

APPLiA, CEFACD, EHI, EHPA, EIHA, EPEE, EUBACS, EUHA, EUROVENT,
EVIA, KEA, LightingEurope

Energy-related Industry Associations

Amendment proposals

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC

Eco-design requirements

Article 5 – Eco-design requirements – paragraph 3. b – points a and b (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Article 5.3: Ecodesign requirements shall, as appropriate, include: (a) performance requirements as set out in Article 6; (b) information requirements as set out in Article 7.	Article 5.3: Ecodesign requirements shall, as appropriate, include: (a) performance requirements as set out in Article 6; (b) information requirements as set out in Article 7. Following the repair-as-produced principle, the following products shall be exempted from eco-design requirements set out in the delegated acts adopted pursuant to Article 4: a) spare parts for products that were placed on the market before the date of application of the delegated act; b) products that are intended to be a part of more complex products that were placed on the market before the date of application of the delegated act;
<i>Justification</i>	
The RoHS Directive foresees exemptions for spare parts used for the service, maintenance and repair of products already placed on the market before the entry into force of any new substance restriction. These derogations are known as the “repair as produced” principle and allow the prolonging of products’ lifetimes without manufactures or users having to carry	

any additional costs due to redesigning, re-testing, re-manufacturing or otherwise. While these principles are very well established in the framework of the RoHS and ELV^[1] Directives, to date the Ecodesign Framework Directive and Energy Labelling Framework Regulation do not include a horizontal exclusion of spare parts. We request the inclusion of the “repair-as-produced” for spare parts and products that are intended to be a part of more complex products (e.g., circulators, fans...), provided they are aimed at products that were already placed on the market before the entry into force of the corresponding delegated act.

Article 5 - Ecodesign requirements - paragraph 4 – points e, f (new) (Shared ENVI/IMCO)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>4. When preparing ecodesign requirements, the Commission shall:</p> <p>(a) take into account the following elements:</p> <p>(i) Union climate, environmental and energy efficiency priorities and other related Union priorities;</p> <p>(ii) relevant Union legislation, including the extent to which it addresses the relevant product aspects listed in paragraph 1;</p> <p>(iii) self-regulation measures, as provided for in Article 18;</p> <p>(iv) relevant national environmental legislation;</p> <p>(v) relevant European and international standards;</p> <p>(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;</p> <p>(c) take into consideration relevant technical information used as a basis for or</p>	<p>4. When preparing ecodesign requirements, the Commission shall ensure harmonisation and avoid conflicting or duplicating requirements, and shall:</p> <p>(a) take into account the following elements:</p> <p>(i) Union climate, environmental and energy efficiency priorities and other related Union priorities;</p> <p>(ii) relevant Union legislation, including the extent to which it addresses the relevant product aspects listed in paragraph 1;</p> <p>(iii) self-regulation measures, as provided for in Article 18;</p> <p>(iv) relevant national environmental legislation;</p> <p>(v) relevant European and international standards;</p> <p>(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 and that the potential for regrettable substitution, as a result of potential requirements, is assessed across Union climate, environmental and energy efficiency priorities and other related Union priorities. The establishment of ecodesign requirements on the most significant aspects of a product among those listed in paragraph 1 shall not be unduly</p>

^[1] The Directive on End-of-Life Vehicles (ELV) (2000/53/EC) sets clear targets for ELVs and their components. It also prohibits the use of hazardous substances when manufacturing new vehicles, except in defined exemptions. Among others, following the repair-as-produced principle, spare parts put on the market after 1 July 2003 which are used for vehicles put on the market before 1 July 2003 are exempted.

<p>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;</p> <p>(d) take into account the views expressed by the Ecodesign Forum referred to in</p>	<p>delayed by uncertainties regarding the possibility to establish ecodesign requirements to improve other aspects of that product;</p> <p>(c) (...)</p> <p>(d) (...)</p> <p>(e) consider the interdependencies between different parameters of a product;</p> <p>(f) run a clear life cycle and circularity analysis to assess the appropriateness of performance requirements;</p>
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Justification

The methodology must take into account several environmental dimensions of a product and should assess the variables that consider the individual aspects across the whole lifecycle of a product, from material extraction until the end of its life. In particular, the material-efficiency variables will not have the same relevancy for all the product groups, and this will be an important aspect when it comes to future product regulations within the ESPR, where an assessment will need to be performed for the different individual product groups. For these reasons, when it comes to specific requirements, future regulations within the ESPR establishing ecodesign requirements for products should consider the life cycle of the product and identify the most appropriate levers to improve sustainability, while considering that parameters can be interdependent and impact each other (e.g., repairability can affect reliability etc.). Therefore, we recommend considering the possibility to assess these parameters in the future product regulations not individually, but in combination.

