

# Public Consultation on the Sustainable Products Initiative

*The [Sustainable Products Policy Initiative](#) is a key part of the [Circular Economy Action Plan](#), which is part of the [European Green Deal](#) aiming to make Europe climate neutral by 2050. The initiative will aim to make products fit for a climate neutral, resource efficient and circular economy, reduce waste and ensure that the performance of frontrunners in sustainability progressively becomes the norm (European Commission, 2021). The [Society for Institutional Analysis \(sofia\)](#) at the Darmstadt University of Applied Sciences participated in the public consultation and shares its thoughts and ideas in this factsheet.*

## Challenges to enhancing sustainability performance of products

Two main areas relevant:

**Market-related** statements explaining why products sold in the EU are not more sustainable:

- ✓ Economic actors do not have adequate and reliable information on the sustainability of products
- ✓ Products such as electronics become obsolete quickly because of technological innovations
- ✓ Some products are designed for shorter term use due to changing fashion trends
- ✓ Many products are not designed to be easily repaired or upgraded
- ✓ Some products are designed to break down after a certain amount of time (planned obsolescence)
- ✓ Materials used in products are more and more complex and difficult to recycle
- ✓ Products do not sufficiently cover the costs of the harm that their production and use cause to the environment
- ✓ The cost of repairing a product is too high, in comparison with buying a brand new product for electronics, as well as for fashion products, there are not enough places where products can be repaired
- ✓ The quality of second hand goods cannot be guaranteed or is difficult to assess

**Policy-related** statements explaining why products sold in the EU are not more sustainable:

- ✓ There is no harmonized set of requirements to foster the sustainability-oriented design of products placed on the EU market
- ✓ There is no harmonized set of requirements to foster the sustainability of services provided in the EU
- ✓ Voluntary approaches, such as labelling, do not provide sufficient incentives for businesses to develop more sustainable products
- ✓ Diverging national rules and lack of a harmonized set of EU rules discourage large businesses, which operate across various EU Member States, from offering more sustainable products
- ✓ There are insufficient incentives to reward products based on their different sustainability performances

The concept of individual extended producer responsibility (iEPR) is still not properly underpinned by the regulatory framework; i.e. in terms of "modulation of financial contributions" to recycling systems and other means of regulatory stimuli (as envisaged in COM SWD(2019) 91 final).

Core transformation leverage point:

- Trustful value chain communication supported by an IT-Tool that is structured
- based on governance mechanisms representing all relevant stakeholders
  - in a cross-sectoral standardised manner
  - with a view at assuring confidence in compliance and
  - enhancing manageability towards future customer expectations and regulatory requirements.

## Measures to establish more sustainable products in the mainstream

Very effective measures for achieving **design for sustainability**:

- ✓ Set binding rules detailing, at product group level, what actions producers are obliged to take to improve their products durability, reusability, upgradability and reparability (for example, for electronic/ICT products, setting a minimum number of cycles during which the battery must function properly)
- ✓ Require producers/importers to prove that the design of their products respects the following prioritization: (first preference) that the product is capable of being reused /repaired/shared; (second preference) that the product is capable of being remanufactured/refurbished/upgraded; (third preference) that the product is capable of being recycled
- ✓ Require producers/importers to prove that they have assessed possible causes of failures and addressed them, with a view to optimising product durability
- ✓ Require producers/importers to prioritise modular design of their products, so as to facilitate repair, remanufacture, upgrade and disassembly (for example, for ICT products, batteries, screens and back covers should be removable in less than a defined number of steps)
- ✓ Require producers/importers to ensure information on reparability is provided on or with a product
- ✓ Require producers/importers to ensure information on access to repair services is provided on or with a product
- ✓ Require producers/importers to offer product guarantees, which could include "commitment to free repair as first remedy" in case of failures and a "commitment to upgrade the product periodically"
- ✓ Require producers/importers to display a reparability score on their products, in line with harmonized requirements at EU level, to facilitate comparison of product reparability
- ✓ Require producers/importers to establish a repair network for their products
- ✓ Require producers/importers to ensure information on a product's average expected lifespan is provided on or with a product
- ✓ Require producers/importers to ensure information on the chemical content of a product is provided on or with product
- ✓ Ban the use of a substance or substances in a given product, should such substances be found to inhibit product recyclability
- ✓ Require producers/importers to publish information on how they have prioritised materials that are safe and sustainable-by-design, and have substituted chemicals of concern with safer ones whenever possible
- ✓ Require additional information to be made available on material sources, e.g. content in the product of critical raw materials and minerals from conflict-affected and high-risk areas

