



13 November 2020

INCEPTION IMPACT ASSESSMENT ON SUSTAINABLE PRODUCT POLICY INITIATIVE (SPPI)

We thank the European Commission for the opportunity to provide comments on the inception impact assessment of the Sustainable Product Policy Initiative (SPPI).

European business welcomes the new Circular Economy Action Plan, and with it the SPPI, one of the action plan's most important legislative initiatives to shift towards a functioning market in Europe for secondary raw materials and circular products. In accordance with what the inception IA mentions, we subscribe to the aims of the SPPI to i) to establish circularity criteria, ii) broaden the scope of the Ecodesign Directive, and iii) improve reliable information on sustainability across the value chain. In order to achieve those goals, we make the following proposals:

- **Defining the circularity of a product.** The current Ecodesign Directive has delivered impressive results, realising almost half of the EU's 2020 targets¹ on energy efficiency. If the Commission chooses to extend its scope, it will be crucial to ensure that such an extension **does not create legal uncertainties for the energy-related products already covered**. It will also be important to clarify the exact definitions, options and thresholds it is considering to define the circularity criteria, and how this would all feed into the broader discussion on applying a life cycle approach to products and on making them more sustainable overall. As businesses need to secure the safety and performance of the products the Commission is targeting; business stakeholders should be involved in defining these criteria effectively. This is especially important given that the definition of circularity and circularity criteria will probably depend on the product family.

Circularity is difficult to capture in one metric, but one of the ways in which it could be partially defined is through recyclability, including the potential for **multiple recycling**, where products and processes are suitable for several recycling cycles without loss of quality (this is already a common practice in sectors such as aluminium, steel and glass).

Another metric to partially define circularity is through **repairability** (next bullet).

- **Repairability of products:** Ensuring that products can be repaired in the long run increases their longevity and promotes reduction of waste. It also allows for reuse and for returned products to be sold as refurbished, which is a growing business-model. Where reparability is not feasible, other options need to be considered.

¹ https://www.europarl.europa.eu/doceo/document/TA-8-2018-0241_EN.html



Any measures adopted at EU level to encourage repairability should ensure:

- That for certain products the trader can have a say on who can repair their products as this ensures continuous quality and safety.
- That access to information on repairability may be granted if it does not infringe business secrets and other IP rights, which would put European companies at a disadvantage in relation to other competitors. A tailored approach might be necessary for complex professional use machines that require specialised operation and service.
- That the safety and health of consumers is not put at risk. For some products that deal with heat, electricity, chemicals, mechanical stability or require water-tightness, it is important that repairs are conducted in the appropriate conditions by capable and qualified repairers.
- That incentives are in place to ensure that enough manpower specialised in repairing and reconditioning is available, for example through education in technical areas.

- **Quality secondary raw materials.** The inception IA mentions measures on the production process. We welcome the fact that the Commission intends to strengthen markets by increasing the availability of secondary raw materials. At the same time, the measures considered should be targeted. Each sector has its own specificities that need to be taken into account. Moreover, there is a difference between business-to-consumer (B2C) and business-to-business (B2B) products. That is why we welcome the CEAP's focus on product groups and value chains like electronic and ICT, textiles, etc. It also means that such measures should reflect the differences in conditions for different materials.

For example, **mandatory requirements for recycled content** can act as a stimulus for the creation of a market for secondary raw materials in some sectors, considering there is a sufficient supply of high-quality recycled materials fulfilling EU requirements. While in other cases, it may negatively impact markets where recycling rates are already very high (e.g. steel, aluminium and paper).

In some cases, it might be more sensible to go for **renewable content** (e.g. sustainably sourced bio-based materials). This would be a better alternative to continued recycling, when it reduces the quality of the secondary raw materials, such as bio-based industries.

Another alternative solution to mandatory recycled content is to improve **end of life recycling**, i.e. the recycling efficiency of products. In this way, more high-quality post-consumer waste becomes available to the market as secondary raw material, which is not necessarily the case with mandatory requirements on recycled content. This means support for more investment in modern collection systems, sorting infrastructure and treatment technologies. Furthermore, the effectiveness of measures such as recycled content should be looked at in the context of a lifecycle perspective.



