

Towards an EU Product Policy Framework contributing to the Circular Economy EEB proposals for discussion at the EU Circular Economy Stakeholder Conference

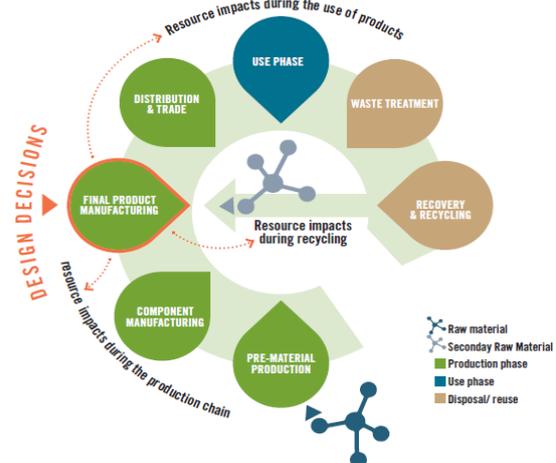
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Short introduction: Where do we stand?

In general, all three EU institutions, the European Commission, Parliament and Council, emphasized the critical role and added value of making better use of product policy instruments as an essential part of the EU agenda to promote more sustainable consumption and production as well as a resource efficient circular economy. Through the EU action plan for the Circular Economy, dated 2 December 2015 – COM(2015) 614/2, the Commission committed itself to examine options for a more coherent policy framework for the different strands of work on EU product policy. It also proposed a broad range of measures notably in the field of ecodesign, extended producer responsibility, green public procurement, consumer rights and eco-labelling, to be implemented by 2019.¹

Through its resolution of 9 July 2015 on resource efficiency: moving towards a circular economy – 2014/2208 (INI) – the European Parliament stressed “the importance of a well-thought-out product policy that increases products’ expected lifetime, durability, reusability and recyclability; points out that the amount of resources used by a product over its lifetime and its reparability, reusability and recyclability are largely determined during the design phase; calls on the Commission to promote a lifecycle-oriented approach in product policies, in particular by establishing harmonised methods for evaluating products’ environmental footprints.”²



Finally, the EU Member States underlined the importance of a coherent product policy framework at European level through their Council Conclusions on the EU action plan for the Circular Economy from 20 June 2016 (10518/16):

The Council “strongly encourages the Commission to ensure coherence, enhancement and effectiveness of existing EU instruments relevant for product policy; (...); stresses the need to ensure that products are designed and produced more sustainably, taking into account their full lifecycle and minimising negative impacts on the environment and on human health; (...); urges the Commission to

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015DC0614>

² <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0266+0+DOC+XML+V0//EN>

include appropriate measures to improve the durability, reparability, reusability, possibilities to use recycled materials, upgradability and recyclability of products in the EU Ecodesign regulations, and other legislation as appropriate, before 2020; invites the Commission to evaluate before the end of 2018 for which product groups, other than energy related, it would be possible to take better into account resource efficiency and impact on the environment and human health, building on experiences from the Ecodesign directive.”³

Legal frameworks need to overlap to address different interfaces in a circular economy

What we can conclude from these policy statements is that Life-Cycle Thinking is already widely accepted as a guiding principle for designing the EU Product Policy Framework promoting a Circular Economy approach. In fact, the Commission uses different analytical tools all based on some sort of Life-Cycle Assessment (LCA) when preparing and justifying interventions through existing instruments such as EU Ecodesign regulations, legal rules for Extended Producer Responsibility (EPR) Schemes, Green Public Procurement (GPP) or EU Ecolabel measures.

Horizontal approaches

- EU Chemicals legislation
- EU Product legislation
- EU Consumer legislation
- EU Waste legislation

How to address several interfaces in order to cover multiple life-cycles in a circular economy?

To be complemented by sector approaches as appropriate

- Construction and buildings
- Mobility
- Food
- Electrical & electronic appliances
- ...

How to balance prescriptive regulations with incentives for companies to go beyond the legal minimum requirements/ business as usual?

Nonetheless, the current legal frameworks have been developed in a rather linear way, assuming that products would in general only pass through one single life-cycle: EU Chemicals legislation regulates which substances are allowed to be incorporated into production processes. EU Product Policies set requirements to be fulfilled when putting them on the market, including what type of information e.g. on the use phase and

end-of-life needs to be made available. EU Consumer legislation defines rules for the protection of the user and EU Waste legislation spells out the specific obligations for different actors at the end-of-life.

In a circular economy it becomes increasingly important how these frameworks interact in a consistent way and how they can still function with multiple users sharing products, when repair and reuse become more widespread, if refurbishment, remanufacturing and recycling practices ensure a second, third or fourth life-cycle for a certain product. Therefore, overlaps between legal frameworks are inevitable because different actors along the value chain need to be addressed at several times of the multiple life-cycles of a product. In addition, horizontal legislations might have to be complemented by sector specific approaches to promote a circular economy in a more targeted way.

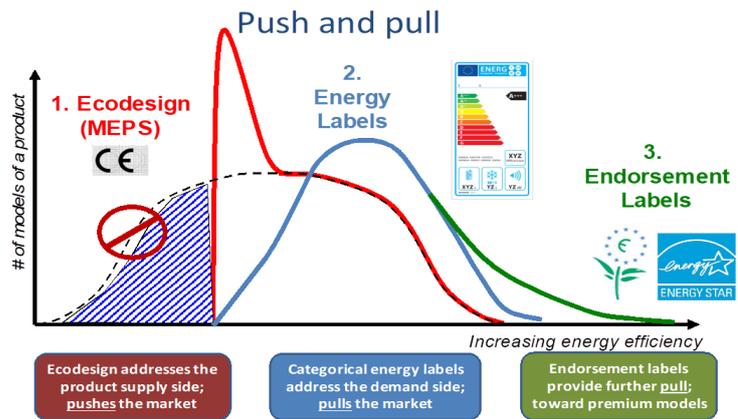
A successful push & pull mechanism for improving energy efficiency of appliances

A more coherent approach has already been implemented in recent years throughout the EU product policy instruments related to energy efficiency. Therefore, it may be time to extend this experience beyond energy performance and apply it to the promotion of a resource-efficient circular economy in Europe.