Information to be collected as part of a **Digital Product Passport**:

- ✓ Economic actors at the origin of information (Manufacturer/Service provider/Retailer/Distributor/Recycler/ Providers of Repairability services)
- ✓ List of materials and substances present in the product
- ✓ Quantities of materials and substances present in the product
- ✓ Recycled content of each material present in the product
- ✓ Presence in the product of hazardous chemicals, and if so, their location
- ✓ List of legislation and standards that the product complies with, or the technical specifications that it fulfils
- ✓ Results of compliance tests against legislations, standards or technical specifications
- ✓ Expected lifespan of the product
- ✓ Information relevant for testing, disassembly, maintenance, repair or reassembly (e.g. test protocol, disassembly process and instructions, etc.)
- ✓ Information on safe use and instructions, where applicable
- ✓ Information relevant to re-manufacture and spare parts (e.g. CAD technical drawings, 3D-printing files)
- ✓ Information on Product Environmental and/or carbon footprint, or other relevant sustainability characteristics
- ✓ Social conditions along the value chain (e.g. working and pay conditions; respect of human rights)
- ✓ Information on the origin of product components
- ✓ Information on material sources (e.g. conflict-free materials, responsible mining etc.)
- ✓ Any possession of sustainability labels, such as the EU Ecolabel
- ✓ Information on how the product should be recycled and/or handled at the end of life

**Biggest challenges** to successfully establish and implement the **Digital Product Passport (DPP)**:

- Minimising administrative burden by re-using data already uploaded on existing databases and ensuring their interoperability
- Managing the complexity of products and value chains and the quantity of data that is required to make such a passport effective
- Ensuring the relevance and reliability of the information included in the passport

## Measures to establish more sustainable products in the mainstream

Product categories that should be excluded from a **ban to destroy unsold durable goods**:

- ✓ Counterfeit products & products that are not usable after a certain date

Additional measures to be taken to complement a **ban to destroy unsold durable goods**:

- ✓ Selling damaged products at a discounted price
- ✓ Fostering donation schemes
- ✓ Fostering reconditioning and remanufacturing schemes
- ✓ Fostering a producer duty of care whereby producers take measures to ensure that products are not damaged during distribution, transport or storage

### Very effective types of **Circular Business Models**...

### ...and the **role of the EU (enable/regulate)**:

Product-service systems (i.e. users do not buy the product from manufacturers/owners but rather the service associated with the product, e.g. car leasing. This means that the manufacturer/owner is responsible for repairing and maintaining the product, thus incentivizing better reparability and potentially longer lifespan of the product)

Collaborative and sharing economy (i.e. where sharing of products replaces purchasing, e.g. for power tools or other products that consumers use only occasionally. As a result, less resources are used to satisfy the same needs)

Support-Tool supporting product designers by means of "real life"-life cycle assessment (in contrast to generic material data) allowing to integrate circular economy requirements into their decision making process

Strengthen maintenance and repair obligations for producers (such as on the ease of separating product parts; the availability of spare parts etc.) to encourage the adoption of these business models

Require large producers, who offer repair and other services in-house, to provide repair training programmes to independents, as well as training certification

Introduce obligatory take-back schemes, to ensure products at end of life are less likely to become waste and can e.g. be reused or remanufactured

Foster increased collaboration amongst the circular business community and facilitate exchange of best practice/lessons learnt

Investigate the feasibility of harmonization at EU level of the certification of competence for professional repairers and other professionals involved in circular businesses

Facilitate market access for circular innovations by decreasing administrative burden for new circular business models, e.g. by speeding up approval procedures for novel products and application to existing funding schemes, where appropriate

