

September 2022

Ecodesign for Sustainable Products Regulation

KEY MESSAGES

- 1** BusinessEurope welcomes the European Commission's efforts to establish a functioning EU market for secondary raw materials and circular products. The proposal for a Regulation on Ecodesign for Sustainable Products (ESPR) is a unique opportunity to reach this objective by removing current questions of inconsistencies between the EU and the national levels.
- 2** The ESPR proposal rightly maintains the principles of the current Ecodesign Directive, which has proven to be effective, including setting tailored requirements per product group and in coordination with relevant experts and stakeholders.
- 3** In 10 specific areas, the proposal needs further work for better enforceability:
 - Require information on substances of concern based on their relevance, usefulness and information demand in the value chain.
 - Set up a Digital Product Passport which is strictly relevant to circular economy purposes, protects confidential business information and relies on good quality, consistent, comparable and interoperable data.
 - Establish a strong inclusion of key stakeholders, notably from the industry, in policy making process, including by means of the Ecodesign Forum and appropriate consultations, and immediately set up a dialogue with EU's major trading partners.
 - Set up comprehensive assessments based on impact focused LCA approach for the development of ecodesign requirements.
 - Ensure policy coherency of scope and requirements between the ESPR and other EU legislations.
 - Base performance requirements and compliance methods on harmonised European or international standards. The Commission should issue common specifications only in exceptional instances.
 - Avoid requiring third-party conformity assessments, as unnecessary and costly.
 - Define products to be prioritised according to their environmental and economic potentials.
 - Gradually implement requirements on destroyed goods.
 - For legal clarity, harmonise definitions with existing legislations and initiatives.

Annex I lists the detailed amendment proposals.



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Ecodesign for Sustainable Products Regulation

BusinessEurope welcomes the objectives of the proposed Ecodesign for Sustainable Products Regulation (ESPR). It represents a unique opportunity to achieve a functioning EU market for secondary raw materials and circular products. The new ecodesign requirements will improve the sustainability of products and the transfer of information across value chains while market surveillance provisions will contribute towards a better compliance of products, enable a level playing field and strengthen the competitiveness of EU businesses.

Today, European companies are confronted with different national provisions and mandatory requirements on products. This undermines their circularity commitments and ability to develop in new markets or establish new business services across the Union. Ultimately, this affects the EU's resource efficiency, which in today's context, becomes a must both from an economic, strategic, and environmental point of view. **BusinessEurope therefore supports the Commission's choice of the instrument (i.e., Regulation)**, which removes this question of inconsistency between EU and national level requirements and the level playing field between products placed in the EU's market regardless of their country of origin.

The current Ecodesign Directive has proven to be relevant and effective as a regulatory tool to improve product performances (especially for energy efficiency). It is therefore natural that the ESPR sets out the framework of ecodesign requirements while detailed product rules are laid down in a second stage and transparent manner by means of delegated acts. Setting horizontal detailed rules in the Regulation would likely create legal uncertainty and hamper technical development and innovation. Instead, the proposed "product group approach" allows considering the characteristics and specificities of a particular product. Hence, **BusinessEurope supports the Commission's decision to continue setting specific requirements per product group**. Requirements will need to be based on dedicated impact assessments and strong stakeholder engagement, so as to clearly prioritise products with a high impact.

A novelty introduced by the ESPR is the establishment of a digital product passport (DPP), which will enable products to be identified and linked to data relevant to their circularity and sustainability. **European companies welcome the DPP** as providing producers, key supply chain actors, consumers and market surveillance authorities with relevant information, thus facilitating the path to circular economy and unleashing their competitiveness.

To deliver on the ESPR's objectives, BusinessEurope stresses that a **strong dialogue with industry** will be essential for a proper implementation of the Regulation, supporting innovation, avoiding legal uncertainties or overburdening manufacturers of products that



are already covered by existing legislation. This strong dialogue shall be concretised in the Ecodesign Forum, which should ensure the participation of all relevant industry actors that might be impacted by the upcoming delegated acts or self-regulatory measures.

Notwithstanding BusinessEurope's support on the Commission's proposal, this paper provides some specific suggestions to improve the ESPR with the aim of facilitating the implementation of the proposed provisions.

1. Information requirements on substances of concern

To be put on the market, products will need to fulfil performance and information requirements related to their specific product group, which will be laid down in relevant delegated acts. Article 7 specifies that the product shall at least be accompanied by a DPP and meet the requirements for information enabling the tracking of substances of concern throughout the lifecycle of products. As drafted, the Commission's proposal may be particularly difficult to implement.

