



Council of the European Union
General Secretariat

**Interinstitutional files:
2022/0095 (COD)**

Brussels, 30 August 2023

WK 10575/2023 ADD 4

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NOTE

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| From: | IT Delegation |
| To: | Working Party on Competitiveness and Growth (Internal Market – Ecodesign) |
| Subject: | ESPR: IT comments on EP amendments |



Ministero delle Imprese e del Made in Italy

DIREZIONE GENERALE PER LA POLITICA INDUSTRIALE, L'INNOVAZIONE E LE PMI
DIVISIONE III - ECONOMIA CIRCOLARE E POLITICHE PER LO SVILUPPO ECOSOSTENIBILE

Proposal for a Regulation establishing the framework for the development of ecodesign requirements for sustainable products and repealing Directive 2009/125/EC

IT comments on EP amendments

Italy welcomes the new Spanish Presidency and wishes all the best in the continuation of the work over the next months.

We are analysing the text approved by the European Parliament and we put a scrutiny reservation on the amendments selected by the Presidency for the WP discussion last 14th of July.

Before moving to more detailed comments on the EP amendments, we would like to recall the Italian declaration enclosed to the voting declaration when the Council approved the General Approach last 22 of May. While supporting the text, Italy called for further work on the following points: delegation of power to the Commission under Article 4; Frontrunner approach under Article 69; destruction of unsold consumer's products; substances of concerns. These remains our priorities for this negotiation.

With regard to the amendments selected by the Spanish Presidency with the discussion paper n. 9600/2023, Italy shares the following preliminary comments. Enclosed you will find the table with more detailed comments and amendments:

1) I round of comments:

a. Prohibition of premature obsolescence

We generally support this provision and the principle it reflects.

Nevertheless, while we understand why this concept is introduced, it remains extremely challenging to regulate premature obsolescence of products.

b. Prioritization of products

We do not agree to insert in text of the Regulation a list of products for which the Commission shall provide a justification if not included in the working plan.

The priority group list was putting by the European Commission under Public Consultation (the deadline was the last May 12) and the results are not yet available.

We believe it is important to evaluate the priority group list under a transparent governance and processes set by the Commission with all the relevant stakeholder.

Therefore, it is not appropriate to introduce in the text of the Regulation a list of priority products.

Overall, there are strong doubts that the Commission will be able to prepare eco-design delegated acts for all these products in the period 2024-2027, due to the procedure to be followed for the setting of the ecodesign requirements.

We strongly oppose the amendment n. 3. First, the priority list should be based on the data collected and analysis done by the JRC; it should not be included in the framework.



Second, cement is already a well-regulated product.

In addition we wonder why this attention to the carbon footprint of the cement. Is the carbon footprint of the cement one of the most important ecodesign requirement to be addressed as a priority? Is there any study already demonstrating this?

Making only Carbon footprint evaluation (which is a mono-indicator methodology) over a product, we may have misleading results.

c. Treatment of second-hand products

We support amendment 4 which introduces new recital 12a clarifying a legal principle already well established at EU level and addressed in the Blue Guide 2022, but we call for the deletion of last sentence of the above-mentioned recital which provides for the possibility to introduce exemption for second-hand products imported.

This last provision, as well as the following amendments 5 and 6, raises several concerns. Indeed:

- The provision is not consistent with the Blue Guide 2022, paragraph 2.3;
- the introduction of exemptions for second-hand products from third countries may lead to the massive introduction of lower-performing products into the European market if domestic production does not meet internal demand;
- furthermore, any exemptions could also be used as windows to circumvent European ecodesign legislation by manufacturers, who could outsource production abroad to take advantage of this opportunity;
- although exempted from the ecodesign regulation, products should still comply with other regulations such as safety, LVD, GAD, Machinery, RED, RoHs unless they are also exempted from these.

All this could result in old goods circulating in the European market and also having to be disposed of in Europe. It could bring to the fact that the EU will export sophisticated and technologically advanced new products and import old-technology second-hand products.

2) II round of comments:

a. Review clause including due diligence aspects

Due to the complexity of the Working Plan it is unlikely that only 6 years after the date of application of this Regulation the Commission will be able to evaluate the impact of the Regulation in terms of new addressed products (i.e. of the impact of the new delegated acts).

In addition, the evaluation of the exemptions for the imported second-hand products should be deleted.

Finally, we are not agree on the revision clause on the due diligence aspects.

b. Sanctions



We strongly support the inclusion in the ESPR Regulation of strong provisions on enforcement since effective and efficient enforcement of the new requirements is crucial to safeguard both the competitiveness of the internal market and the worldwide credibility and impact of EU rules. Therefore we support the need to have proportionate sanctions.

Nevertheless, these remain national competences and should be left to national authorities' disposal. In addition, some of the criteria laid down in the amendment n. 8 seems not practically applicable. How can we evaluate "the intentional or negligent character of the infringement"?

c. Instructions in digital format

While we agree with the need to promote digitization, we believe that the instruction should be *preferably* in digital format, not only in digital format. This should be a manufacturer's choice.

Furthermore, it is important to specify that there should not be a double supply both digitally and on paper since the formulation "is accompanied by" creates uncertainties and misunderstandings.

3) III round of comments:

a. New obligation for manufacturers

We generally support amendment 15, except for last paragraph, that should be deleted. Indeed, this provision introduces an additional burden on companies which cannot be verified by national market surveillance authorities.

b. Self-regulation measures

We support amendments from 17 to 22, but we do not support the replacement of implementing act with delegated act in the latter.

We do not support the amendment n. 16 because the products included in the working plan are the ones for which it is more likely to have a proposed self-regulation measure. Self-regulation measures are often yet implemented for products that will be probably inserted in priority groups (e.g. detergents). In addition, the inclusion of a product in the working plan does not guarantee the adoption of the delegated act.

c. Reparability

We have some concerns concerning these amendments.

For some products the reparability score has already been set (i.e. tablet) under the energy labelling legislation. What is the goal of the Parliament? To include everything under the ecodesign regulation? To have two labels? How does this amendment relate to Article 14(3) of the original proposal?

