and could be used by both consumers and public authorities. As such, they are intended to drive the market towards more sustainable products *without compromising functionality. As information requirements on durability and repairability of products play a central role for consumers to engage in sustainable consumption patterns, this Regulation should enable the establishment of repairability scores.*

Amendment

(25) Information on the presence of substances of concern in products is a key element to identify and promote products that are sustainable. The chemical composition of products determines largely their functionalities and impacts, as well as the possibilities for their re-use or for recovery once they become waste. The Chemicals Strategy for Sustainability⁶⁴ calls for minimising the presence of substances of concern in products, and ensuring the availability of information on chemical content and safe use, by introducing information requirements and tracking the presence of substances of concern throughout the life cycle of materials and products. Regulation (EC) No 1272/2008 of the European Parliament and of the Council⁶⁵ and other existing chemicals legislation such as Regulation (EC) No 1223/2009 already ensure communication on hazards to health or the

environment posed by certain substances of concern on their own or in a mixture. Users of substances and mixtures should also be informed about pertinent sustainability-related information not primarily related to hazards to health or the environment. Furthermore, users of products other than substances or mixtures, and managers of waste from such products, should also receive sustainability-related information, including information primarily related to chemicals' hazards to health or the environment. Therefore, this Regulation should allow for the setting of requirements related to the tracking and communication of sustainability information, including the presence of substances of concern in products throughout their life cycle, including with a view to their decontamination and recovery when they become waste. Such a framework should aim to progressively cover all substances of concern in all products listed in working plans setting out the product groups the Commission intends to tackle.

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) The information requirements set under this Regulation should include the requirement to make available a product passport. The product passport is an important tool for making information available to actors along the entire value chain and the availability of a product passport should significantly enhance end-to-end traceability of a product throughout its value chain. Among other things, the product passport should help consumers make informed choices by improving their access to product information relevant to them, allow economic operators other value chain actors such as repairers or recyclers to access relevant information, and enable competent national authorities

environment posed by certain substances of concern on their own or in a mixture. Users of substances and mixtures should also be informed about pertinent sustainability-related information not primarily related to hazards to health or the environment. Furthermore, users of products other than substances or mixtures, and managers of waste from such products, should also receive sustainability-related information, including information primarily related to chemicals' hazards to health or the environment. Therefore, this Regulation should allow for the setting of requirements related to the tracking and communication of sustainability information, including the presence of substances of concern in products throughout their life cycle, including with a view to their decontamination and recovery when they become waste. Such a framework should aim to progressively cover all substances of concern in all products listed in working plans setting out the product groups the Commission intends to tackle.

Amendment

(26) The information requirements set under this Regulation should include the requirement to make available a product passport. The product passport is an important tool for making information available to actors along the entire value chain and the availability of a product passport should significantly enhance end-to-end traceability of a product throughout its value chain. Among other things, the product passport should help consumers make informed choices by improving their access to relevant product, allow economic operators *and* other value chain actors, such as **professional** repairers, **independent operators, refurbishers** or recyclers to access relevant information

to perform their duties. To this end, the product passport should not replace but complement non-digital forms of transmitting information, such as information in the product manual or on a label. In addition, it should be possible for the product passport to be used for information on other sustainability aspects applicable to the relevant product group pursuant to other Union legislation.

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) To take account of the nature of the product and its market, the information to be included in the product passport should be carefully examined on a case-by-case basis when preparing product-specific rules. To optimise access to the resulting information while also protecting intellectual property rights, the product passport needs to be designed and implemented allowing differentiated access to the information included in the product passport depending on the type of information and the typology of stakeholders. Similarly, to avoid costs to companies and the public that are disproportionate to the wider benefits, the product passport should be specific to the item, batch or product model, depending on for example the complexity of the value chain, the size, nature or impacts of the products considered.

and enable competent national authorities to perform their duties, ***without endangering the protection of confidential business information***. To this end, the product passport should not replace, but complement non-digital forms of transmitting information, such as information in the product manual or the label. In addition, it should be possible for the product passport to be used for information on other sustainability aspects applicable to the relevant product group pursuant to other Union legislation.