Article 5 - Ecodesign requirements - paragraph 5 - point g (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>5. Ecodesign requirements shall meet the following criteria:</p>	<p>5. Ecodesign requirements shall meet the following criteria:</p> <p>(....)</p> <p>(g) there shall be an appropriate transition time of at least 24 months between the entering into force of an ecodesign requirement and its application.</p>

Justification

Given the impacts on production and innovation of products, we strongly recommend that a sufficient lead-time should be granted between the entry into force of legislation and the application of new product requirements, particularly in view of the need for developing harmonised standards. Industry needs to adapt their processes for implementing new or updated legal requirements, through complex supply chains. Therefore, sufficient transition

periods should be allowed by legislation. For new technologies to be developed and brought to the market they need a proper, predictable framework to unleash their potential.

Annex III – Procedure for defining performance requirements

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>Performance requirements shall be set as follows:</p> <p>(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.</p> <p>The technical, environmental and economic analysis shall also identify, for the parameter under consideration, the best-performing products and technologies available on the market.</p> <p>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.</p> <p>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.</p>	<p>Performance requirements shall be set as follows:</p> <p>(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.</p> <p>The technical, environmental and economic analysis shall also identify, for the parameter under consideration, the best-performing products and technologies available on the market.</p> <p>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.</p> <p>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. In undertaking this analysis the potential for regrettable substitution, as a result of potential requirements, is assessed across Union climate, environmental and energy efficiency priorities and other related Union priorities.</p>
<i>Justification</i>	

We note that the possibility for regrettable substitution can be high in the context of implementing the European Green Deal's (EGD) objectives, particularly under the broad umbrella of sustainability where action to deliver on a particular element can involve negative trade-offs for others. With a view to minimising the possibility that ecodesign implementing regulations engender regrettable substitution it would be prudent for ecodesign preparatory studies to consider the impacts of substitution more thoroughly with alternatives. Mandating consideration of the possibilities for regrettable substitution in the ecodesign preparatory studies would help to limit the possibility that adverse impacts inadvertently occur in the future, in respect to ensuring that a transition/substitution is indeed more beneficial than the status quo, and if so would allow mitigative measures to be considered and implemented to limit the possible regrettable impacts associated with the alternative.

Digital Product Passport

Art 8 – DPP scope, relevance of information, avoiding duplication of data, access, and security of business sensitive data – Point a bis, d, e (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>Article. 8 (3) The requirements referred to in paragraph 2 shall:</p> <ul style="list-style-type: none"> (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. 	<p>Article. 8 (3) The requirements referred to in paragraph 2 shall:</p> <ul style="list-style-type: none"> (a) ensure that actors along the value chain, in particular consumers, economic operators and competent national authorities, can access product information related to environmental sustainability relevant to them; a) bis be justified to significantly improve the environmental sustainability of products and to ensure free movement in the internal market; (b) facilitate the verification of product compliance by competent national authorities; and (c) improve traceability of products along the value chain. (d) be included in existing EU databases where applicable in order to optimise the use and the benefits of these databases. (e) to protect confidential business information and comply with requirement b) of paragraph 3, actors in the value chain that have a justified interest should make a specific request to the manufacturer when the information cannot be shared publicly, and the information needs to be shared in a secure way.
<i>Justification</i>	

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

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

To avoid confusion, the DPP should not duplicate information requirements already included in present EU Databases such as SCIP or EPREL.

Data security and access rights should be a priority to ensure any confidential, business sensitive information is protected from unauthorised access and liability for data loss and other technical damage must be assured.

Confidentiality is a key issue that should be taken seriously by policymakers when designing the Digital Product Passport (DPP). The tool should not require companies to share information that breaches confidentiality and Intellectual Property (IP) rights. In this regard, any information required should abide by existing data protection, confidentiality and IP rights regulations. At the same time, information on the authenticity/originality of the products, through access to the official and legitimate manufacturers' websites via the DPP, could be provided to the end consumer particularly when access to this information is linked to consumer safety during the use phase.