4) IV round of comments:

a. Obligations of online marketplaces

We are scrutinizing these amendments also with regard to their consistency with the new DSA recently entered into force.



With regard to amendment 26, it seems to us that the deletion of some paragraphs goes to weaken the obligations of these operators.

It should be remembered that through these types of platforms many non-compliant products are placed on the market. In addition, products are often sold to individuals who would not be eligible to purchase them.

We would like to understand the reasons behind the deletion introduced with amendments 27, 28 e 29.

b. Prohibition of destruction of unsold consumer goods

Concerning amendment n. 33, the benchmark for calculating the percentage should be clarified.

Overall, we consider the Council's proposal to be preferable insofar as it refers not to the percentage, but to the weight of unsold products. Possibly without indicating the number, as this would make it possible to obtain sensitive information on the market shares of the producers.

With regard to amendment n. 34, we do not support the introduction of a direct ban, both general and specific for certain product's groups, in the regulation as already stressed in several occasion. The amending proposal appears disproportionate even in the proposed timing as well as unreasonably penalizing for the two product categories identified.

Reference to specific product's groups could be included, as proposed by Italy, in a recital as priority groups that the Commission will take into consideration for the impact assessment under the current Article 20c of the Council GA.

Nevertheless, we support the EP proposal to exclude all the SMEs from the application of this Article.

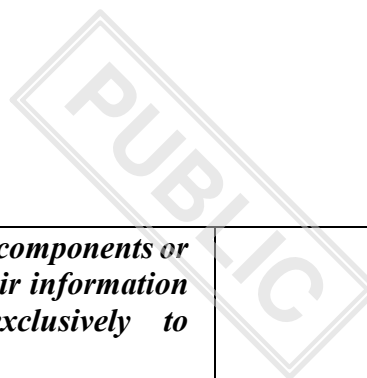


1. PROHIBITION OF PREMATURE OBSOLESCENCE

Amendment 1

Proposal for a regulationArticle 5 a (new)

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
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| | Article 5a | |
| | <i>Durability and reparability of products</i> | |
| | <p><i>1. When setting the ecodesign requirements pursuant to Article 5(1), the Commission shall ensure that manufacturers do not limit the durability of a product making it prematurely obsolete, in particular as a result of the design of a specific feature, the use of consumables, spare parts, or nonprovision of software updates or accessories within an appropriate period of time.</i></p> <p><i>2. When setting the ecodesign requirements pursuant to Article 5(1), the Commission shall ensure that manufacturers do not limit the reparability of products by impeding</i></p> | <p>We generally support this provision and the principle it reflects.</p> <p>Nevertheless, while we understand why this concept is introduced, it remains extremely challenging to regulate premature obsolescence of products.</p> |



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| | <i>the disassembly of key components or limiting access to repair information and spare parts exclusively to authorised repairers.</i> | |
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2. PRIORITIZATION OF PRODUCTS

Amendment 2

Proposal for a regulation

Article 16 – paragraph 2 – subparagraph 2 b (new)

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|--|---|--|
| | <i>For the period 2024-2027, the Commission shall consider prioritising the following product groups in the first working plan that is to be adopted no later than ... [insert the date 3 months after the entry into force of this Regulation]. If any of the following product groups is not included in the working plan, the Commission shall provide a justification for its decision in the working plan:</i> | <p>We do not agree to insert in text of the Regulation a list of products for which the Commission shall provide a justification if not included in the working plan.</p> <p>The priority group list was putting by the European Commission under Public Consultation (the deadline was the last May 12) and the results are not yet available, and what if the study finds other more relevant products that are not listed here as the ones with very high environmental impacts?</p> <p>The current list does not reflect the JRC study “Ecodesign for Sustainable Products</p> |



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| | | <p>Regulation - preliminary study on new product priorities” both with regard to the product’s groups indicated and with regard to the separation between final and intermediate products. End-use-products and intermediary products should be distinguished.</p> <p>We believe it is important to evaluate the priority group list under a transparent governance and processes set by the Commission with all the relevant Stakeholder.</p> <p>Therefore, it is not appropriate to introduce in the text of the Regulation a list of priority products.</p> <p>Overall, there are strong doubts that the Commission will be able to prepare eco-design delegated acts for all these products in the period 2024-2027, due to the procedure to be followed for the setting of the ecodesign requirements. The risk is that ecodesign delegated acts will be prepared only for known products, such as those under the current ecodesign implementing acts/Ecolabel requirements or products already somehow addressed in EU studies, which in turn will downplay the importance of ecodesign right from the beginning.</p> |
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| | - <i>iron, steel</i> | |
| | - <i>aluminium</i> | |
| | - <i>textiles, notably garments and footwear</i> | |
| | - <i>furniture, including mattresses</i> | |
| | - <i>tyres</i> | |
| | - <i>detergents</i> | |
| | - <i>paints</i> | |
| | - <i>lubricants</i> | |
| | - <i>chemicals</i> | |
| | - <i>energy related products, the implementing measures for which need to be revised or newly defined</i> | |
| | - <i>ICT products and other electronics.</i> | |

Amendment 3

Proposal for a regulation

Article 16 – paragraph 2 – subparagraph 2 c (new)



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| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
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| | <i>Any absence of adequate performance and information requirements on the environment and carbon footprint for cement under [the forthcoming Regulation laying down harmonized conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011 (2022/0094 COD)] by 2027 shall trigger the inclusion of cement as a priority product category in the next working plan of this Regulation.</i> | <p>We do not support this amendment and we suggest its deletion.</p> <p>First, the priority list should be based on the data collected and analysis done by the JRC; it should not be included in the framework.</p> <p>Second, cement is already a well-regulated product.</p> <p>Should be written “... Environmental and Carbon Footprint”.</p> <p>In addition we wonder why this attention to the carbon footprint of the cement. Is the carbon footprint of the cement one of the most important ecodesign requirement to be addressed as a priority? Is there any study already demonstrating this?</p> <p>Furthermore, it should be clarified that the Environmental Footprint Method and Database have been developed by the EU (version EF 3.1 was made available recently), being, in fact, a Life Cycle Assessment (LCA) method. The LCA is known and recognised even by the EU as the most reliable method to assess the environmental impact of a product. And when making an LCA (e.g. using the EF</p> |