Amendment

(27) To take account of the nature of the product and its market, the information to be included in the product passport should be carefully examined on a case-by-case basis when preparing product-specific rules, ***taking into consideration the cases of unique items and protection of confidential business information***. To optimise access to the resulting information while also protecting intellectual property rights, the product passport needs to be designed and implemented allowing differentiated access to the information included in the product passport depending on the type of information and the typology of stakeholders. Similarly, to avoid costs to companies and the public that are disproportionate to the wider benefits, the product passport should be specific to the item, batch or product model, depending on for example the complexity of the value chain, the size, nature or impacts of the products considered. ***The product passport should remain available for at least the expected lifetime of a specific product but with an adequate margin to ensure the product passport is available in cases in which the product lasts for longer than expected.***

Proposal for a regulation

Recital 28

Text proposed by the Commission

(28) In order to ensure interoperability, the types of permitted data carriers should be specified. For the same reason, the data carrier and the unique product identifier should be released in accordance with internationally recognised standards. The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend this Regulation by replacing or adding standards in accordance with which the data carrier and the unique identifiers may be released, in light of technical or scientific progress. This should ensure that the information contained in the product passport can be recorded and transmitted by all economic operators, as well as to guarantee the compatibility of the unique identifier with external components such as scanning devices.

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) In order to not unnecessarily delay the establishment of ecodesign requirements other than on the product passport or to ensure that product passports can be effectively implemented, the Commission should be allowed to exempt product groups from the product passport requirements in case technical specifications are not available in relation to the essential requirements for the technical design and operation of the product passport. Similarly, in order to prevent unnecessary administrative burden for economic operator, the Commission should be allowed to exempt product

Amendment

(28) In order to ensure interoperability, the types of permitted data carriers should be specified. For the same reason, the data carrier and the unique product identifier should be released in accordance with internationally recognised standards. ***The data should be transferable through an open interoperable data exchange network without vendor lock-in.***

The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend this Regulation by replacing or adding standards in accordance with which the data carrier and the unique identifiers may be released, in light of technical or scientific progress. This should ensure that the information contained in the product passport can be recorded and transmitted by all economic operators, as well as to guarantee the compatibility of the unique identifier with external components such as scanning devices.

Amendment

(29) In order to not unnecessarily delay the establishment of ecodesign requirements other than on the product passport or to ensure that product passports can be effectively implemented, the Commission should be allowed to exempt product groups from the product passport requirements in case technical specifications are not available in relation to the essential requirements for the technical design and operation of the product passport. Similarly, in order to prevent unnecessary administrative burden for economic operator, the Commission should be allowed to exempt product

groups from the product passport requirements in case other Union law already includes a system for the digital provision of product information allowing actors along the value chain to access relevant product information and facilitating the verification of product compliance by competent national authorities. These exemptions should be periodically reviewed taking into account further availability of technical specifications.

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) To ensure that the product passport is flexible, agile and market-driven and evolving in line with business models, markets and innovation, it should be based on a decentralised data system, set up and maintained by economic operators. However, for enforcement and monitoring purposes, it may be necessary that competent national authorities and the Commission have direct access to a record of all data carriers and unique identifiers linked to products placed on the market or put in service.

Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) To ensure the effective roll-out of the product passport, technical design, data requirements and operation of the product passport should adhere to a set of essential technical requirements. Such requirements should provide a basis for the consistent deployment of the product passport across sectors. Technical specifications should be established to ensure the effective implementation of those essential requirements, either in the form of harmonised standard referenced in the

groups from the product passport requirements ***exceptionally*** in case other Union law already includes a system for the digital provision of product information allowing actors along the value chain to access relevant product information and facilitating the verification of product compliance by competent national authorities. These exemptions should be periodically reviewed taking into account further availability of technical specifications ***and eliminated where possible***.

Amendment

(32) To ensure that the product passport is flexible, agile and market-driven and evolving in line with business models, markets and innovation, it should be based on a decentralised data system, set up and maintained by economic operators. However, for enforcement and monitoring purposes, it may be necessary that competent national authorities and the Commission have direct access to a record of all data carriers and unique identifiers linked to products placed on the market or put in service.

Amendment

(33) To ensure the effective roll-out of the product passport, technical design, data requirements and operation of the product passport should adhere to a set of essential technical requirements. Such requirements should provide a basis for the consistent deployment of the product passport across sectors. Technical specifications should be established to ensure the effective implementation of those essential requirements, either in the form of harmonised standard referenced in the

Official Journal or, as a fall-back option, common specification adopted by the Commission. The technical design should ensure that the product passport carries data in a secure way, respecting privacy rules. The digital product passport will be developed in an open dialogue with international partners, in order to take account of their views when developing technical specifications and to ensure that they help remove trade barriers for greener products **and** lower costs for sustainable investments, marketing and compliance. Technical specifications and requirements related to traceability across the value chain should, in order to allow for their effective implementation, to the extent possible be developed based on a consensual approach and on the involvement, buy-in, and effective collaboration of a diverse set of actors, including standardisation bodies, industry associations, consumer organisations, experts, NGOs and international partners, including developing economies.