Firstly, the definition of "substances of concern" (Art. 2-28) covers over 12000 substances as a minimum (this preliminary calculation excludes substances that may be defined as substances of concern due to their negative impact on recycling). Further considering recital 25 and the aim of progressively covering all substances of concern, we expect that this provision will not be enforceable and will overburden actors in the supply chain. On the one hand, tracking the large number of substances throughout the lifecycle of (complex) products is not feasible. On the other hand, the fulfilment of this requirement very much depends on a combined importers-non-EU manufacturers' ability for collaboration, while non-European companies will not be held liable to provide complete and correct information to European customers or enforcement agencies.

Besides these feasibility concerns and reporting costs, the second worry related to the disclosure of the presence of substances of concern is related to competitiveness. Often, substances of concern are part of companies' business confidential information, and they shall therefore be protected (see further input on confidentiality in the DPP chapter). For instance, the printing ink recipe is the sole competitive advantage for a printing ink manufacturer while its public disclosure is of no environmental value.

Thirdly, it would be misleading to assume that substances of concern are harmful to the environment "by default". On the contrary, these substances can be essential to support the circularity, longevity, safety, and sustainability of a product. It is the example of catalysts which contribute to low emissions mobility or additives which are integral to enhance the recyclability of plastics or prevent corrosion of metal surfaces as to enhance the longevity of products. In other words, the Commission's proposal taking a hazard-based approach is not valuable from an environmental point of view.

Lastly, companies have expressed concerns on the broad definition of "substances of concern". Whilst the definition allows for a product-by-product approach, it also leads to legal uncertainties, notably because any substance may potentially be targeted (Art. 2-28c). Also, such an approach disregards the continuous evolution of technologies in the



recycling sector. In this sense, it would be appropriate to clarify criteria to select only relevant substances.

Tracking substances of concerns can be valuable to inform waste treatment and recycling facilities about how to disassemble a product at the end of life or recycle its components for another use. That being said, reporting on substances of concern shall consider the added value of disclosing the information and be clearly defined. While we welcome the Commission's intention that some exemptions can be made for reasons of technical feasibility, or to protect confidential business information, we believe that the approach should be reversed. In other words, instead of making exemptions, **substances of concern should be selected and reported based on their relevance, usefulness of the information and information demand in the value chain.** Furthermore, decisions on relevance and usefulness should be science-based (AMs 1, 2).

2. Digital Product Passport

Information sharing is an important part of the circular economy and of making circular business models work, while valorising suppliers and companies along the entire value-chain. The digital product passport (DPP) is an important enabler in this context. To be effective, the DPP must respect the following 5 principles: **(1) be strictly relevant to circular economy purposes; (2) be product specific; (3) be focused on the needs of its recipients; (4) protect confidential information and (5) ensure good data quality, consistency, comparability and interoperability.** Although points two and three are overall addressed by the Commission's proposal as requirements will more clearly be spelled out in the delegated acts tailored to the product group and the recipient group in question, BusinessEurope believes that points one, four and five can be further improved.

Point one suggests that the disclosure of data in the DPP must be justified for a circular or sustainability reason. In other words, companies are more than willing to collect and disclose data in the DPP, but this comes at a price which companies are willing to pay only if justified for clearly defined circularity and sustainability purposes. Besides the reporting costs, the concern of disclosing information not being relevant to circularity is twofold: firstly, it is not "valuable" information because it is likely that this information is already required by another legislation and at a level of granularity which best fits with the objective of such a disclosure (e.g. social conditions along the value chain are better handled at corporate level and CSRD/due diligence legislation lay requirements in this sense); secondly, "nice to know" information often raises confidentiality concerns (e.g. quantities of a products placed on the market or put into service, Art. 4 and Art. 31-1) and delays the implementation of the DPP, and therefore the circularity / environmental benefits of this tool. **The DPP must strictly follow the "need to know" principle** (AMs 3, 7, 8).

Point four suggests that **adequate protection of confidential and sensitive information must be ensured to maintain our European competitive advantage on green technologies** (AM 3 – 9). However, the proposal does not provide adequate guarantees or safeguards ensuring the protection of knowledge-based assets, which require significant investments. In particular, it may force economic operators to disclose



trade secrets. Whilst specific access rights (to be specified in delegated acts) can mitigate the negative impact of “trade secrets disclosure” on competitiveness, this disclosure would imply that trade secrets would no longer be protected as by Directive (EU) 2016/943 on the protection of undisclosed know-how and business information (trade secrets) or by the TRIPS Agreement. In conclusions, disclosing confidential information would mean contradicting mentioned legislation, put European companies in a disadvantaged position compared to their non-EU competitors. An example of provision undermining data security is the proposal for a central registry (Art. 12), which potentially undermines data security. BusinessEurope therefore suggests that sharing this type of information shall be **based on an actor’s needs and request and that the information is made available in a secure way**.