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| | | method), we are assessing even the Carbon footprint). This is to say that the EU has recognised LCA as the most reliable quantitative evaluation. <u>Making only Carbon footprint evaluation (which is a mono-indicator methodology) over a product, we may have misleading results.</u> |
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3. TREATMENT OF SECOND-HAND PRODUCTS

Amendment 4

Proposal for a regulationRecital 12 a (new)

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
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| | <i>(12a) The second-hand sector plays a specific role in promoting sustainable production and consumption, including in the development of new circular business models. Due to the specificities of this sector, which is based on prolonging the lifetime of a product and avoiding it becoming waste, second-hand products, in particular products that undergo refurbishment or repair, originating from within the Union should not be considered as new products that are placed on the market</i> | <p>We support the inclusion of this new recital that clarifies a legal principle already well established at EU level and addressed in the Blue Guide 2022.</p> <p>Nevertheless, it should be partially redrafted. Indeed, the reason for the exclusion from the ecodesign requirement is that second-hand products, as well as repaired and refurbished products, originating from within the Union are NOT legally new products to be placed on the market, because they have</p> |



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| | <p><i>or put into service and should therefore not have to comply with ecodesign requirements. Second-hand products imported from third countries should comply with ecodesign requirements, but it should be possible to exempt them provided that certain conditions are met.</i></p> | <p>already been placed on the market at the beginning of their first life cycle. Since the repair and refurbishment actions do not modify their initial intended use or characteristics they cannot be considered new products.</p> <p>We call for the deletion of last sentence (in yellow) that raises several concerns. Indeed:</p> <ul style="list-style-type: none">- The provision is not consistent with the Blue Guide 2022, paragraph 2.3;- the introduction of exemptions for second-hand products from third countries may lead to the massive introduction of lower-performing products into the European market if domestic production does not meet internal demand;- furthermore, any exemptions could also be used as windows to circumvent European ecodesign legislation by European manufacturers, who could outsource production abroad to take advantage of this opportunity;- although exempted from the ecodesign regulation, products should still comply with other regulations such as safety, LVD, GAD, Machinery, RED, RoHs unless they are also exempted from these. <p>All this could result in old goods circulating in the European market and also having to be</p> |
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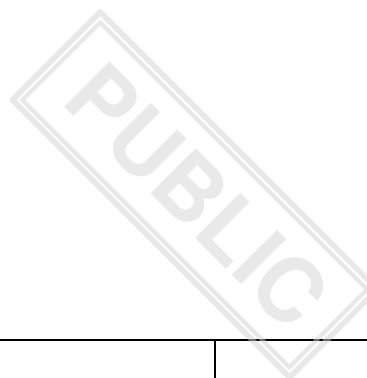
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| | | <p>disposed of in Europe. It could bring to the fact that the EU will export sophisticated and technologically advanced new products and import old-technology second-hand products.</p> <p>On the other hand, the import of second-hand products could be considered a source of (secondary) raw materials. In this case, why should third countries export these valuable products in the EU?</p> |
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Amendment 5
Proposal for a regulation

| Article 4 – paragraph 1 – subparagraph 1a (new) | | |
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| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
| | <p><i>The empowerment to adopt ecodesign requirements shall include the power to establish that no ecodesign requirements apply for imported second-hand products or product groups, for a limited period of time, where on the basis of the impact assessment conducted under Article 5(4)(b) the Commission concludes that:</i></p> | <p>We believe that this amendment should be deleted. See comment above.</p> <p>In addition, the working is not clear:</p> <ol style="list-style-type: none"> 1. what type of impact assessment is made to accept that “no ecodesign requirements apply for imported second-hand products or product groups”? 2. what is a “limited period of time”? <p>In addition, the criteria set below are either unclear or dangerous.</p> |

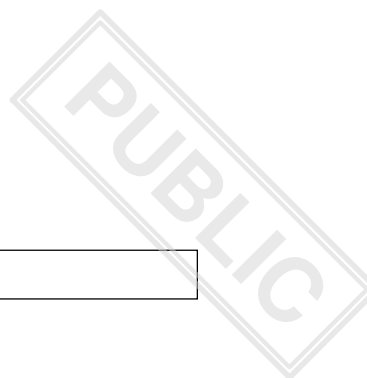


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| | <i>(a) it is relevant to exempt a given imported second-hand product or product group on account of the substantial share that it represents on the relevant Union second-hand product market and the genuine consumer demand that it responds to; and</i> | Is this the concept is that if the demand of product can be massively satisfied by second-hand and desperately needed in the EU, then the ecodesign requirements do not apply in order to maximize the presence of this product? |
| | <i>(b) such an exemption would not undermine the achievement of the objectives of this Regulation and the broader application of ecodesign requirements on the relevant Union product market; and</i> | See comment below. |
| | <i>(c) the resource savings due to the placing on the market of the imported second-hand product or product group outweigh the benefits of the eco-design requirements for new products or product groups.</i> | This requirement would be easy to achieve because the environmental impacts of these products have already happened in the past in the country of production and in the country of installation but outside the EU. Therefore if these impacts are no more accounted for, any imported second-hand good would probably result better than a newly produced one, unless the consumption of resources (energy, water, consumables where applicable) overweight the saving due to the avoided production materials. |



Amendment 6
Proposal for a regulation

| Article 5 – paragraph 5 – point c | | |
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| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
| (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; | (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, <i>including imported second-hand products</i> , durability and the life cycle cost of products; | For the reason explained before the imported second-hand products should be considered as new products and be subject to the applicable EU legislation. |