Article 8 - DPP – pragmatic timeline and responsibility of the economic operators - new paragraph 8.5 and 8.5bis

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>8.5 Economic operators will be allowed a minimum of 6 calendar months, starting from the moment when all the technical specifications and the information requirements are finalised and/or launched, to upload information and cannot be required to upload any information until all relevant tools are ready. Any changes to the DPP, that require additional actions from the economic operators, including but not limited to a change in the data model, the IT system, the registration or verification process, the information obligations, must be published in an implementing act with a minimum transition period of 6</p>

	<p>months. SMEs will benefit from a at least 50% longer period.</p> <p>8.5 bis Economic operators responsible for compliance with the information requirements referred to in Article 7 of this Regulation shall not be held liable for inaccurate or missing information provided by suppliers of articles, substances or mixtures, provided that they exerted reasonable care to ensure that the information is correct.</p>
<p style="text-align: center;"><i>Justification:</i></p> <p>Economic operators cannot upload information on thousands of products in few days. A pragmatic timeline should be set to allow the operators to collect the information, adapt their IT systems and then upload them. Changes to the relevant tools should be made only via a legislative act and in consultation with the relevant stakeholders. SMEs should benefit for a longer period to adapt their IT Systems.</p> <p>Much information for the DPP will originate from suppliers located outside of the EU, while the obligation to provide such information will rest on manufacturers placing the final product on the EU market. Manufacturers may not be able to control whether the information received from suppliers is correct. For example, manufacturers will have to rely on suppliers for information on recycled content, since there are often no analytical techniques to distinguish virgin material from recycled material. As a result, manufacturers or other relevant economic operators should not be liable for missing or incorrect information given by suppliers, provided that they exert reasonable care to ensure that information is correct</p>	

Article 9 - General requirements for the DPP - paragraph 1 - new point g (ENVI/IMCO)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>1. A product passport shall meet the following conditions:</p> <p>(...)</p>	<p>1. A product passport shall meet the following conditions:</p> <p>(...)</p> <p>(g) shall rely on existing databases, including the Substances of Concern In articles as such or in complex objects (Products) and the European Product Registry for Energy Labelling. Information that is already required by existing EU databases cannot be required by the Digital Product Passport in the product delegated acts.</p>
<p style="text-align: center;"><i>Justification</i></p> <p>The information displayed in the DPP should be drawn directly from the legally mandated EU databases already housing product information (e.g., EPREL, SCIP). It is preferable that</p>	

access to EPREL and SCIP entries is centralised and facilitated via the DPP, a data carrier connected to a unique product identifier.

For the Energy-Related products currently under Ecodesign and Energy labelling, much reliable information is already available related to the sustainability of products. These products have been subject to a wide range of EU environmental legislation for many years. The Energy Labelling Framework legislation has established an EU-wide regulation and labelling system for energy-related products which reduces their environmental impact. The Energy Label, and its related so-called Product Information Sheet, informs the consumer on the product's environmental impact during its use phase, where it is at its greatest. As of 1 January 2019, suppliers (manufacturers, importers, or authorised representatives) need to register their products, which require an energy label in the European Product Database for Energy Labelling (EPREL), before selling them on the European market. Similarly, manufacturers are providing information to consumers (upon request) on the presence of substances-of-very-high-concern (SVHC) in products to comply with REACH Article 33. The new SCIP database also implements this latter REACH Article, with some extra mandatory information requirements on SVHC in articles/products to inform waste treatment operators.

Article 10 - Technical design and operation of the product passport - point a bis (new) (ENVI/IMCO/TRE)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>Article 10 The technical design and operation of the product passport shall comply with the following essential requirements:</p> <p>(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;</p>	<p>Article 10 The technical design and operation of the product passport shall comply with the following essential requirements:</p> <p>(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;</p> <p>(b) bis - product passports shall be fully interoperable with existing product databases, such as the SCIP database and the EPREL database;</p>
<p style="text-align: center;"><i>Justification</i></p> <p>The information displayed in the DPP should be drawn directly from the legally mandated EU databases already housing product information (e.g EPREL, SCIP). It is preferable that access to EPREL and SCIP entries is centralised and facilitated via the DPP, a data carrier connected to a unique product identifier.</p>	