Point five suggests that **the implementation of the DPP is based on good quality, consistent and comparable data and closely intertwined with other initiatives under the EU’s digital agenda** (e.g., data act and data governance act) **and interoperable with existing systems**. The proposal aims at this objective, but unless ecodesign requirements and the format of the data are based on European or international standards and **companies are provided with adequate time**, it will be hard for companies to automate this data gathering and disclosure, especially considering those data provided by supply chain actors. Many companies have long value chains and the further in the chain they are, the more difficult their data gathering is, especially from non-EU countries. In this context, the Commission shall immediately establish a systemic dialogue with EU’s major trading partners, consider the feasibility of data gathering requirements and set adequate safeguards in case companies get incomplete or wrong information. Furthermore, it should be avoided that the burden of gathering data falls disproportionately on SMEs.

In addition, to make the system effective while limiting the costs, the DPP should build on existing databases (AM 4). This would streamline and facilitate access to harmonised data. Hence, **relying on existing legislations and/or standards** could avoid these unintended consequences and give adequate certainty for companies to perform self-assessments of their compliance, thus not requiring a third-party conformity assessment, as per Art. 41 – see chapter 4 on performance requirements. To ensure good quality, consistent and comparable data while providing predictability, companies must know what information they are required to provide and be able to obtain that information from their suppliers. In this context, **information to be made available to market surveillance authorities without request shall be clarified** (Art. 4) while the Commission should **give relevance to standardisation organisations supporting the ESPR requirements** (AM 7).

3. Ecodesign Forum

We understand the Commission will be supported by the Ecodesign Forum to set up product-specific rules. BusinessEurope welcomes the creation of the Ecodesign Forum: this is a must for a proper implementation of the Regulation and to set up performance and information requirements which foster circularity.

For legal certainty and effective implementation, BusinessEurope suggests that the Regulation explicitly mentions that **those industrial sectors which are in the scope of**



the multiannual working plans shall be involved in the Forum, and that the Forum advises the Commission on the adoption of delegated acts. This will also help addressing the limited resource capacity of the Commission. The creation of the Ecodesign Forum should reflect the success of the current Consultation Forum, where opinions of multiple stakeholders, including technical experts from the industry (from large to small companies), are considered for the final requirements (AM 10).

4. Performance requirements and prioritisation

One of the main objectives of the ESPR is to reduce the negative environmental impacts on almost all products during their lifecycle. While delegated acts will spell out requirements for specific product groups and thus ensuring requirements are relevant for the product specificities, Art. 5(1) and Annex I contain the product parameters; that will be considered to set ecodesign requirements as a pick-and-choose list. Compared to the current Ecodesign Directive, the defined product parameters broadly consider the lifecycle of products, which is in line with the ESPR's objective. For better enforceability and circularity, it will be essential that delegated acts are supported by a comprehensive and scientific assessment and submitted to public consultation (Art. 5-4 and Art. 5-5) prior to their adoption (AM 16).

One product parameter which is missing from Annex I is 'renewability of materials'. This parameter has true potential to incentivise products made from renewable resources, shift from a linear to a circular economy and ultimately support the EU's economic resilience (AMs 11, 12).

Another objective of the ESPR is to provide a coherent framework, aligning existing and future sectorial legislation and policies. In other words, the ESPR should not lead to a revolution of the current product policy framework but should **set environmental sustainability requirements when existing requirements are not set at a satisfactory level**. Whilst targeted assessment will be made for each delegated act, the ESPR shall be clearer on the need to avoid double regulation (Art. 1-2, Art. 5), in particular with regards to regulating the presence of substances of concern – in this context, REACH should remain the primary legislation regulating the safety of chemicals (AMs 13 – 18).

To further enhance the enforceability of the legislation, it is appropriate that performance requirements and compliance methods are based on harmonised European or international standards (Art. 32, Art. 35), while **the Commission should refrain from issuing its own technical common specifications** (AMs 19, 20). As a general point the Commission should issue common specifications only in exceptional instances with strict and clear criteria, in topics where standardisation is clearly not appropriate. This will ensure a level playfield for companies and improve the reliability and comparability of products. In this way, we also expect positive economic benefits as **third party assessments will no longer be necessary** (Art. 41, AM 21).

Implementing the ESPR will be a gargantuan exercise for both the legislator and the business community. In this sense, we appreciate the Commission sets out a framework to prioritise product groups. Considering the business opportunities stemming from this



legislation, we suggest **the prioritisation exercise looks at both the environmental and economic potentials of sustainable products** (art. 16-1, AM 22).