4. REVIEW CLAUSE INCLUDING DUE DILIGENCE ASPECTS

Amendment 7

Proposal for a regulation Article 69 – paragraph 1

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | Commenti IT |
|---|---|--|
| No sooner than [8 years after the date of application of this Regulation], the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of products. The Commission shall present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the Commission with the information necessary for the preparation of that report. | <p>No <i>later</i> than [6 years after the date of application of this Regulation], <i>and every 6years thereafter</i>, the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of products. The Commission shall <i>also evaluate the use of exemptions for imported second-hand products or product groups provided for in delegated acts adopted pursuant to Article 4 this Regulation.</i></p> <p><i>No later than [insert the date 4 years after the date of application of this Regulation], the Commission shall consider the inclusion of social sustainability and due diligence requirements within the scope of this Regulation.</i></p> | <p>Due to the complexity of the Working Plan it is unlikely that only 6 years after the date of application of this Regulation the Commission will be able to evaluate the impact of the Regulation in terms of new addressed products (i.e. of the impact of the new delegated acts).</p> <p>In addition, the evaluation of the exemptions for the imported second-hand products should be deleted.</p> <p>We are not agree to include social sustainability and due diligence aspects under ESPR, as they are already covered by other legislations (e.g. CSDD, CSRD). The “inclusion of social sustainability and due diligence requirements within the scope of this Regulation” is indeed a key issue when</p> |



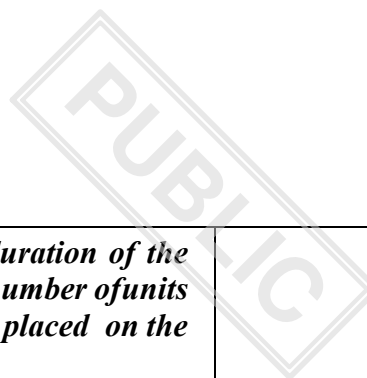
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| | <p><i>The Commission shall</i> present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions, <i>and make it publicly available</i>. Member States shall provide the Commission with the information necessary for the preparation of that report.</p> | <p>speaking about design for sustainability, but it is related to the social dimension of it, not the environmental one, so the terms ecodesign, would not be any more appropriate, as it refers to the environmental dimension of sustainability.</p> <p>In any case, the two points should be added in the review clause.</p> |
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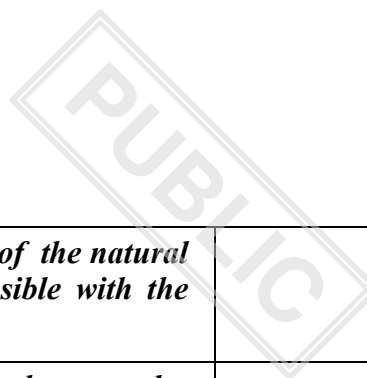
5. SANCTIONS

Amendment 8 Proposal for a regulation Article 68 – paragraph 1 a (new)

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
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| | <p><i>When determining the type and level of penalties to be imposed in the event of infringements, the competent authorities of the Member States shall give due regard to the following criteria:</i></p> | <p>We share the need to have effective market surveillance systems in place at national level and proportionate sanctions.</p> <p>Nevertheless, these remain national competences and should left to national authorities disposal.</p> |



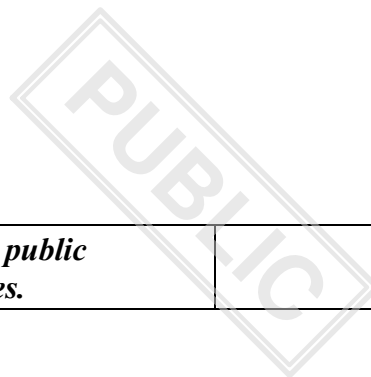
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| | <i>(a) the nature, gravity and duration of the infringement, including the number of units of non-complying products placed on the Union market;</i> | |
| | <i>(b) where appropriate, the intentional or negligent character of the infringement;</i> | How evaluate it? |
| | <i>(c) the financial strength of the natural or legal person held responsible, as indicated for example by the total turnover of the legal person held responsible or the annual income of the natural person held responsible;</i> | |
| | <i>(d) the economic benefits derived from the infringement by the natural or legal person held responsible, insofar as they can be determined;</i> | |
| | <i>(e) the damage to human health or the environment caused by the infringement, insofar as it can be determined;</i> | |
| | <i>(f) any action taken by the natural or legal person held responsible to mitigate or remedy the damage caused;</i> | |



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| | <i>(g) the level of cooperation of the natural or legal person held responsible with the competent authority;</i> | |
| | <i>(h) previous infringements by the natural or legal person held responsible;</i> | |
| | <i>(i) any action aiming to circumvent or obstruct administrative controls and</i> | |
| | <i>(j) any other aggravating or mitigating factor applicable to the circumstances of the case</i> | |
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Amendment 9
Proposal for a regulation
Article 68 – paragraph 1 b (new)

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
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| | <i>The Member States shall at least be able to impose the following penalties in the event of infringements of this Regulation:</i> | See comment above. |
| | <i>(a) fines;</i> | |
| | <i>(b) confiscation of revenues gained by the natural or legal person from a transaction related to the infringement;</i> | |



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| | <i>(c) exclusion from public procurement procedures.</i> | |
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Amendment 10
Proposal for a regulation

| Article 69 a (new) <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|---|---|---|
| | <i>Article 69a</i> | |
| | <i>Remedies for lack of compliance</i> | Is the EP is trying to modify Directive (EU) 2019/771 and Directive (EU) 2005/29 via ESPR? Can ESPR legally set these provisions? |
| | <p><i>1. In the event of non-compliance of a product with ecodesign requirements, the product shall be considered to be in nonconformity with the sales contract, in the meaning of the Article 5 of the Directive (EU) 2019/771, and shall give consumers the right to a remedy under the conditions set out in Article 13 of this Directive, independently of the expiry of the time limits as defined by Article 10 of this Directive.</i></p> <p><i>2. The marketing or offering for sale</i></p> | |



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of a product which is non-compliant with the design requirements shall be considered an unfair commercial practice in accordance with Article 5 of Directive 2005/29/EC and therefore give consumers the right to a remedy under Article 11a of this Directive.