Article 12 – DPP Central registry timeline – par. 1 bis (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
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<p>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.</p>	<p>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.</p> <p>1. (bis) Economic operators shall not be required to provide the requested data into the Digital Product Passport before 6 months after the availability of the relevant sections of the Product passport registry database where the information should be uploaded and the availability of any other IT tool necessary to upload the information. SMEs will benefit from a at least 50% longer period.</p>
<p style="text-align: center;"><i>Justification</i></p> <p>Economic operators cannot upload information on thousands of products in few days. A pragmatic timeline should be set also for the central registry to allow the operators to collect the information, adapt their IT systems and then upload them. Changes to the relevant tools should be made only via a legislative act and in consultation with the relevant stakeholders. SMEs should benefit for a longer period to adapt their IT Systems.</p>	

Art 12 - DPP on test results – par. 5bis (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>5bis. In all cases, test reports should be made available only upon request of market surveillance authorities and for their internal use only.</p>
<p style="text-align: center;"><i>Justification</i></p> <p>For an optimal protection of company's sensitive information, economic operators should be free to decide how to make available test reports that could be required by MSAs.</p>	

Pragmatic timeline and planning of the Ecodesign Forum

Article 16 - Prioritisation & Planning - paragraph 2 - subparagraph 2 (IMCO/ITRE)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>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.</p> <p>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.</p>	<p>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.</p> <p>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 in an appropriate timeframe as referred to in Article 17.</p>
<p><i>Justification</i></p> <p>Given the proven long-standing experience with the current Ecodesign process, it is of primary importance to keep it based on appropriate consultation with all relevant stakeholders.</p>	

Article 17 - Ecodesign Forum – points a, b, c, d (new) (IMCO/ITRE)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>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'.</p>	<p>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, consumer organisations and standardisation organisations. These parties shall contribute in particular to preparing ecodesign requirements and the appropriate technical specification, test, measurement or calculation methods, and conformity assessment procedure, examining the effectiveness of the established market surveillance mechanisms and assessing self-regulation measures and working plans. To that end, the Commission shall establish an expert group, in which those parties shall meet,</p>

	<p>referred to as the 'Ecodesign Forum'. All relevant stakeholders for each product group that will be covered by the Delegated Acts must be invited to join the Forum to ensure the relevant sector specific expertise will be taken into account.</p> <p>Finally, the Commission shall:</p> <p>(a) provide appropriate time, at least 30 working days, for consultation before and after the Ecodesign Forum takes place.</p> <p>(b) report to the Ecodesign Forum at an appropriate time, 2 months after the meeting takes place, the conclusions of the discussion.</p> <p>(c) ensure the Ecodesign Forum shall carry out its tasks in accordance with the principle of transparency.</p> <p>(d) publish the minutes of the meetings of the Forum and other relevant documents on the Commission website.</p> <p>The 'Ecodesign Forum' shall function as a plenary, supported as a minimum by an 'Energy-related Products' sub-group and a 'Non-Energy-related Products' sub-group.</p>
<p style="text-align: center;"><i>Justification</i></p> <p>Given the long-standing experience with the current Ecodesign process, we should keep it a democratic process based on presumption of conformity, standardisation and appropriate consultation with stakeholders.</p> <p>The creation of the Ecodesign Forum should reflect the success of the current Consultation Forum, where opinions of multiple stakeholders are considered for the final requirements.</p> <p>Work on product-specific ecodesign implementing regulations is extremely technical and as such strong input from industry experts is fundamental to deliver verifiable, implementable and enforceable implementing regulations. The effectiveness of the current Ecodesign Directive is in no small part due to the close working relationship between the relevant Commission services and industry members of the current Consultation Forum.</p> <p>The governance structure of the future Ecodesign Forum must be specified further; defining how the Commission will use the Ecodesign Forum and making the procedure for adopting Delegated Acts and dialogue with stakeholders as transparent and inclusive as possible. It will be crucial for all relevant stakeholders to be part of the Ecodesign Forum as their industry-expert knowledge is essential.</p>	