Proposal for a regulation

Recital 35

Text proposed by the Commission

(35) Any processing of personal data pursuant to this Regulation should comply with the applicable rules on the protection of personal data. Processing of personal data by the competent national authorities within Member States should be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council⁶⁶. Processing of personal data by the Commission should be carried out in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council⁶⁷.

Official Journal or, as a fall-back option, common specification adopted by the Commission. The technical design should ensure that the product passport carries data in a secure way, respecting privacy rules. The digital product passport will be developed in an open dialogue with international partners, in order to take account of their views when developing technical specifications and to ensure that they help remove trade barriers for greener products **with extended lifecycles and circularity**, lower costs for sustainable investments, marketing and compliance **and supporting innovation**. Technical specifications and requirements related to traceability across the value chain should, in order to allow for their effective implementation, to the extent possible be developed based on a consensual approach and on the involvement, buy-in, and effective collaboration of a diverse set of actors, including standardisation bodies, industry associations, **start-ups**, consumer organisations, experts, NGOs and international partners, including developing economies.

Amendment

(35) Any processing of personal data pursuant to this Regulation should comply with the applicable rules on the protection of personal data. Processing of personal data by the competent national authorities within Member States should be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council⁶⁶ **with particular attention being paid to the principles of data protection by design and by default**. Processing of personal data by the Commission should be carried out in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council⁶⁷. **Personal data of end-users should not be stored in the digital**

product passport.

⁶⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

⁶⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Proposal for a regulation

Recital 39

Text proposed by the Commission

(39) To drive consumers towards more sustainable choices, labels should, when required by the delegated acts adopted pursuant to this Regulation, provide information allowing for the effective comparison of products, for instance by indicating classes of performance. Specifically for consumers, physical labels can be an additional source of information at the place of sale. They can provide a quick visual basis for consumers to distinguish between products based on their performance in relation to a specific product parameter or set of product parameters. They should, where appropriate, also allow for the accessing of additional information by bearing specific references like website addresses, dynamic QR codes, links to online labels or any appropriate consumer-oriented means. The Commission should set out in the relevant delegated act the most effective way of displaying such labels, including in the case of online distance selling, taking into

⁶⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

⁶⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Amendment

(39) To drive consumers towards sustainable choices, labels should, when required by the delegated acts adopted pursuant to this Regulation, provide **clear and easily understandable** information allowing for the effective comparison of products, for instance by indicating classes of performance. Specifically for consumers, physical labels can be an additional source of information at the place of sale. They can provide a quick visual basis for consumers to distinguish between products based on their performance in relation to a specific product parameter or set of product parameters. They should, where appropriate, also allow for the accessing of additional information by bearing specific references like website addresses, dynamic QR codes, links to online labels or any appropriate consumer-oriented means. The Commission should set out in the relevant delegated act the most effective way of displaying such labels, including in the

account the implications for customers and economic operators and the characteristics of the products concerned. The Commission may also require the label to be printed on the packaging of the product.

Proposal for a regulation

Recital 40

Text proposed by the Commission

(40) Regulation (EU) 2017/1369 setting a framework on energy labelling applies, in parallel to this Regulation, to energy-related products. This means that energy labels are the primary instrument providing the appropriate information to consumers for energy-related products and that classes of performance determined under this Regulation should, where appropriate, be incorporated in the label as supplementary information as provided for in Article 16 of Regulation (EU) 2017/1369. In cases where relevant information on a product's performance in relation to a product parameter cannot be included as supplementary information in the energy label established for the energy-related product pursuant to Regulation (EU) 2017/1369, the Commission should assess whether a label in accordance with this Regulation is to be established, taking into account the need for consumers to be informed on the most relevant parameters for the product and the disadvantages in terms of risks of confusion for the public and of excessive administrative burden for economic operators.

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) Consumers should be protected from misleading information that could hamper their choices for more sustainable products. For this reasons it should be

case of online distance selling, taking into account the implications for customers and economic operators and the characteristics of the products concerned. The Commission may also require the label to be printed on the packaging of the product.

Amendment

(40) Regulation (EU) 2017/1369 setting a framework on energy labelling applies, in parallel to this Regulation, to energy-related products. This means that energy labels are the primary instrument providing the appropriate information to consumers for energy-related products and that classes of performance determined under this Regulation should, where appropriate, be incorporated in the label as supplementary information as provided for in Article 16 of Regulation (EU) 2017/1369. In cases where relevant information on a product's performance in relation to a product parameter cannot be included as supplementary information in the energy label established for the energy-related product pursuant to Regulation (EU) 2017/1369, the Commission should assess whether a label in accordance with this Regulation is to be established, taking into account the need for consumers to be informed on the most relevant parameters for the product and the disadvantages in terms of risks of confusion for the public and of excessive administrative burden for economic operators.