6. INSTRUCTIONS IN DIGITAL FORMAT

Amendment 11

Proposal for a regulation Article 21 – paragraph 7

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Comments IT</i> |
|--|------------------|--------------------|
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7. Manufacturers shall ensure *that* that a product covered by a delegated act adopted pursuant to Article 4 is accompanied by instructions that enable consumers and other end-users to safely assemble, install, operate, store, maintain, repair and dispose of the product in a language that can be easily understood by consumers and other end-users, as determined by the Member State concerned. Such instructions shall be clear, understandable and legible and include at least the information specified in the delegated acts adopted pursuant to Article 4 and pursuant to Article 7(2)(b), point (ii).

7. Manufacturers shall ensure that a product covered by a delegated act adopted pursuant to Article 4 is accompanied by instructions *in digital format* that enable consumers and other end-users to safely assemble, install, operate, store, maintain, repair and dispose of the product in a language that can be easily understood by consumers and other end-users, as determined by the Member State concerned. Such instructions shall be clear, understandable and legible and include at least the information specified in the delegated acts adopted pursuant to Article 4 and pursuant to Article 7(2)(b), point (ii). ***The delegated acts adopted pursuant to Article 4 shall also specify the period during which such instructions shall be made accessible online. Such period shall not be less than 10 years after placing the product on the market.***

While we agree with the need to promote digitization we believe that this should be a manufacturer's choice.

*7. Manufacturers shall ensure that a product covered by a delegated act adopted pursuant to Article 4 is accompanied by instructions **preferably in digital format**.*

Furthermore, it is important to specify that there should not be a double supply both digitally and on paper since the formulation "is accompanied by" creates uncertainties and misunderstandings.

In addition the decision about the content of these instructions and to whom they should be addressed should be left to the product specific delegated act.

Depending on the product, some installation instructions could be relevant only for installers (e.g. for boilers) and some repair information only for the professional repairers (e.g. commercial refrigerating appliances or transformers). The consumer can be unable to perform certain installation/repair actions without putting himself or others in danger.

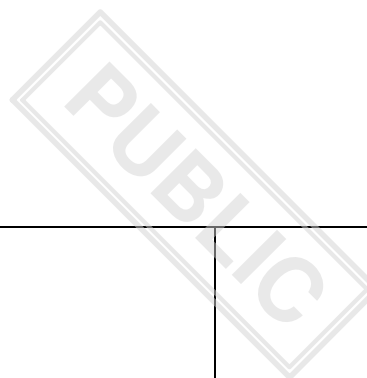


Amendment 12
Proposal for a regulation
Article 21 – paragraph 7 a (new)

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
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| | 7a. When providing the instructions referred to in paragraph 7, the manufacturer shall present them in a format that makes it possible to download them and save on an electronic device so that the consumer or other end-user can access them at all times. | 7a. When providing the instructions referred to in paragraph 7 in digital format , the manufacturer shall present them in a format that makes it possible to download them and save on an electronic device so that the consumer or other end-user can access them at all times. |

Amendment 13
Proposal for a regulation
Article 21 – paragraph 7 b (new)

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|--|--|--|
| | 7b. Upon request of the consumer or other end-user at the time of the purchase or up to 6 months after that purchase, the manufacturer shall provide the instructions in paper format free of charge. | We agree, but this should apply to information to be provided only in digital format. 7b. Upon request of the consumer or other end-user at the time of the purchase or up to 6 months after that purchase, the manufacturer shall provide the digital instructions in paper format free of charge |

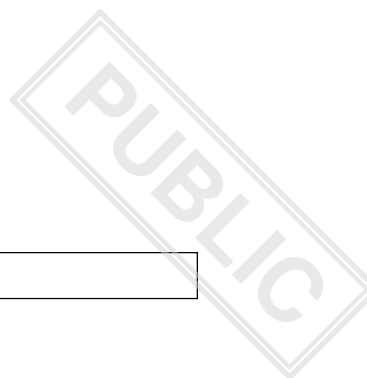


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Amendment 14

Proposal for a regulation Article 21 – paragraph 7 c (new)

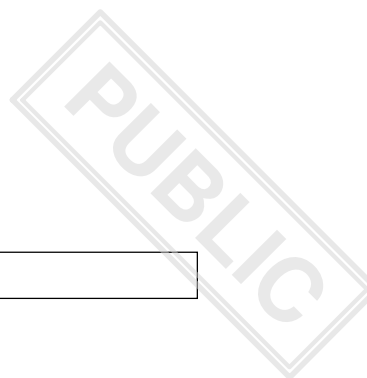
| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|--|--|---|
| | <i>7c. The delegated acts adopted pursuant to Article 4 may specify, in well- justified cases, that certain concise information forming part of the instructions provided for in paragraph 7 of this Article may be provided in paper format.</i> | Amendment to be deleted in view of the proposed modifications in paragraphs 7, 7a and 7b above. |



7. NEW OBLIGATION FOR MANUFACTURERS

Amendment 15 Proposal for a regulation Article 21 – paragraph 8 a (new)

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|--|---|---|
| | <p><i>8a. Manufacturers shall establish publicly available communication channels such as a telephone number, electronic address or dedicated section of their website, taking into account the accessibility needs for persons with disabilities, in order to allow end-users to submit complaints or concerns regarding the potential non-conformity of products.</i></p> <p><i>Manufacturers shall take appropriate measures when they consider that there is a case of non-compliance with the requirements set out in this Regulation, and inform market surveillance authorities.</i></p> <p><i>Manufacturers shall keep a register of complaints and concerns only as long as it is necessary for the purpose of this Regulation and make it available upon request from a market surveillance authority.</i></p> | <p>We generally support this amendment, but we suggest to delete last sentence:</p> <p><i>“Manufacturers shall keep a register of complaints and concerns only as long as it is necessary for the purpose of this Regulation and make it available upon request from a market surveillance authority.”</i></p> <p>Indeed, this provision introduces an additional burden on companies which cannot be verified by national market surveillance authorities.</p> |