Common specifications and harmonised standards

Article 32 - Conformity of Product - paragraph 2 (IMCO)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>2. Where necessary to ensure compliance with ecodesign requirements set out in delegated acts adopted pursuant to Article 4, third subparagraph, point (e), the Commission may require the use of online tools for the calculation of the performance of products in relation to the relevant product parameter referred to in Annex I reflecting the applicable calculation requirements.</p> <p>Where setting such requirements for the use of online tools, the Commission shall take into account the following criteria:</p> <p>(a) the need to ensure the harmonised application of calculation requirements;</p> <p>(b) the need to minimise administrative burden imposed on economic operators complying with the relevant requirements.</p> <p>Online tools shall be freely accessible for economic operators complying with the relevant requirements.</p>	<p>2. Where necessary to ensure compliance with ecodesign requirements set out in delegated acts adopted pursuant to Article 4, third subparagraph, point (e), the Commission may require the use of online tools for the calculation of the performance of products in relation to the relevant product parameter referred to in Annex I reflecting the applicable calculation requirements. The methods should be based on relevant European or international harmonised standards.</p> <p>Where setting such requirements for the use of online tools, the Commission shall take into account the following criteria:</p> <p>(a) the need to ensure the harmonised application of calculation requirements;</p> <p>(b) the need to minimise administrative burden imposed on economic operators complying with the relevant requirements.</p> <p>Online tools shall be freely accessible for economic operators complying with the relevant requirements.</p>
<p><i>Justification</i></p> <p>The current Ecodesign Directive has been successful in delivering environmental and energy efficiency objectives for energy-related products, regulating measurable, verifiable parameters of the product based on a clear and transparent methodology. Measurements must be supported by harmonised standards listed in the OJEU, developed by appropriate standardisation bodies.</p> <p>Only a solid standardisation base can secure reliable, accurate, reproducible checks of product requirements which are enforceable at a reasonable cost. Building on the horizontal work already done in the scope of the EN 4555X series of standards, there should be the further development of product specific standardisation requests to EU standardisation bodies.</p> <p>Ecodesign is a CE marking legislation with a clearly defined conformity assessment procedure which allows manufacturers the choice between internal design control (Annex IV) and the management system (Annex V), referring to the modules described in Annex II of Decision 768/2008/EC. CE marking ensures the principle of presumption of conformity (i.e., when a manufacturer uses harmonised standards which references are listed under respective legislation in the Official Journal of the European Union, then its products are considered to be compliant until proved to the contrary by the authorities). It should be ensured that the assessment procedure contributes to a higher level of compliance without adding more complexity with unnecessary bottlenecks and costs.</p>	

Article 35 - Common specifications - paragraph 1 (new) (IMCO)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>1. The Commission may adopt implementing acts laying down common specifications for ecodesign requirements, the essential requirements for product passports referred to in Article 10 or for test, measurement or calculation methods referred to in Article 32, in the following situations:</p> <p>(a) it has requested one or more European standardisation organisations to draft a harmonised standard in relation to an ecodesign requirement or method that is not covered by a harmonised standard or part thereof, the references of which have been published in the Official Journal of the European Union, and there are either undue delays in the standardisation procedure or the request has not been accepted by any of the European standardisation organisations;</p> <p>(b) the Commission has decided in accordance with the procedure referred to in Article 11(5) of Regulation (EU) No 1025/2012 to maintain with restriction or to withdraw the references to the harmonised standards or parts thereof by which an ecodesign requirements or method is covered.</p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(3).</p>	<p>1. The Commission shall circulate the draft standardisation request to the Ecodesign Forum at least 30 working days before the meeting. Based on the input made during the meeting, the Commission shall issue a final standardisation request 30 working days after the Ecodesign Forum.</p> <p>The Commission may adopt implementing acts laying down common specifications for ecodesign requirements, the essential requirements for product passports referred to in Article 10 or for test, measurement or calculation methods referred to in Article 32, in the following situations:</p> <p>(a) no reference to harmonised standards covering the relevant ecodesign requirements is published in the Official Journal of the European Union and the decision not to publish, to publish with restriction, to maintain with restriction or to withdraw the references to the standards concerned or parts thereof has been adopted by the Commission in accordance with the procedure referred to in Article 22(3) of Regulation (EU) No 1025/2012;</p> <p>(a bis) it has requested one or more European standardisation organisations to draft a harmonised standard in relation to an ecodesign requirement or method that is not covered by a harmonised standard or part thereof, the references of which have been published in the Official Journal of the European Union, and there are either unjustified delays in the standardisation procedure or the request has not been accepted by any of the European standardisation organisations within the appropriate timeframe set by the European Commission and without sound and objective reasons for rejection;</p> <p>(b) the Commission has decided in accordance with the procedure referred to in Article 11(5) of Regulation (EU) No 1025/2012 to maintain with restriction or to withdraw the references to the harmonised standards or parts thereof by which an ecodesign requirements or method is covered. Those implementing</p>