We welcome the Commission's proposal to recognise that industry-led measures can be used as alternatives to delegated acts establishing ecodesign requirements. This proposal holds companies responsible to propose sustainable design solutions, while allowing that these solutions are cost-effective. Due to the influence of global markets and make the provision enforceable, it is suggested to review the perimeter of the market share considered (Art. 18-3, AM 23).

5. Unsold consumer products

The Commission's proposal aiming to prevent destruction of unsold consumer products is laudable. It is an important step to keep resources in the material loop and therefore support circularity. Also, we believe that the proposed exceptions (i.e., non-compliance with EU or national law, health and safety risk) are necessary measures to protect consumers and therefore should be maintained. Some amendments are however necessary to ensure that this prohibition does not lead to unintended consequences, including for the environment (Art. 20).

Recycling and refurbishment operations shall not be associated to destruction (Art. 2-35). Refurbishment allows restoring a product's performance or functionality at the end of life. Hence, its value for ecodesign and the need to have it as an option for discarding. Recycling operations involve the creation of a product from waste materials, and they should therefore also be included as an exception to the definition of "destruction" (AMs 24, 25).

We see the value of the Commission's two-step approach (i.e., firstly, requiring economic operators to disclose the quantity of discarded unsold consumer products; secondly, prohibit destruction of unsold consumer products in the sector where this practice is more widespread and unjustified). However, it is important to amend the first step to **avoid that information about unsold consumer products are made publicly available as this can be commercially sensitive**. Furthermore, to ensure better enforceability, we suggest that **adequate transition time** between the publication of the relevant implementing act setting out the format of the disclosure and the application of the required is granted to operators. This time is essential for companies to adapt their systems to account for the appropriate disclosure in line with the Regulation (AMs 26 – 29).

6. Definitions

With the aim of improving the legal clarity of the text, in particular the distribution of responsibilities between the different economic actors, BusinessEurope suggests **definitions are refined and harmonised with existing legislation** (incl. the EU Blue Guide, Market Surveillance Regulation and Modernisation Directive) and alignment with other European legislative proposals (such as GPSR) – see AMs 30 – 32.

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1. Information requirements on substances of concern

AM 1 – Recital 25

<p>(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 Sustainability calls for minimizing 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</p>	<p>(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 Sustainability 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 Council 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 relevant 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 relevant substances of concern in products throughout their life cycle, including with a view to their decontamination and recovery when they become waste. Information requirements should only</p>
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<p>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.”</p>	<p>require actors to deliver data once. 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.”</p>
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AM 2 – Art. 7-5

<p>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:</p> <ul style="list-style-type: none"> (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 product, its main components, or spare parts; (d) relevant instructions for the safe use of the product; (e) information relevant for disassembly. <p>Where the Commission sets out information requirements in the delegated act adopted pursuant to Article 4, it shall:</p> <ul style="list-style-type: none"> (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. <p>Exemptions referred to in the second subparagraph, point (c), may be provided based on the technical feasibility or</p>	<p>5. The information requirements referred to in paragraph 1 shall enable the tracking of all relevant substances of concern throughout the life cycle of included in 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:</p> <ul style="list-style-type: none"> (a) the name of the substances of concern present in the product; (b) where relevant, 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. <p>Where the Commission sets out information requirements in the delegated act adopted pursuant to Article 4, it shall:</p> <ul style="list-style-type: none"> (a) establish which substances fall under the definition in Article 2(28), point (c), and are relevant for the purposes of the product groups covered; this relevance evaluation should be based on horizontal criteria developed in dialogue with stakeholders; (b) lay down deadlines for the entry into application of the information requirements, in a step-by-step process, referred to in the first subparagraph, with possible differentiation between substances; and (e) provide exemptions for substances of concern or information elements from
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<p>relevance of tracking substances of concern, the need to protect confidential business information and in other duly justified cases.</p> <p>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.</p>	<p>the information requirements referred to in the first subparagraph.</p> <p>Exemptions referred to in the second subparagraph, point (e), may Substances of concern should be selected and reported based on science-based evidence, technical feasibility, direct relevance to circularity for the specific product group, and the need to protect confidential business information and in other duly justified cases.</p> <p>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.</p>
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2. Digital Product Passport

AM 3 – Art. 8(3)