8. SELF-REGULATION MEASURES

Amendment 16

Proposal for a regulation Article 18 – paragraph 1

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|--|---|---|
| 1. Two or more economic operators may submit a self-regulation measure establishing ecodesign requirements for products to the Commission as an alternative to a delegated act adopted pursuant to Article 4. Those operators shall provide evidence that the criteria referred to in paragraph 3, points (a) to (e), are fulfilled. With respect to paragraph 3, point (a), that evidence shall consist of a structured technical, environmental and economic analysis, justifying the ecodesign requirements and objectives of the self-regulation measure, and assessing the impacts of the ecodesign requirements set in that self-regulation measure. | 1. Two or more economic operators may submit a self-regulation measure establishing ecodesign requirements for products to the Commission as an alternative to a delegated act adopted pursuant to Article 4, <i>if the products are not included in the working plan</i> . Those operators shall provide evidence that the criteria referred to in paragraph 3, points (a) to (e), are fulfilled. With respect to paragraph 3, point (a), that evidence shall consist of a structured technical, environmental and economic analysis, justifying the ecodesign requirements and objectives of the self-regulation measure, and assessing the impacts of the ecodesign requirements set in that self-regulation measure. | We do not support this amendment because the products included in the working plan are the ones for which it is more likely to have a proposed self-regulation measure. Self-regulation measures are often yet implemented for products that will be probably inserted in priority groups (e.g detergents). In addition, the inclusion of a product in the working plan does not guarantee the adoption of the delegated act. We do not see the reason for this restriction. |

Amendment 17

Proposal for a regulation



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Article 18 – paragraph 2 – subparagraph 1 – point d a (new)

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
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| | <i>(da) rules on the consequences of thenon-compliance of a signatory;</i> | We agree. |

Amendment 18

Proposal for a regulation

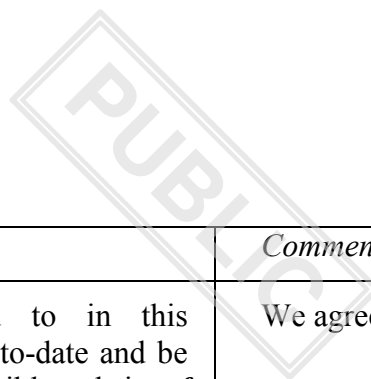
Article 18 – paragraph 2 – subparagraph 1 – point d b (new)

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|--|--|--------------------|
| | <i>(db) an explanation as to how the self- regulation measure submitted pursuant to paragraph 1 improves the environmental sustainability of products in line with the objectives of this Regulation and ensures the free movement in the internal market more quickly or at a lesser expense than a delegated act adopted pursuant to Article 4.</i> | We agree. |

Amendment 19

Proposal for a regulation

Article 18 – paragraph 2 – subparagraph 2



| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|---|---|--------------------|
| The information referred to in this paragraph shall be kept up-to-date and be available on a publicly accessible website. | The information referred to in this paragraph shall be kept up-to-date and be available on a publicly accessible website <i>of the Commission. The economic operators shall notify without delay the Commission of any changes to the self-regulation measure, in particular any changes to the signatories.</i> | We agree. |

Amendment 20

Proposal for a regulation

Article 18 – paragraph 3 – subparagraph 1 – introductory part

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|--|--|--------------------|
| 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: | The Commission shall assess the proposed self-regulation measure, and, where necessary, shall seek scientific advice from Union decentralised agencies. <i>The Commission shall also consult the Ecodesign forum on the self-regulation measure submitted pursuant to paragraph 1.</i> 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: | We agree. |



Amendment 21

Proposal for a regulation Article 18 – paragraph 4

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|---|---|--------------------|
| 4. The Commission may at any point in time request the signatories of a self-regulation measure to submit a revised and updated version of that measure in view of relevant market or technological developments within the product group concerned or where it has reason to believe that the criteria set out in paragraph 3 are no longer fulfilled. | 4. The Commission may at any point in time request the signatories of a self-regulation measure to submit a revised and updated version of that measure in view of relevant market or technological developments within the product group concerned or where it has reason to believe that the criteria set out in paragraph 3 are no longer fulfilled. <i>The signatories shall submit a revised and updated version of that measure within three months of the request made by the Commission.</i> | We agree. |

Amendment 22

Proposal for a regulation Article 18 – paragraph 5

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
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| <p>5. Once a self-regulation measure has been listed in <i>an implementing</i> act adopted pursuant to paragraph 3, second subparagraph, the signatories of that measure shall report to the Commission, at regular intervals set out in that <i>implementing</i> act, on the progress towards achieving the objectives of the self-regulation measures and to demonstrate that the criteria set in paragraph 3, points (a) to (e), remain fulfilled. <i>Those</i> reports shall <i>also</i> be made available on a publicly accessible website.</p> | <p>5. Once a self-regulation measure has been listed in <i>a delegated</i> act adopted pursuant to paragraph 3, second subparagraph, the signatories of that measure shall report to the Commission, at regular intervals set out in that <i>delegated</i> act, on the progress towards achieving the objectives of the self-regulation measures and to demonstrate that the criteria set in paragraph 3, points (a) to (e), remain fulfilled. <i>Where a signatory does not comply with the requirements of the self-regulation measure, it shall take corrective action. The independent inspector shall notify the Commission of the lack of compliance of a signatory. Progress reports, including compliance reports made by the independent inspector, and notifications about lack of compliance and corresponding corrective action</i> shall be made available on a publicly accessible website <i>of the Commission</i>.</p> | <p>We agree, a part from the transformation of implementing acts in delegated acts. <u>The list of self-regulation measures should be adopted with an implementing act as currently established under the GA adopted by the Council.</u></p> |
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9. REPARABILITY

Amendment 23

Proposal for a regulation

Article 4 – paragraph 3 – point c a (new)



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| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
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| | <i>(ca) specifying the methodology to assess the reparability of a product, define the classes of performance to be displayed by the reparability score, and define the product categories to which score shall apply.</i> | <p>We have some concerns over this and the amendments on Article 7 par. 4a(new).</p> <p>For some products the reparability score has already been set (i.e. tablet, domestic dryers) under the energy labelling legislation.</p> <p>the new provision in Article 5 seems to be sufficient to regulate reparability. What is the goal of the Parliament? To include everything under the ecodesign regulation? To have two labels? How does this amendment relate to Article 14(3) of the original proposal?</p> |