Amendment

(41) Consumers should be protected from misleading information that could hamper their choices for more sustainable products. For this reasons it should be

prohibited to place on the market products bearing a label mimicking the labels provided for in this Regulation.

Proposal for a regulation Recital 42

Text proposed by the Commission

(42) To deliver in the most efficient way on the European Green Deal's objectives and to address the most impactful products first, the Commission should carry out a prioritisation of products to be regulated under this Regulation and requirements that will apply to them. Based on the process followed for prioritisation under Directive 2009/125/EC, the Commission should 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 product aspects for which it intends to adopt delegated acts of horizontal application. The Commission should base its prioritisation on a set of criteria pertaining in particular to the delegated acts' potential contribution to the Union climate, environmental and energy objectives and their potential for improving the product aspects selected without disproportionate costs to the public and economic operators. Considering their importance for meeting the Union's energy objectives, the working plans should include an adequate share of actions related to energy-related products. Member States and stakeholders should also be consulted through the Ecodesign Forum. Due to the complementarities between this Regulation and Regulation (EU) 2017/1369 for energy-related products, the timelines for the working plan under this Regulation and the one provided for under Article 15 of Regulation (EU) 2017/1369 should be

prohibited to place on the market products bearing a label ***with misleading or contradicting information or*** mimicking the labels provided for in this Regulation. ***However, displaying an EU Ecolabel or other existing type I ecolabels as set out in Regulation (EC) No 66/2010 can continue to be used.***

Amendment

(42) To deliver in the most efficient way on the European Green Deal's objectives and to address the most impactful products first, the Commission should carry out a prioritisation of products to be regulated under this Regulation and requirements that will apply to them. Based on the process followed for prioritisation under Directive 2009/125/EC, the Commission should 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 product aspects for which it intends to adopt delegated acts of horizontal application, ***and the estimated timelines for their establishment. The working plan and its updates should be publicly available, presented to the European Parliament before their adoption.*** The Commission should ***consider in particular those product groups identified in this Regulation, and*** base its prioritisation on a set of criteria pertaining in particular to the delegated acts' contribution to the Union climate, environmental and energy objectives and their potential for improving the product aspects selected without disproportionate costs to the public and economic operators. Considering their importance for meeting the Union's energy objectives, the working plans should include an adequate share of actions related to energy-related products. Member States and stakeholders should also be consulted through the Ecodesign Forum. Due to the

aligned.

complementarities between this Regulation and Regulation (EU) 2017/1369 for energy-related products, the timelines for the working plan under this Regulation and the one provided for under Article 15 of Regulation (EU) 2017/1369 should be aligned.

Proposal for a regulation

Recital 44

Text proposed by the Commission

(44) In order to encourage self-regulation as a valid alternative to regulatory approaches, this Regulation should, in continuation of Directive 2009/125/EC, include the possibility for industry to submit self-regulation measures. The Commission should assess the self-regulation measures proposed by industry, along with the information and evidence submitted by the signatories, including in light of the international trade commitments of the Union and the need to ensure coherence with Union law. ***In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission*** to adopt and update an act listing the self-regulation measures considered as valid alternatives to a delegated act setting ecodesign requirements. It is also appropriate, for instance in view of relevant market or technological developments within the product group concerned, that the Commission be able to request a revised version of the self-regulation measure whenever considered necessary. Once a self-regulation measure is listed in an ***implementing*** act, there is a legitimate expectation for economic operators that the Commission will not adopt a delegated act establishing ecodesign requirements for this specific product group. However, it is not excluded that the Commission may adopt horizontal ecodesign requirements also applying to the products covered by a