<p>3. The requirements referred to in paragraph 2 shall:</p> <p>(a) ensure that actors along the value chain, in particular consumers, economic operators and competent national authorities, can access product information relevant to them;</p> <p>(b) facilitate the verification of product compliance by competent national authorities; and</p> <p>(c) improve traceability of products along the value chain.</p>	<p>3. The requirements referred to in paragraph 2 shall:</p> <p>(a) be justified to significantly improve the environmental sustainability of products and to ensure free movement in the internal market;</p> <p>(b) ensure that actors along the value chain, in particular consumers, economic operators and competent national authorities, can access product information relevant to them;</p> <p>(c) facilitate the verification of product compliance by competent national authorities; and</p> <p>(d) improve traceability of products along the value chain without compromising data security of economical actors.</p> <p>To protect confidential business information and comply with requirement (b) of paragraph 3, actors in the value chains should make a specific request to the manufacturer when the</p>
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	information cannot be shared publicly, and the information needs to be shared in a secure way.
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AM 4 – Art. 9-1

<p>1. A product passport shall meet the following conditions:</p> <p>(a) it shall be connected through a data carrier to a unique product identifier;</p> <p>(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;</p> <p>(c) the data carrier and the unique product identifier shall comply with standard ('ISO/IEC') 15459:2015;</p> <p>(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;</p> <p>(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;</p> <p>(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.</p> <p>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.</p>	<p>1. A product passport shall meet the following conditions:</p> <p>(a) it shall be connected through a data carrier to a unique product identifier;</p> <p>(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;</p> <p>(c) the data carrier and the unique product identifier shall comply with standard ('IEC/TS') 15459:2015-61406;</p> <p>(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 and respecting trade secret, proprietary information;</p> <p>(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;</p> <p>(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.</p> <p>(g) where relevant, it shall rely on existing databases, including Substances of Concern In articles as such or in complex objects (Products) and the European Product Registry for Energy Labelling and established industry solutions.</p> <p>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</p>
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	<p>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.</p>
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AM 5 – Art. 10(f)

<p>(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;</p>	<p>(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, with specific consideration of information that constitutes trade secrets or proprietary;</p>
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AM 6 – Art. 12

<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>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:</p> <p>(a) the need to allow for the verification of the authenticity of the product passport;</p> <p>(b) the relevance of information for improving the efficiency and effectiveness of market surveillance checks and customs</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>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 required to be stored in the registry referred to in paragraph 1, taking into account at least the following criteria shall be justified for the following reasons:</p> <p>(a) the need to allow for the verification of the authenticity of the product passport;</p>
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<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>(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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
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AM 7 – Art. 4

<p>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.</p> <p>When establishing ecodesign requirements in delegated acts referred to in the first</p>	<p>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.</p> <p>When establishing ecodesign requirements in delegated acts referred to in the first</p>
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<p>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.</p> <p>Delegated acts referred to in the first subparagraph may also supplement this Regulation by:</p> <p>(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);</p> <p>(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);</p> <p>(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);</p> <p>(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);</p> <p>(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);</p> <p>(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;</p>	<p>subparagraph, the Commission shall provide economic operators with sufficient time to prepare for the implementation of new requirements. 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.</p> <p>Delegated acts referred to in the first subparagraph may also supplement this Regulation by:</p> <p>(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);</p> <p>(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);</p> <p>(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);</p> <p>(d) subject to privacy considerations, 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);</p> <p>(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);</p>
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<p>(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.</p>	<p>(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 relevant 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.</p>
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AM 8 – Art. 31(1)

<p>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:</p> <p>(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;</p> <p>(b) the need to avoid disproportionate administrative burden for economic operators.</p> <p>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.</p> <p>The Commission shall ensure that the resulting data is processed securely and in compliance with Union law.</p> <p>The Commission shall specify in those delegated acts the means through which the relevant information shall be made available and its periodicity.</p>	<p>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</p>
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	the relevant information shall be made available and its periodicity.
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AM 9 – Art. 30-3

<p>3. When requiring manufacturers, their authorised representatives or importers to make parts of the technical documentation related to the relevant product digitally available pursuant to Article 4, third subparagraph, point (a), the Commission shall take into account the following criteria:</p> <p>(a) the need to facilitate the verification of compliance with the applicable requirements by market surveillance authorities;</p> <p>(b) the need to avoid disproportionate administrative burden for economic operators.</p> <p>The Commission shall specify the manner in which the relevant parts of the technical documentation shall be made available. Where available, technical documentation shall be made available through the product passport.</p>	<p>3. When requiring, upon a reasoned request from a national authority, manufacturers, their authorised representatives or importers to make parts of the technical documentation related to the relevant product digitally available pursuant to Article 4, third subparagraph, point (a), the Commission shall take into account the following criteria:</p> <p>(a) the need to facilitate the verification of compliance with the applicable requirements by market surveillance authorities;</p> <p>(b) the need to avoid disproportionate administrative burden for economic operators.</p> <p>The Commission shall specify the manner in which the relevant parts of the technical documentation shall be made available. Where available, technical documentation shall be made available through the product passport.</p>
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3. Ecodesign Forum