Amendment 24
Proposal for a regulation
Article 7 – paragraph 4 a (new)

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|--|---|--|
| | <i>4a. Where appropriate, based on the evidence provided in the impact assessment referred to in Article 5(4), point (b), information requirements on the performance of the product related to reparability shall take the form of a reparability score to enable</i> | <p>If a method is developed to define a score for reparability, there should be even others linked to the extension of product lifespan, i.e. score for robustness (mentioned in the amendment proposed), easy maintainability, easy upgradability, easy adaptability, easy reparability, easy</p> |



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| | <p><i>end-users to easily compare the performance of products. The methodology to assess the reparability of products shall be developed according to the specificities of product categories and specified in the relevant delegated act adopted under Article 4. That delegated act shall also define the content and layout of the label containing the reparability score, as appropriate, in accordance with Article 14, using clear and easy-to-understand language and pictograms, to avoid overload of information for consumers.</i></p> | <p>reusability, easy remanufacturing).</p> |
| | <p><i>When available, the methodology to assess the reparability of products may include other relevant aspects of a product, such as durability, reliability or robustness, and be further specified in the relevant delegated act taking into account specificities of the product category.</i></p> | |



10. OBLIGATIONS OF ONLINE MARKETPLACES

Amendment 25

Proposal for a regulation Article 29 – title

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|---|------------------------------------|--------------------|
| Obligations of online marketplaces <i>and online search engines</i> | Obligations of online marketplaces | No comment. |

Amendment 26

Proposal for a regulation

Article 29 – paragraph 1 – introductory part

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|--|---|--|
| 1. <i>The cooperation referred to in Article 7(2) of Regulation (EU) 2019/1020 shall, with regard to online marketplaces and for the purposes of this Regulation, include in particular:</i> | 1. Online marketplaces <i>shall cooperate</i> , for the purposes of this Regulation, <i>with the market surveillance authorities, at the request of the market surveillance authorities and in specific cases, to facilitate any action taken to eliminate or, if that is not possible, to mitigate the risks presented by a product that is or was offered for sale online through their services.</i> | <p>We are scrutinizing these amendments also with regard to their consistency with the new DSA recently entered into force.</p> <p>Regarding online platforms, it seems to us that the deletion of some paragraphs goes to weaken the obligations of these operators.</p> <p>It should be remembered that through these types of platforms many non-compliant products are placed on the market. In addition, products are often sold to</p> |



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| | | individuals who would not be eligible to purchase them. |
| <i>(a) cooperating to ensure effective market surveillance measures, including by abstaining from putting in place obstacles to such measures;</i> | | |
| <i>(b) informing the market surveillance authorities of any action taken;</i> | | |
| <i>(c) establishing a regular and structured exchange of information on offers that have been removed on the basis of this Article by online marketplaces;</i> | | |
| <i>(d) allowing online tools operated by market surveillance authorities to access their interfaces in order to identify non-compliant products;</i> | | |
| <i>(e) upon request of the market surveillance authorities, when online marketplaces or online sellers have put in place technical obstacles to the extraction of data from their online interfaces, allowing those authorities to scrape such data for product compliance purposes based on the identification parameters provided by the requesting market surveillance authorities.</i> | | |



Amendment 27
Proposal for a regulation
Article 29 – paragraph 2 – subparagraph 1

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|---|------------------|---|
| <i>For the purpose of the requirements of [Article 22(7)] of Regulation (EU) .../... [the Digital Services Act], online marketplaces shall design and organise their online interface in a way that enables dealers to fulfil their obligations set out in Article 25 and allows economic operators to fulfil their obligations under Article 30(1) of this Regulation.</i> | <i>deleted</i> | Why this paragraph has been deleted? It seems to us that the deletion of this paragraph goes to weaken the obligations of these operators. |

Amendment 28
Proposal for a regulation
Article 29 – paragraph 2 – subparagraph 2

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|---|------------------|---|
| <i>The information shall be able to be provided for each product offered and displayed or otherwise made easily accessible by customers on the product listing.</i> | <i>deleted</i> | Why this paragraph has been deleted? It seems to us that the deletion of this paragraph goes to weaken the obligations of these operators. |



Amendment 29
Proposal for a regulation
Article 29 – paragraph 2 – subparagraph 3

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
|---|------------------|--|
| <i>In particular, where delegated acts adopted pursuant to Article 4 require online visual advertising for certain products to be accompanied by online electronic information to be displayed on the display mechanism, online marketplaces shall enable dealers to show it. This obligation shall also apply to online search engines and other online platforms that provide online visual advertising for the products concerned.</i> | <i>deleted</i> | <p>Why this paragraph has been deleted?</p> <p>It seems to us that the deletion of this paragraph goes to weaken the obligations of these operators.</p> |

Amendment 30
Proposal for a regulation
Article 29 – paragraph 3

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
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| <p>3. As far as powers conferred by Member States in accordance with Article 14 of Regulation (EU) 2019/1020 are concerned, Member States shall confer on their market surveillance authorities the power, <i>for all products covered by a relevant delegated act adopted pursuant to Article 4, to order an online marketplace to remove</i> specific <i>illegal</i> content referring to a non-compliant product <i>from its</i> online interface, disable access to it or display an explicit warning to end-users when they access it. Such orders shall comply with [Article 8(1)] of Regulation (EU) .../... [the Digital Services Act].</p> | <p>3. As far as powers conferred by Member States in accordance with Article 14 of Regulation (EU) 2019/1020 are concerned, Member States shall confer on their market surveillance authorities the power, <i>as regards</i> specific content referring to <i>an offer of</i> a non-compliant product <i>with the requirements of this Regulation, to issue an order requiring the providers of online marketplaces to remove such content from their</i> online interface, disable access to it or display an explicit warning to end-users when they access it. Such orders shall comply with [Article 8(1)] of Regulation (EU) .../... [the Digital Services Act].</p> | <p>Both texts are fine.</p> |
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Amendment 31