Prioritize circularity as a criteria or as part of a reward system in use of public finances, e.g. by giving priority to circular business models in financing schemes and in formulation of public tenders

Introduce a circularity certification/label/scoring system to promote circular business models

### Main **barriers** for successful **Circular Business Models**:

### Main **incentives** for successful **Circular Business Models**:

The profitability of these business models is not viewed as sufficient, or is viewed as too high-risk

There is a lack of demonstrable success stories or large-scale projects demonstrating the business case for such business models

There is a lack of tools and methods to measure (longterm) benefits of circularity for businesses, including the financial benefits

There is a lack of training for entrepreneurs/potential entrepreneurs in how circular business models operate

There is a lack of the technical skills necessary to perform the functions required by these business models (repair; maintenance etc.)

A clear regulatory framework to support such business models is missing

Modulation of fees on the sustainability of products under Extended Producer Responsibility schemes (e.g. producers who place products that are more easily recyclable on the EU market pay reduced fees)

Making better use of standardisation to promote sustainability

Increasing transparency on the performance of products as regards sustainability, for instance by identifying different levels of sustainability performance at EU level

Better use and promotion of voluntary sustainability labels, such as the EU Ecolabel

Improving access to finance for the production and consumption of more sustainable products

Developing and implementing mandatory Green Public Procurement criteria and targets

## Compliance with and enforcement of sustainability requirement for products

*Compliance with requirements and enforcement of sustainable product policy are crucial for achieving results. Enforcement can be carried out via market surveillance within the EU Single Market and via customs checks at its borders.*

*Market surveillance is the responsibility of the Member States and was the object of the recently revised Regulation (EU) 2019/1020 of 20 June 2019 on market surveillance and compliance of products.*

➔ How could the **European Commission** contribute further to this dimension?

- ✓ Set verification targets for the products deemed most likely to be non-compliant (e.g. electronic gadgets)
- ✓ Support Member States in the distribution of surveillance tasks per product category (e.g. Member State A responsible for construction materials; Member State B for heating & cooling equipment etc.)
- ✓ Accompanying measures from the European Commission to Member States (e.g. guidance, support etc.)
- ✓ Create a central reporting point/website to enable consumers to provide feedback on products that do not meet their sustainability requirements

Market surveillance issues related to the **current Ecodesign Directive**:

The performance indicators are to be designed in manner that cover the real use-pattern. Phasing out of problematic substances (e.g., but not limited to SVHC) hindering material re-use should be part of product specific requirements.

Additional comments:

With a view to more sustainable product policy the "detox" of material streams is essential. In this respect requirements have to address the product as a whole (as in ELV) and at the same time the detailed article level (as laid down in Art. 33 REACH) as well: Small amounts of problematic substances can contaminate secondary raw material. This is a - if not the - main barrier for business models at the EoL-stage.

### References:

[European Commission \(2021\). Sustainable products initiative. Public consultation](#)

[European Commission \(2020\). Communication from the Commission. A new Circular Economy Action Plan. COM\(2020\) 98 final](#)

[European Commission \(2019\). Commission staff working document. Sustainable Products in a Circular Economy - Towards an EU Product Policy Framework contributing to the Circular Economy. SWD\(2019\) 91 final](#)

[European Commission \(2019\). Communication from the Commission. The European Green Deal. COM\(2019\) 640 final](#)

### Further information:

[European Commission, RPA, sofia & Ökopol \(2020\). Information flows on substances of concern in products from supply chains to waste operators. Publications Office of the EU](#)

[Führ, M., Schenten, J., Jepsen, D. & Reihlen, A. \(2020\). Advancing REACH: Substances in Articles. German Federal Environment Agency](#)

[Führ, M., Schenten, J. & Kleihauer, S. \(2019\). Integrating "Green Chemistry" into the Regulatory Framework of European Chemicals Policy. Sofia-Studien 19-2, Darmstadt](#)

[Schenten, J., Führ, M., Kleihauer, S. & Schönborn, J. \(2019\). Traceability as driver for more sustainable chemistry in the global textile supply chains. Current Opinion in Green and Sustainable Chemistry, Volume 19, pp. 87-93](#)

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