AM 10 – Art. 17

<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.</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 a broad representation of industry across their value chains (especially those that are in the scope of the working plan mentioned in Art. 16-2), 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</p>
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<p>To that end, the Commission shall establish an expert group, in which those parties shall meet, referred to as the ‘Ecodesign Forum’.</p>	<p>effectiveness of the established market surveillance mechanisms and assessing self-regulation measures.</p> <p>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 Forum shall advise the Commission on the delegated acts referred to in Article 4.</p> <p>The Forum shall carry out its tasks in accordance with the principle of transparency. The Commission shall publish the minutes of the meetings of the Forum and other relevant documents on the Commission website.</p>
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4. Performance requirements and prioritisation

AM 11 – Art. 2-59a (new)

	<p>(59a) “renewability” means the ability for a natural resource to replenish and recover over time.</p>
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AM 12 – Annex I

	<p>(qa) renewability of materials and use or content of renewable raw materials.</p>
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AM 13 – Recital 22

<p>(22) “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</p>	<p>(22) “This Regulation shall not enable the restriction of substances based on chemical safety, as done under other Union legislation. Similarly, this Regulation shall 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, exclusively for reasons other than chemical or food safety, of substances present in products or used in their manufacturing processes which</p>
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<p>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 Council, 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”</p>	<p>negatively affect products’ sustainability. This Regulation also shall not result in the duplication or replacement of restrictions of substances covered by Directive 2011/65/EU of the European Parliament and of the Council, 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. If any restriction shall apply to substances used in the manufacturing process, these shall only apply if the substance is present in the final product.</p>
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AM 14 - Art. 1

<p>1. 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:</p> <ul style="list-style-type: none"> (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. <p>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.</p> <p>2. This Regulation shall apply to any physical good that is placed on the market</p>	<p>1. 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:</p> <ul style="list-style-type: none"> (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 and recyclability of products; (g) product remanufacturing; (h) products’ carbon and environmental footprints; (i) products’ expected generation of waste materials. <p>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.</p>
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<p>or put into service, including components and intermediate products. However, it shall not apply to:</p> <p>(a) food as defined in Article 2 of Regulation (EC) No 178/2002;</p> <p>(b) feed as defined in Article 3(4) of Regulation (EC) No 178/2002;</p> <p>(c) medicinal products for human use as defined in Article 1(2) of Directive 2001/83/EC;</p> <p>(d) veterinary medicinal products as defined in Article 4(1) of Regulation (EU) 2019/6;</p> <p>(e) living plants, animals and micro-organisms;</p> <p>(f) products of human origin;</p> <p>(g) products of plants and animals relating directly to their future reproduction.</p>	<p>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:</p> <p>(a) food as defined in Article 2 of Regulation (EC) No 178/2002;</p> <p>(b) feed as defined in Article 3(4) of Regulation (EC) No 178/2002;</p> <p>(c) medicinal products for human use as defined in Article 1(2) of Directive 2001/83/EC;</p> <p>(d) veterinary medicinal products as defined in Article 4(1) of Regulation (EU) 2019/6;</p> <p>(e) living plants, animals and micro-organisms;</p> <p>(f) products of human origin;</p> <p>(g) products of plants and animals relating directly to their future reproduction.</p> <p>(h) energy carriers according to Directive (UE) 2018/2001 and Directive 2009/30/EC.</p>
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AM 15 – Article 5(1)

<p>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:</p> <p>(a) durability;</p> <p>(b) reliability;</p> <p>(c) reusability;</p> <p>(d) upgradability;</p> <p>(e) reparability;</p> <p>(f) possibility of maintenance and refurbishment;</p> <p>(g) presence of substances of concern;</p> <p>(h) energy use or energy efficiency;</p> <p>(i) resource use or resource efficiency;</p> <p>(j) recycled content;</p> <p>(k) possibility of remanufacturing and recycling;</p> <p>(l) possibility of recovery of materials;</p>	<p>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:</p> <p>(a) durability;</p> <p>(b) reliability;</p> <p>(c) reusability;</p> <p>(d) upgradability;</p> <p>(e) reparability;</p> <p>(f) possibility of maintenance and refurbishment;</p> <p>(g) presence of substances of concern which negatively affect product's sustainability;</p> <p>(h) energy use or energy efficiency;</p> <p>(i) resource use or resource efficiency;</p> <p>(j) recycled content and recyclability;</p> <p>(jj) renewability of raw material content;</p> <p>(k) possibility of remanufacturing and recycling;</p>
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<p>(m) environmental impacts, including carbon and environmental footprint; (n) expected generation of waste materials.</p>	<p>(l) possibility of recovery of materials; (m) environmental impacts, including carbon and environmental footprint; (n) expected generation of waste materials.</p>
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AM 16 – Art. 5-4