Proposal for a regulation

Article 29 – paragraph 5 – subparagraph 1

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| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
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| Online marketplaces shall establish a single contact point allowing for direct communication with Member States' market surveillance authorities in relation to compliance with this Regulation and the delegated acts adopted pursuant to Article 4. | Online marketplaces shall establish <i>or appoint an existing contact point as</i> a single contact point allowing for direct communication with Member States' market surveillance authorities in relation to compliance with this Regulation and the delegated acts adopted pursuant to Article 4 <i>and enable consumers to communicate directly and rapidly with them in relation to ecodesign requirements.</i> | We agree with the content of the proposed amendment. |
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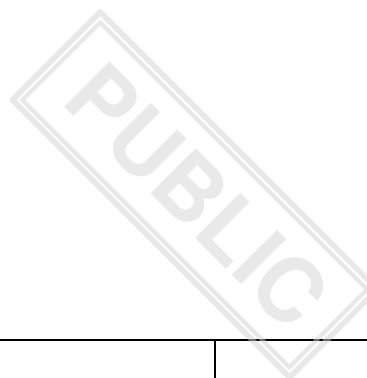
Amendment 32

Proposal for a regulation

Article 29 – paragraph 5 – subparagraph 2

| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
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| This contact point may be the same contact point as the one referred to in [Article 20(1)] of Regulation (EU) .../... [the General Product Safety Regulation] or [Article 10(1)] of Regulation (EU)/... <i>[the Digital Services Act]</i> . | This contact point may be the same contact point as the one referred to in [Article 20(1)] of Regulation (EU) .../... [the General Product Safety Regulation] or Article <i>11</i> of Regulation (EU) <i>2022/2065</i> . | No comment. |

11. PROHIBITION OF DESTRUCTION OF UNSOLD CONSUMER GOODS



Amendment 33
Proposal for a regulation

| Article 20 – paragraph 1 – subparagraph 1 – point a | | |
|---|---|--|
| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
| (a) the number of unsold consumer products discarded per year, differentiated per type or category of products; | (a) the number and percentage of unsold consumer products discarded per year, differentiated per type or category of products; | The benchmark for calculating the percentage should be clarified. We consider the Council's proposal to be preferable insofar as it refers not to the percentage, but to the weight of unsold products. Possibly without indicating the number, as this would make it possible to obtain sensitive information on the market shares of the producers. |

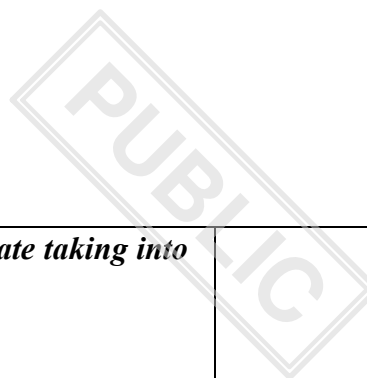
Amendment 34
Proposal for a regulationArticle 20 a (new)

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| <i>Text proposed by the Commission</i> | <i>Amendment</i> | <i>Commenti IT</i> |
| | Article 20a | |



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| | <p><i>1. One year after . [insert the date of the entry into force of this Regulation], the destruction of unsold consumer products by economic operators shall be prohibited for the following product categories:</i></p> | <p>We do not support the introduction of a direct ban, both general and specific for certain product's groups, in the regulation as already stressed in several occasion. The amending proposal appears disproportionate even in the proposed timing as well as unreasonably penalizing for the two product categories identified.</p> <p>Reference to specific product's groups could be included, as proposed by Italy, in a recital as priority groups that the Commission will take into consideration for the impact assessment under the current Article 20c of the Council GA.</p> <p><u>Nevertheless, we support the EP proposal to exclude all the SMEs from the application of this Article.</u></p> |
| | <p><i>(a) textiles and footwear;</i></p> | |
| | <p><i>(b) electrical and electronic equipment.</i></p> | |
| | <p><i>2. The Commission shall be empowered to adopt delegated acts in accordance with Article 66 to supplement this Regulation to set out certain exemptions from the prohibitions referred to in paragraph</i></p> | |



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| | <i>1 where it is appropriate taking into account the following:</i> | |
| | <i>(a) health, hygiene and safety concerns;</i> | |
| | <i>(b) damage to products that cannot be repaired in a cost-effective manner as a result of their handling or detected after a product has been returned;</i> | |
| | <i>(c) refusal of products for donation, preparing for re-use or remanufacturing;</i> | |



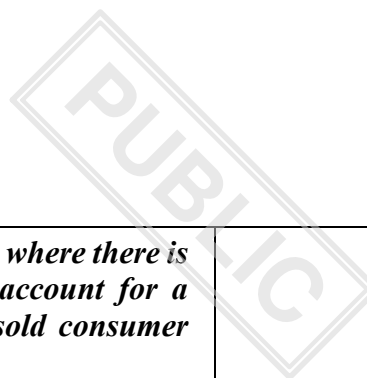
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| | (d) counterfeit products. | |
| | 3. Where unsold products are destroyed under an exemption referred to in paragraph 2, the responsible economic operator shall disclose on a freely accessible website or otherwise make publicly available: | |
| | (a) the number and percentage of unsold products destroyed; | |
| | (b) the reasons for the destruction of the unsold products, referring to the applicable exemption; | |



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| | <i>(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.</i> | |
| | <i>The details of and format for the disclosure of information provided for in the implementing act adopted pursuant to Article 20(2) shall apply to the information to be disclosed pursuant to this paragraph, unless the delegated act adopted pursuant to paragraph 2 provides otherwise.</i> | |
| | <i>4. This Article shall not apply to SMEs.</i> | |
| | <i>However, the Commission may, in the delegated acts adopted pursuant to paragraph 2, provide that the prohibition of the destruction of unsold consumer products referred to in paragraph 1 or the disclosure obligation referred to in paragraph 3 shall apply to:</i> | |



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| | <i>(a) medium-sized enterprises, where there is sufficient evidence that they account for a substantial proportion of unsold consumer products being destroyed;</i> | |
| | <i>(b) micro-enterprises and small or medium-sized enterprises, where there is sufficient evidence that they may be used to circumvent the prohibition on the destruction of unsold consumer products referred to in paragraph 1 or the disclosure obligation referred to in paragraph 3.</i> | |