- Value-chain data sharing.** The Commission as part of the SPPI intends to address transparency issues to circular economy approaches by creating a European Dataspace for Smart Circular Applications (EDSCA) containing data on value chains and product information. We support incentivising voluntary business-to-business data sharing in this strategic manner so long as the overarching governance framework that oversees its implementation safeguards fair competition and intellectual property rights, in particular sensitive business information. Furthermore, the EDSCA and any other circular economy-related databases should be functional. In other words, the information collected for these databases should be limited to what different players in the value chain need to strengthen the circular economy and be synchronised with existing data systems.² Lastly, following the Commission's repeated calls for the creation of Data Spaces in their quest to make the European economy more digital after the recovery, the Commission should use the legislative framework in support of the governance of such common European data spaces as a real voluntary solution to incentivise fair and secure data sharing for companies in Europe.
- Life cycle.** The lifecycle assessment (LCA) of a product should be based on more than just its recyclability, as recycling alone will not be enough to create a fully functioning circular economy in Europe. All significant stages of the product's lifecycle need to be considered. This can include longevity as a means to promote waste prevention, which features at the top of the waste hierarchy. In many cases, a proper selection of materials and protecting them with additives (such as in the case of plastics) provide a sensible "no-regret" contribution to circularity. That said, it would be important to define longevity carefully. As the EP's [IMCO study](#) "Promoting product longevity" from March 2020 concludes in its executive summary: *"We tend to assume that longer product lifetimes are better, but even in terms solely of environmental goals, this is not always the case. Product-specific and sector-specific impacts across the production, usage and end of life phases need to be considered, and there are often trade-offs between these.[...] A one-size-fits-all horizontal approach to product lifetime is unlikely to be appropriate – different approaches are suitable to different products at different times. Consumer welcome longer product lifetimes for some products, but in other cases are worried about high costs of acquiring or maintaining products with long lifetimes, or are worried about being locked into obsolescent products"*

² That databases can become disproportional to their actual goals is shown by the database for information on the Substances of Concern (SCIP), requiring the registration of substances of very high concern at component level in all products, which places a high administrative burden on businesses. Additional info that is not necessary in order for products to be used safely is also requested. As a result, a significant part of the info in the database will remain unused, as it is of no or very limited advantage to waste processors.



To address possible issues surrounding LCAs, such as a possible lack of data, we understand the benefits of a **common LCA methodology that can contribute to a reliable, standardised and harmonised view** at sector of activity level on the sustainability of products, tailoring it to sector-specific needs. Continued refinement of existing tools such as the product environment footprint (PEF) as well as continued industry involvement are paramount to deliver this. Public and private procurers should also be educated in using LCA information for more sustainable procurement (more on procurement below). Furthermore, consumers should be given the opportunity to be **informed and educated about the full lifecycle of products (including carbon footprint)** in order to have a clear view of their ecological footprint and performance. One example to do so as mentioned in the inception IA are digital product passports. Such passports could very well work, but could also have far-reaching implications for administrative burden if not designed well. Therefore, the goals, feasibility and effectiveness of such passports need to be assessed first in close cooperation with industry stakeholders.

- **Green public procurement.** The inception IA implies that green public procurement (GPP) has so far not achieved the desired results. With an estimated 14% of the EU's GDP being spent on public procurement, finding ways to make such procurement more focused on circularity can provide a significant boost to the uptake of high-quality secondary raw materials and circular products. Unfortunately, while green public procurement (GPP) is one of the priorities from the 2017 Public Procurement Package by the Commission, there are strong indications that **member states often still put most emphasis on the purchase price during a public procurement process rather than on the quality or lifecycle costs of a product or service**. To address this issue, the CEAP suggests the possibility to consider the introduction of mandatory GPP criteria and minimum GPP targets.

An EU-wide mandatory criteria could be a possibility. If introduced, it should be consistent with the principles and guidelines of the Public Procurement Directive, and be based on clear definitions, sound life cycle assessments, and methodologies that have been co-developed with all relevant stakeholders. They should not limit cross-border procurement or add unnecessary burden for suppliers. The Commission should also assess whether instead of EU-wide mandatory criteria, it would be more effective to provide **guidance and capacity building to member states to help the market uptake of sustainable public procurement offers**.

In contrast to mandatory criteria, we believe it is too premature to consider minimum GPP targets already before having tested the effectiveness of mandatory criteria on EU-level. Furthermore, public procurement should make use of **functional criteria** to win a tender. For example, rather than prescribing that a road needs to be built with a certain material, the functional criteria could be that the road is safe to drive, has a long lifespan, and that the road's material does not pose any risk to the environment. This allows public procurement criteria to be achieved in the best possible way, targets the expected performance from a product or service, favours



competition for circular ideas, and makes the whole process less prescriptive. Furthermore, public procurement tenders should allow companies to **propose variations to the calls for tender**, in order to offer different circular and innovative solutions to the same problem. The use of more circular procurement thinking should be **requested by the highest levels of government**, giving procurement managers a clearer mandate to apply such thinking.