Amendment

(44) In order to encourage self-regulation as a valid alternative to regulatory approaches, this Regulation should, in continuation of Directive 2009/125/EC, include the possibility for industry to submit self-regulation measures ***when those products or product groups are not included in the ecodesign working plan. Self-regulation measures should be aligned with the objectives of this Regulation.*** The Commission should assess the self-regulation measures proposed by industry, along with the information and evidence submitted by the signatories, including in light of the international trade commitments of the Union and the need to ensure coherence with Union law. ***The Commission is empowered to adopt delegated acts to adopt and*** update an act listing the self-regulation measures considered as valid alternatives to a delegated act setting ecodesign requirements. It is also appropriate, for instance in view of relevant market or technological developments within the product group concerned, that the Commission be able to request a revised version of the self-regulation measure whenever considered necessary. Once a self-regulation measure is listed in a ***delegated*** act, there is a legitimate expectation for economic operators that the Commission will not adopt a delegated act establishing ecodesign requirements for this specific product group. However, it is not excluded

recognised self-regulation measure for the product aspects not addressed by that self-regulation measure. Where the Commission considers that a self-regulation measure no longer fulfils the criteria set in this Regulation, it should remove that self-regulation from the **implementing** act listing the recognised self-regulation measures. Consequently, ecodesign requirements may then be established for the product groups previously addressed by the self-regulation measure, in accordance with this Regulation.

Proposal for a regulation Recital 45

Text proposed by the Commission

(45) Micro, small and medium-sized enterprises (SMEs) could greatly benefit from an increase in the demand for sustainable products but could also face costs and difficulties with some of the requirements. The Member States and the Commission should, in their respective areas of responsibility, provide adequate information, ensure targeted and specialised training, and provide specific assistance and support, including financial, to SMEs active in the manufacturing of products for which ecodesign requirements are set. Those **actions** should, **for example, cover the calculation of the product environmental footprint and the technical implementation of the product passport. Member States actions should be taken in respect of applicable State aid rules.**

Proposal for a regulation Recital 49

that the Commission may adopt horizontal ecodesign requirements also applying to the products covered by a recognised self-regulation measure for the product aspects not addressed by that self-regulation measure. Where the Commission considers that a self-regulation measure no longer fulfils the criteria set in this Regulation, it should remove that self-regulation from the **delegated** act listing the recognised self-regulation measures. Consequently, ecodesign requirements may then be established for the product groups previously addressed by the self-regulation measure, in accordance with this Regulation.

Amendment

(45) Micro, small and medium-sized enterprises (SMEs) could greatly benefit from an increase in the demand for sustainable products but could also face costs and difficulties with some of the requirements. **In order to support the SMEs**, the Member States and the Commission should, in their respective areas of responsibility, provide adequate information, ensure targeted and specialised training, and provide specific assistance and support, including, **through existing funding and financing tools** financial, to **micro-enterprises** and SMEs active in the manufacturing of products for which ecodesign requirements are set. Those **measures** should **at least include specific mechanisms to facilitate compliance with the requirements set out in the product passport and with conducting life-cycle assessments.** Member States actions should be taken in respect of applicable State aid rules.

Text proposed by the Commission

(49) Economic operators should be responsible for products' compliance with the ecodesign requirements under this Regulation, in relation to their respective roles in the supply chain, so as to ensure those products' free movement on the internal market and to improve their sustainability. Economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they only make available on the market products that are in conformity with this Regulation and the delegated acts adopted pursuant to it.

Proposal for a regulation
Recital 63

Text proposed by the Commission

(63) In order to allow for a better estimation of relevant products' market penetration, to better inform studies feeding into the drafting or updating of ecodesign requirement and working plans, and to help identify the market share of specific product groups in order to speed up the formulation or review of ecodesign requirements, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring the collection of adequate and reliable data on the sales of products, by allowing the collection of such data by or on behalf of the Commission directly from manufacturers or retailers. When adopting rules on monitoring and reporting, the Commission should take into account the need to maximise the available data on market penetration and the need to minimise the administrative burden for economic operators.

Proposal for a regulation
Recital 64

Amendment

(49) Economic operators should be responsible for products' compliance with the ecodesign requirements under this Regulation, in relation to their respective roles in the supply chain, so as to ensure those products' free movement on the internal market and to improve their sustainability. Economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they only make available on the market products that are in conformity with this Regulation and the delegated acts adopted pursuant to it.

Amendment

(63) In order to allow for a better estimation of relevant products' market penetration, to better inform studies feeding into the drafting or updating of ecodesign requirement and working plans, and to help identify the market share of specific product groups in order to speed up the formulation or review of ecodesign requirements, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring the collection of adequate and reliable data on the sales of products, by allowing the collection of such data by or on behalf of the Commission directly from manufacturers or retailers. When adopting rules on monitoring and reporting, the Commission should take into account the need to maximise the available data on market penetration and the need to minimise the administrative burden for economic operators.