	<p>acts shall be developed in accordance with the principles of Annex II 3(a),(b) and (c) and 4(d),(e),(f) of Regulation (EU) 1025/2012 and adopted in accordance with the examination procedure referred to in Article 67(3). The common specifications shall be based on relevant European or international standards.</p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(3). Before beginning the process to adopt implementing acts for test, measurement or calculation methods, the Commission must request a reasoned opinion from the committee established pursuant to Article 22 of Regulation (EU) No 1025/2012, which must consult with the European standardisation organisations.</p>
<p style="text-align: center;"><i>Justification</i></p> <p>Harmonised standards remain the best tool to provide presumption of conformity and accommodate state-of-the-art. We would recommend that the Commission refrain from issuing its own technical/ common specifications and including them in the regulations. Requirements must be based on scientific assessment methods through recognised European or ISO /IEC/ITU international standards and must be reliable and ensure reproducible results. Standardisation bodies and global standards, which also rely on technical expertise from industry and relevant stakeholders, should be used in the design of the new requirements. Definitions must be clear and comprehensible and if possible, based on related standards to avoid misunderstandings.</p> <p>Only a solid standardisation base can secure reliable, accurate, reproducible checks of product requirements which are enforceable at a reasonable cost.</p>	

Article 36 – Conformity assessment – point d (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>1. When specifying the applicable conformity assessment procedure pursuant to Article 4, second subparagraph, the Commission shall consider the following criteria:</p> <p>(a) whether the module concerned is appropriate to the type of product and proportionate to the public interest pursued;</p> <p>(b) the nature of the product parameters referred to in Annex I on which the relevant ecodesign requirements are based, in</p>	<p>1. When specifying the applicable conformity assessment procedure pursuant to Article 4, second subparagraph, the Commission shall consider the following criteria:</p> <p>(a) whether the module concerned is appropriate to the type of product and proportionate to the public interest pursued;</p> <p>(b) the nature of the product parameters referred to in Annex I on which the relevant ecodesign requirements are based, in</p>

<p>particular whether performance in relation to those product parameters can be verified on the product itself;</p> <p>(c) where third party involvement is mandatory, the need for the manufacturer to have a choice between quality assurance and product certification modules set out in Annex II of Decision No 768/2008/EC.</p>	<p>particular whether performance in relation to those product parameters can be verified on the product itself;</p> <p>(c) where third party involvement is mandatory, the need for the manufacturer to have a choice between quality assurance and product certification modules set out in Annex II of Decision No 768/2008/EC.</p> <p>(d) the need to avoid/minimise disproportionate administrative burden and negative impact on the competitiveness of manufacturers or other economic actors/operators, at least of SMEs.</p>
<p style="text-align: center;"><i>Justification</i></p> <p>Administrative burden should be minimised for companies and especially for SMEs also when specifying the applicable conformity assessment procedure.</p>	

Article 41 - Notification (IMCO)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>Member States shall notify the Commission and the other Member States of bodies authorised to carry out the third-party conformity assessment tasks provided for under the delegated acts adopted pursuant to Article 4.</p>	<p>Member States shall notify the Commission and the other Member States of bodies authorised to carry out the third-party conformity assessment tasks when provided for under the delegated acts adopted pursuant to Article 4.</p>
<p style="text-align: center;"><i>Justification</i></p> <p>Ecodesign is a CE marking legislation with a clearly defined conformity assessment procedure which allows manufacturers the choice between internal design control (Annex IV) and the management system (Annex V), referring to the modules described in Annex II of Decision 768/2008/EC. CE marking ensures the principle of presumption of conformity (i.e., when a manufacturer uses harmonised standards which references are listed under respective legislation in the Official Journal of the European Union, then its products are considered to be compliant until proved to the contrary by the authorities). Mandatory third-party assessment makes the whole system more complex with unnecessary bottlenecks and costs, without contributing to overall higher levels of compliance.</p>	

Improving market surveillance

Article 59 – Market surveillance action plans – par. 1 points c and d (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>

1. Without prejudice to Article 13 of Regulation (EU) 2019/1020, each Member State shall, at least every 2 years, draw up an action plan outlining the market surveillance activities planned to ensure that appropriate checks are performed on an adequate scale in relation to this Regulation and the delegated acts adopted pursuant to Article 4. Each Member State shall draw up the first such action plan by [16 July 2024].