<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 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>4. When preparing ecodesign requirements, the Commission shall:</p> <p>(a) take into account the following elements:</p> <p>(i) Union climate, environmental, resource 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, to ensure harmonisation and assure the avoidance of double regulation or overregulation;</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>(vii) appropriate consultations, including at expert level.</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 derived from Union legislation or instruments, including Regulation (EC) No 66/2010,</p>
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<p>(d) take into account the views expressed by the Ecodesign Forum referred to in Article 17.</p>	<p>Directive 2010/75/EU, technical screening criteria adopted pursuant to Regulation (EU) 2020/852 and green public procurement criteria; (d) take into account the views expressed by the Ecodesign Forum referred to in Article 17.</p>
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AM 17 – Recital (11)

<p>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</p>	<p>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. Double regulation must be avoided; for example, components should not be regulated as components as such and at the same time as part of finished products. Where needed, specific exemptions should be made when setting ecodesign requirements, for example for products with a particular</p>
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AM 18 – Art. 5-5

<p>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;</p>	<p>5. Ecodesign requirements shall meet the 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, durability and the life cycle cost of products; (d) there shall be no disproportionate negative impact on the competitiveness of</p>
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<p>(e) there shall be no proprietary technology imposed on manufacturers or other economic actors;</p> <p>(f) there shall be no disproportionate administrative burden on manufacturers or other economic actors.</p>	<p>economic actors, at least of and in particular for SMEs;</p> <p>(e) there shall be no proprietary technology imposed on manufacturers or other economic actors;</p> <p>(f) there shall be no disproportionate administrative burden on manufacturers or other economic actors.</p> <p>(g) there shall be clear evidence that the product requirements will deliver the intended environmental benefits, and that unintended impacts are minimised, in accordance with Annex II.</p>
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AM 19 – Article 32

<p>1. For the purposes of compliance and verification of compliance with ecodesign requirements, tests, measurements and calculations shall be made using reliable, accurate and reproducible methods that take into account the generally recognised state-of-the art methods. Such methods shall fulfil the test, measurement and calculation requirements set out in the relevant delegated acts adopted pursuant to Article 4.</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.</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>1. For the purposes of compliance and verification of compliance with ecodesign requirements, tests, measurements and calculations shall be made using actionable, reliable, accurate and reproducible and standardised methods that take into account the generally recognised state-of-the art methods. Such methods shall fulfil the test, measurement and calculation requirements set out in the relevant delegated acts adopted pursuant to Article 4.</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 shall be based on relevant Union law, where this is not applicable on European or international 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>
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	<p>(b) the need to minimise administrative burden imposed on economic operators complying with the relevant requirements. Online tools shall be freely accessible for economic operators complying with the relevant requirements.</p>
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AM 20 – Art. 35-1

<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 <i>Official Journal of the European Union</i>, 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 may, where there is agreement with the standardization organisations that is appropriate, 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 <i>Official Journal of the European Union</i>, 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>Any technical specifications that are drafted should be withdrawn when a new standard is adopted.</p>
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AM 21 – Art. 41

<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>
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AM 22 – Art. 16-1

<p>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:</p> <p>(a) the potential for improving the product aspects listed in Article 5(1) without entailing disproportionate costs, taking into account in particular:</p> <p>(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</p> <p>(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);</p> <p>(b) the volume of sales and trade of the product within the Union;</p> <p>(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;</p> <p>(d) the need to regularly review and adapt delegated acts adopted pursuant to Article 4 in light of technological and market developments.</p>	<p>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, their contribution in fostering EU’s economic resilience, as well as the following criteria:</p> <p>(a) the potential for improving the product aspects listed in Article 5(1) without entailing disproportionate costs, taking into account in particular:</p> <p>(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</p> <p>(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);</p> <p>(b) the volume of sales and trade of the product within the Union;</p> <p>(c) the distribution of the environmental impacts, energy use and waste generation across the value chain by using an LCA-based approach, including where relevant the Product Environmental Footprints, and also in particular whether they take place within the Union;</p> <p>(d) the need to regularly review and adapt delegated acts adopted pursuant to Article 4 in light of technological and market developments.</p>
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AM 23 – Art. 18-3

<p>(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:</p> <p>(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;</p> <p>(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;</p>	<p>(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:</p> <p>(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;</p> <p>(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 60 % of units placed on the market or put into service;</p>
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5. Unsold consumer products

AM 24 – Art. 2-35

<p>(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;</p>	<p>(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, remanufacturing or refurbishing or recycling operations;</p>
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AM 25 – Art. 2-37