Text proposed by the Commission

(64) In order to improve future ecodesign requirements and improve end-users confidence identifying and correcting deviations between energy in-use and other performance parameters when measured under test conditions and actual functioning, the Commission should have access to products' actual energy consumption while in use and where relevant to other performance parameters. To that end, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring individual products, similarly to road vehicles, to determine their in-use energy consumption and other relevant performance parameters and display it to the end-user. For products connected to the internet, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring economic operators to remotely collect such in-use data and report it to the Commission, as it is essential to identify how the products perform and to inform the public. For products whose in use performance depends significantly also on climatic or geographical conditions, climatic or geographical information should also be collected, anonymised and reported.

Proposal for a regulation

Recital 65

Text proposed by the Commission

(65) In order to ensure the effective and harmonised application of ecodesign requirements set under this Regulation, including on aspects such as energy use or efficiency, durability and reliability, and recycled content, compliance with those requirements should be measured using reliable, accurate and reproducible methods

Amendment

(64) In order to improve future ecodesign requirements and improve end-users confidence identifying and correcting deviations between energy in-use and other performance parameters when measured under test conditions and actual functioning, the Commission should have access to products' actual energy consumption while in use and where relevant to other performance parameters. To that end, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring individual products, similarly to road vehicles, to determine their in-use energy consumption and other relevant performance parameters and display it to the end-user. For products connected to the internet, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring economic operators to remotely collect such in-use data and report it to the Commission, as it is essential to identify how the products perform and to inform the public. For products whose in use performance depends significantly also on climatic or geographical conditions, climatic or geographical information should also be collected, anonymised and reported.

Amendment

(65) In order to ensure the effective and harmonised application of ecodesign requirements set under this Regulation, including on aspects such as energy use or efficiency, durability and reliability, and recycled content, compliance with those requirements should be measured using reliable, accurate and reproducible methods

that take into account the generally recognised state-of-the-art methods. Delegated acts establishing ecodesign requirements for products should in principle include the specifications for tests, measurements or calculations needed to establish or verify compliance. In addition, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring the use of online tools reflecting applicable calculation requirements, in order to ensure their harmonised application.

Proposal for a regulation

Recital 86

Text proposed by the Commission

(86) In order to incentivise consumers to make sustainable choices, in particular when the more sustainable products are not affordable enough, mechanisms such as eco-vouchers and green taxation should be provided for. When Member States decide to make use of incentives to reward the best-performing products among those for which classes of performance have been set by delegated acts pursuant to this Regulation, they should do so by targeting those incentives at the highest two populated classes of performance, unless otherwise indicated by the relevant delegated act. However, Member States should not be able to prohibit the placing on the market of a product based on its class of performance. For the same reason, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by further specifying which product parameters or related levels of performance Member States' incentives concern in case no class of performance is determined in the applicable delegated act or where classes of performance are established in relation to more than one product parameter. The introduction of

that take into account the generally recognised state-of-the-art methods. Delegated acts establishing ecodesign requirements for products should in principle include the specifications for tests, measurements or calculations needed to establish or verify compliance. In addition, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring the use of online tools reflecting applicable calculation requirements, in order to ensure their harmonised application.

Amendment

(86) In order to incentivise consumers to make sustainable choices, in particular when the more sustainable products are not affordable enough, mechanisms such as eco-vouchers ***that can only be used to purchase products and services respecting the environment***, and green taxation should be provided for. When Member States decide to make use of incentives to reward the best-performing products among those for which classes of performance have been set by delegated acts pursuant to this Regulation, they should do so by targeting those incentives at the highest two populated classes of performance, unless otherwise indicated by the relevant delegated act. However, Member States should not be able to prohibit the placing on the market of a product based on its class of performance. For the same reason, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by further specifying which product parameters or related levels of performance Member States' incentives concern in case no class of performance is determined in the applicable delegated act or where classes

Member State incentives should be without prejudice to the application of the Union State aid rules.

Proposal for a regulation

Recital 87

Text proposed by the Commission

(87) Public procurement amounts to 14% of the Union's GDP. To contribute to the objective of reaching climate neutrality, improving energy and resource efficiency and transitioning to a circular economy that protects public health and biodiversity, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to require, where appropriate, contracting authorities and entities as defined in Directive 2014/24/EU⁷⁸ and 2014/25/EU⁷⁹ of the European Parliament and of the Council, to align their procurement with specific green public procurement criteria or targets, to be set out in the delegated acts adopted pursuant to this Regulation. The criteria or targets set by delegated acts for specific product groups should be complied with not only when directly procuring those products in public supply contracts but also in public works or public services contracts where those products will be used for activities constituting the subject matter of those contracts. Compared to a voluntary approach, mandatory criteria or targets will ensure that the leverage of public spending to boost demand for better performing products is maximised. The criteria should be transparent, objective and non-discriminatory.