The action plan referred to in paragraph 1 shall at least include:

(a) the products or requirements identified as priorities for market surveillance, taking into account the common priorities identified by the administrative cooperation group pursuant to Article 62(1), point (a), and in accordance with the implementing acts referred to in paragraph 5;

(b) the market surveillance activities planned in order to reduce non-compliance for those products or requirements identified as priorities, including the nature and minimum number of checks to be performed during the period covered by the action plan.

2. The priorities for market surveillance referred to in paragraph 1, point (a), shall be identified on the basis of objective criteria, including:

(a) the levels of non-compliance observed in the market;

(b) the environmental impacts of non-compliance;

(c) the number of relevant products made available on national markets; and

(d) the number of relevant economic operators active on those markets.

3. The nature and number of checks planned pursuant to paragraph 1, point (b), shall be proportionate to the objective criteria used to identify the priorities in line with paragraph 2.

4. Member States shall communicate their action plans to the Commission and other Member States through the information and

1. Without prejudice to Article 13 of Regulation (EU) 2019/1020, each Member State shall, at least every 2 years, draw up an action plan outlining the market surveillance activities planned to ensure that appropriate checks are performed on an adequate scale in relation to this Regulation and the delegated acts adopted pursuant to Article 4. Each Member State shall draw up the first such action plan by [16 July 2024].

The action plan referred to in paragraph 1 shall at least include:

(a) the products or requirements identified as priorities for market surveillance, taking into account the common priorities identified by the administrative cooperation group pursuant to Article 62(1), point (a), and in accordance with the implementing acts referred to in paragraph 5;

(b) the market surveillance activities planned in order to reduce non-compliance for those products or requirements identified as priorities, including the nature and minimum number of checks to be performed during the period covered by the action plan, **including information on the appropriate financing, support measures, and other instruments necessary to conduct the planned customs and market surveillance activities;**

(c) the customs surveillance activities planned in order to support market surveillance activities;

(d) information on the appropriate financing, support measures and other instruments necessary for the Member State to conduct the planned market surveillance activities, including the minimum number of checks to be performed during the period covered by the action plan.

2. The priorities for market surveillance referred to in paragraph 1, point (a), shall be identified on the basis of objective criteria, including:

(a) the levels of non-compliance observed in the market;

communication system referred to in Article 34 of Regulation (EU) 2019/1020.

5. The Commission may adopt implementing acts listing the products or requirements that Member States shall at least consider as priorities for market surveillance pursuant to paragraph 1, point (a).

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 67(2).

(b) the environmental impacts of non-compliance;

(c) the number of relevant products made available on national markets; and

(d) the number of relevant economic operators active on those markets.

3. The nature and number of checks planned pursuant to paragraph 1, point (b), shall be proportionate to the objective criteria used to identify the priorities in line with paragraph 2.

4. Member States shall communicate their action plans to the Commission and other Member States through the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020.

5. The Commission may adopt implementing acts listing the products or requirements that Member States shall at least consider as priorities for market surveillance pursuant to paragraph 1, point (a).

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 67(2), following consultation with the expert group established pursuant to Article 17.

Justification

We welcome the Commission's intentions to improve market surveillance. Non-compliance erodes the emissions savings and environmental improvements in delivery of the European Green Deal's objectives, that are the promise of ecodesign implementing regulations. Truly delivering on ecodesign's promise is impossible without verification by Member State Market Surveillance Authorities (MSA).

We note that market surveillance does not only cover enforcement activities conducted internally to the Internal Market. Indeed, customs surveillance is a vital part of effective enforcement of the Internal Market. As such it would be prudent to require Member States to consider custom surveillance in their action plans.

Whilst we believe that the requirements under Article 59 for the Member States to adopt action plans on a biennial basis is a positive development, we note that such a measure does not automatically resolve the fundamental deficiencies in the enforcement of the EU's Internal Market, chiefly underfunding and understaffing. Member States must define action plans that are fully funded. As such the Member States should be required to detail how their action plan is to be funded and how much will be allocated to specific actions under Article 59(1).

We also support the Commission's empowerment to adopt implementing acts listing the products that the Member States must as a minimum consider as a priority. However, we would recommend an amendment to Article 59(5) to ensure that the Commission consults with the industry experts in the 'Ecodesign Forum' on the prioritisation of products.

End of the document