<p>(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;</p>	<p>(37) ‘unsold consumer product’ means any consumer product that has not been sold or unused consumer product 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;</p>
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AM 26 – Art. 20-1

<p>1. An economic operator that discards unsold consumer products directly, or on</p>	<p>1. An economic operator that discards unsold consumer products directly, or on behalf of another economic operator, shall</p>
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<p>behalf of another economic operator, shall disclose:</p> <p>(a) the number of unsold consumer products discarded per year, differentiated per type or category of products;</p> <p>(b) the reasons for the discarding of products;</p> <p>(c) the delivery of discarded products to preparing for re-use, remanufacturing, recycling, energy recovery and disposal operations in accordance with the waste hierarchy as defined by Article 4 of Directive 2008/98/EC.</p> <p>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.</p>	<p>disclose make available, upon request of competent national authorities and the European Commission, the following information:</p> <p>(a) the amount in weight (tons) number of unsold consumer products discarded per year, differentiated per type or category of products;</p> <p>(b) the reasons for the discarding of products, including but not limited to whether products are discarded due to:</p> <p>I. health and safety concerns, including of counterfeit goods;</p> <p>II. damage to products as a result of their handling or detected after a product has been returned by a consumer;</p> <p>III. fitness of the product for the purpose for which it is intended, taking into account, where applicable, Union and national law and technical standards;</p> <p>IV. refusal of products for donation, preparing for re-use or remanufacturing;</p> <p>(c) the delivery of discarded products to preparing for re-use, remanufacturing, recycling, energy recovery and disposal operations in accordance with the waste hierarchy as defined by Article 4 of Directive 2008/98/EC.</p> <p>The economic operator shall provide the competent national authority with that information 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.</p>
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AM 27 – Art. 20-3

<p>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</p>	<p>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</p>
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<p>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:</p> <ul style="list-style-type: none"> (a) health 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. 	<p>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:</p> <ul style="list-style-type: none"> (a) health and safety concerns, including of counterfeit goods; (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.
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AM 28 – Art. 20-4

<p>4. When preparing a delegated act adopted pursuant to paragraph 3, the Commission shall:</p> <ul style="list-style-type: none"> (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. <p>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.</p>	<p>4. When preparing a delegated act adopted pursuant to paragraph 3, the Commission shall:</p> <ul style="list-style-type: none"> (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. <p>The Commission shall consult the Ecodesign Forum referred to in Article 17 and carry out appropriate consultations in line with the Better Regulation Agenda, 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.</p>
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AM 29 – Art. 20-5

<p>5. Where unsold consumer products are destroyed under an exemption referred to in paragraph 3, second subparagraph, the</p>	<p>5. Where unsold consumer products are destroyed under an exemption referred to in paragraph 3, second subparagraph, the</p>
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<p>responsible economic operator shall disclose on a freely accessible website or otherwise make publicly available:</p> <p>(a) the number of unsold consumer products destroyed;</p> <p>(b) the reasons for their destruction, referring to the applicable exemption;</p> <p>(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.</p> <p>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.</p>	<p>responsible economic operator shall disclose on a freely accessible website or otherwise make publicly available:</p> <p>(a) the number amount in weight (tons) of unsold consumer products destroyed;</p> <p>(b) the reasons for their destruction, referring to the applicable exemption;</p> <p>(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.</p> <p>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.</p>
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6. Definitions

AM 30 – Art. 2-23

<p>(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;</p>	<p>(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 and relevant Product Environmental Footprint Category Rules (PEFCRs), or other scientifically validated standards ensuring accuracy and reliability according to the future Green Claims framework legislation;</p>
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AM 31 – Art. 2-46

<p>(46) ‘economic operator’ means the manufacturer, the authorised representative, the importer, the distributor, the dealer and the fulfilment service provider;</p>	<p>(46) ‘economic operator’ means the manufacturer, the authorised representative, the importer, the distributor, the dealer, the fulfilment service provider or any other natural or legal person who is subject to obligations in relation to the manufacture, repair, refurbishment or upgrading of products, making them</p>
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	<p>available on the market or putting them into service in accordance with the relevant Union harmonisation legislation;</p>
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AM 32 – Art. 2-59

<p>(59) ‘product presenting a serious risk’ means a product presenting a risk for which, based on an assessment, the degree of the relevant non-compliance or the associated harm is considered to require rapid intervention by the market surveillance authorities, including cases where the effects of the non-compliance are not immediate.</p>	<p>(59) ‘product presenting a serious risk’ means a product presenting a risk as identified by the Regulation ON GENERAL PRODUCT SAFETY for which, based on an assessment, the degree of the relevant non-compliance or the associated harm is considered to require rapid intervention by the market surveillance authorities, including cases where the effects of the non-compliance are not immediate.</p>
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