⁷⁸ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

of performance are established in relation to more than one product parameter. The introduction of Member State incentives should be without prejudice to the application of the Union State aid rules.

Amendment

(87) Public procurement amounts to 14% of the Union's GDP. To contribute to the objective of reaching climate neutrality, improving energy and resource efficiency and transitioning to a circular economy that protects public health and biodiversity, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to require, where appropriate, contracting authorities and entities as defined in Directive 2014/24/EU⁷⁸ and 2014/25/EU⁷⁹ of the European Parliament and of the Council, to align their procurement with specific green public procurement criteria or targets, to be set out in the delegated acts adopted pursuant to this Regulation. The criteria or targets set by delegated acts for specific product groups should be complied with not only when directly procuring those products in public supply contracts but also in public works or public services contracts where those products will be used for activities constituting the subject matter of those contracts. Compared to a voluntary approach, mandatory criteria or targets will ensure that the leverage of public spending to boost demand for better performing products is maximised ***in all Member States***. The criteria should be transparent, objective and non-discriminatory.

⁷⁸ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁷⁹ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Proposal for a regulation

Recital 88

Text proposed by the Commission

(88) Effective enforcement of ecodesign requirements is essential to ensure equal competition in the Union market and to ensure that this Regulation's expected benefits and contribution to achieving the Union's climate, energy and circularity objectives are achieved. Therefore, Regulation (EU) 2019/1020 setting out a horizontal framework for market surveillance and control of products entering the Union market should apply to products for which ecodesign requirements are set pursuant to this Regulation, in so far as there are no specific provisions with the same objective, nature or effect in this Regulation. In addition, to lower the problematic levels of non-compliance of products covered by implementing measures adopted under Directive 2009/125/EC, to better prevent non-compliance with future ecodesign requirements, and taking account of the broader scope and increased ambition of this Regulation compared to Directive 2009/125/EC, this Regulation should contain specific additional rules **complementing** the framework created by Regulation (EU) 2019/1020. Those specific additional rules should be aimed at further strengthening the planning, coordination and support of Member State efforts and should provide additional tools for the Commission to ensure sufficient action is taken by market surveillance **authorities** to prevent non-compliance with ecodesign requirements.

⁷⁹ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Amendment

(88) Effective enforcement of ecodesign requirements is essential to ensure equal competition in the Union market and to ensure that this Regulation's expected benefits and contribution to achieving the Union's climate, energy and circularity objectives are achieved. Therefore, Regulation (EU) 2019/1020 setting out a horizontal framework for market surveillance and control of products entering the Union market should apply to products for which ecodesign requirements are set pursuant to this Regulation, in so far as there are no specific provisions with the same objective, nature or effect in this Regulation. In addition, to lower the problematic levels of non-compliance of products covered by implementing measures adopted under Directive 2009/125/EC, to better prevent non-compliance with future ecodesign requirements, and taking account of the broader scope and increased ambition of this Regulation compared to Directive 2009/125/EC, this Regulation should contain specific additional rules **complementing** the framework created by Regulation (EU) 2019/1020. Those specific additional rules should be aimed at further strengthening the planning, coordination and support of Member State efforts and should provide additional tools for the Commission to ensure sufficient action is taken by market surveillance **authorities** to prevent non-compliance with ecodesign requirements **and re-establish conformity**

where relevant.

Proposal for a regulation

Recital 90

Text proposed by the Commission

(90) To ensure that appropriate checks are performed on an adequate scale in relation to ecodesign requirements, Member States should draw up a dedicated action plan identifying the products or requirements identified as priorities for market surveillance under this Regulation and the activities planned to reduce non-compliance of relevant products or with relevant ecodesign requirements. Where relevant, this action plan should be part of Member States' national market surveillance strategies adopted pursuant to Article 13 of Regulation (EU) 2019/1020.

Proposal for a regulation

Recital 91

Text proposed by the Commission

(91) Priorities for market surveillance under this Regulation should be identified based on objective criteria such as the levels of non-compliance observed or the environmental impacts resulting from non-compliance. The activities planned to address those priorities should in turn be proportionate to the facts leading to their prioritisation. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to determine products and requirements that Member States should consider as priorities for market surveillance in the context of their action plans identifying priorities for market surveillance under this Regulation and activities planned to reduce non-compliance.

Amendment

(90) To ensure that appropriate checks are performed on an adequate scale in relation to ecodesign requirements, Member States should draw up a dedicated action plan identifying the products or requirements identified as priorities for market surveillance under this Regulation and the activities planned to reduce ***or bring to an end*** non-compliance of relevant products or with relevant ecodesign requirements. Where relevant, this action plan should be part of Member States' national market surveillance strategies adopted pursuant to Article 13 of Regulation (EU) 2019/1020.

Amendment

(91) Priorities for market surveillance under this Regulation should be identified based on objective criteria such as the levels of non-compliance observed or the environmental impacts resulting from non-compliance ***or the number of complaints received***. The activities planned to address those priorities should in turn be proportionate to the facts leading to their prioritisation. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to determine products and requirements that Member States should consider as priorities for market surveillance in the context of their action plans identifying priorities for market surveillance under this Regulation and activities planned to reduce non-compliance.

Proposal for a regulation

Recital 92

Text proposed by the Commission

(92) Where problematic levels of non-compliance with ecodesign requirements are observed despite the enhanced planning, coordination and support laid down by this Regulation, the Commission should be able to intervene to ensure that market surveillance authorities perform checks on an adequate scale. Therefore, in order to safeguard the effective enforcement of ecodesign requirements, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to lay down a minimum number of checks to be performed on specific products or requirements. This empowerment should be additional to the empowerment in Article 11(4) of Regulation (EU) 2019/1020.

Proposal for a regulation

Recital 99

Text proposed by the Commission

(99) When adopting delegated acts pursuant to Article 290 TFEU, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁸¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Amendment

(92) Where problematic levels of non-compliance with ecodesign requirements are observed despite the enhanced planning, coordination and support laid down by this Regulation, the Commission should be able to intervene ***promptly and efficiently*** to ensure that market surveillance authorities perform checks on an adequate scale. Therefore, in order to safeguard the effective enforcement of ecodesign requirements, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to lay down a minimum number of checks to be performed on specific products or requirements. This empowerment should be additional to the empowerment in Article 11(4) of Regulation (EU) 2019/1020.

Amendment

(99) When adopting delegated acts pursuant to Article 290 TFEU, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁸¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Proposal for a regulation
Recital 100

Text proposed by the Commission

(100) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards: (a) specifying implementation arrangements for the interconnection of the registry referred to in Article 12 and the EU Customs Single Window Certificates Exchange; (b) establishing common requirements for the layout of labels; (c) containing a list of self-regulation measures established as valid alternatives to a delegated act adopted pursuant to Article 4; (d) setting out format for the disclosure of the information on unsold consumer products that have been discarded; (e) laying down, amending or repealing common specifications for ecodesign requirements, the essential requirements for product passports or for test, measurement or calculation methods; (f) laying down a minimum number of full-time equivalents considered sufficient for the proper monitoring of notified bodies; (g) requiring a Member State to take corrective action, including withdrawal of the notification, for non-compliant notified bodies; (h) listing the products or requirements that Member States must at least consider as priorities for market surveillance; and (i) deciding, pursuant to the Union safeguard procedure, whether a national measure is justified or not. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁸²

⁸² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011,

Amendment

(100) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards: (a) specifying implementation arrangements for the interconnection of the registry referred to in Article 12 and the EU Customs Single Window Certificates Exchange; (b) establishing common requirements for the layout of labels; (c) containing a list of self-regulation measures established as valid alternatives to a delegated act adopted pursuant to Article 4; (d) setting out format for the disclosure of the information on unsold consumer products that have been discarded; (e) laying down, amending or repealing common specifications for ecodesign requirements, the essential requirements for product passports or for test, measurement or calculation methods; (f) laying down a minimum number of full-time equivalents considered sufficient for the proper monitoring of notified bodies; (g) requiring a Member State to take corrective action, including withdrawal of the notification, for non-compliant notified bodies; (h) listing the products or requirements that Member States must at least consider as priorities for market surveillance; and (i) deciding, pursuant to the Union safeguard procedure, whether a national measure is justified or not. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁸²

⁸² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011,

p. 13).

Proposal for a regulation
Recital 101

Text proposed by the Commission

(101) To enhance trust in products placed on the market, in particular as regards the fact that they comply with ecodesign requirements, the public needs to be sure that economic operators placing non-compliant products on the market will be subject to penalties. It is therefore necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation.

p. 13).

Amendment

(101) To enhance trust in products placed on the market, in particular as regards the fact that they comply with ecodesign requirements, the public needs to be sure that economic operators placing non-compliant products on the market will be subject to penalties. It is therefore necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation. ***To facilitate more consistent application of penalties, common non-exhaustive criteria should be established for determining the types and levels of penalties to be imposed in case of infringements of this Regulation. These criteria should include, inter alia, the nature and gravity of the infringement and the economic benefits derived from and the environmental damage caused by the infringement, insofar as these can be determined.***