³ <http://data.consilium.europa.eu/doc/document/ST-10518-2016-INIT/en/pdf>

The EU Ecodesign Directive sets mandatory energy performance standards (MEPS) to be fulfilled by all products being placed on the European single market.

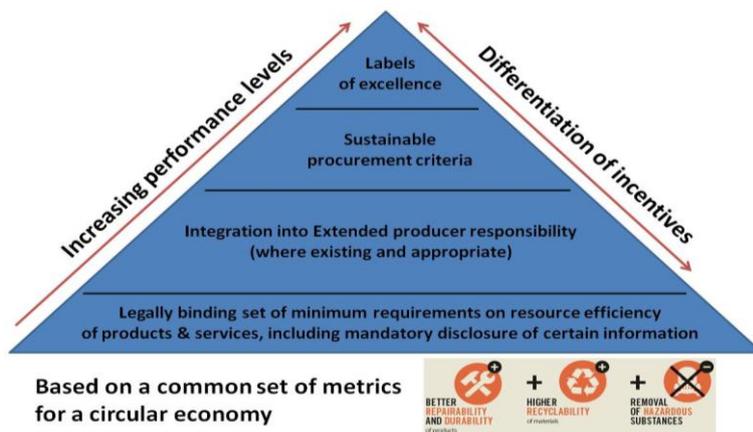
The energy label differentiates energy efficiency performance classes. Some EU member states provide economic incentives to buy energy efficient appliances that are only rated by the top classes, e.g. through eco-cheques.



The EU Energy Efficiency Directive requires central governments to procure only products of the highest efficiency class. Top performing products are also awarded by the multi-criteria EU Ecolabel (or other labels of excellence) and can be easily recognised by consumers. Multi-criteria labels of excellence integrate energy efficiency when appropriate but already go beyond energy dimension. How can we make a similar policy approach work for the Circular Economy?

An integrated approach towards performance in a Circular Economy

The EEB believes that a more integrated approach should start by aligning the criteria and standards used for measurement and verification of environmental performances for products and services as they are currently used to comply with or qualify for different policy tools.



The pyramid graph distinguishes between 4 different levels of performance of products and services in a circular economy linked to different EU instruments. Criteria need to become more demanding for the instruments higher up in the pyramid. Additional economic incentives in form of reward or penalty schemes could be applied along this performance scale to accelerate further market transformation.

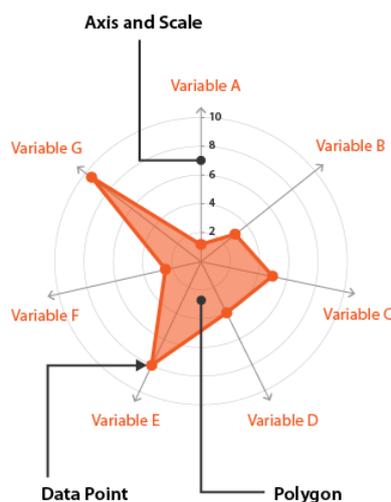
EU Product Policy: How to improve it?

The main difference and challenge compared to the regulatory situation today would be that all the policy instruments referred to in the graph above would be based on a common set of performance criteria and calculation/ measurement methodology. This would streamline performance declaration and verification, from the very basic minimum requirements to allow the placing of a product or service on the market to the really best-in-class products and services. As a consequence, administrative burden for both producers and market surveillance authorities could be reduced.

To develop such an integrated approach, the EU does not have to start from scratch. Environmental impacts of many product categories have already been investigated through lifecycle assessment (LCA) studies and different sets of criteria and requirements have been derived from the results. The ongoing definition of standard methodologies to assess durability, reparability and recyclability, ability to remanufacture and recycled or reused content of energy-related products under the EU Ecodesign Directive could further inform the system about priority parameters to be taken into account to promote a circular economy.

Relevant parts of this new basic set of compliance criteria could then also be adapted with a slightly higher performance level to modulate fees of Extended Producer Responsibility (EPR) schemes or with even more stringent requirements allow e.g. for a lower Value Added Tax (VAT) rate, including where no EPR schemes exist. Towards the top of the performance pyramid, intended for use in GPP or Eco-labels, we might have to complement the basic set of criteria with additional and more advanced sustainability criteria in order to differentiate those products and services more clearly from the rest of the market.

Challenges of a multi-criteria approach



The main challenge of such a multi-criteria approach will be that there are usually different pathways towards optimising performance of products and services in a circular economy which need to be taken into account in the underlying metrics. This situation could be expressed for example in form of a spider diagram as the one displayed here. Applying static criteria just imposing one specific circular solution (e.g. expressed as variable G in the graph) without recognizing improvements on other variables delivering comparable benefits contributing to a circular economy would not be appropriate for designing the future EU Product Policy Framework. Suitable mechanisms such as well designed point systems could provide more flexibility while avoiding free-riders through strict cut off-criteria.

Therefore, in our view the analytical framework for future EU product policy should at least cover the same building blocks from a circular economy perspective for different instruments, such as:

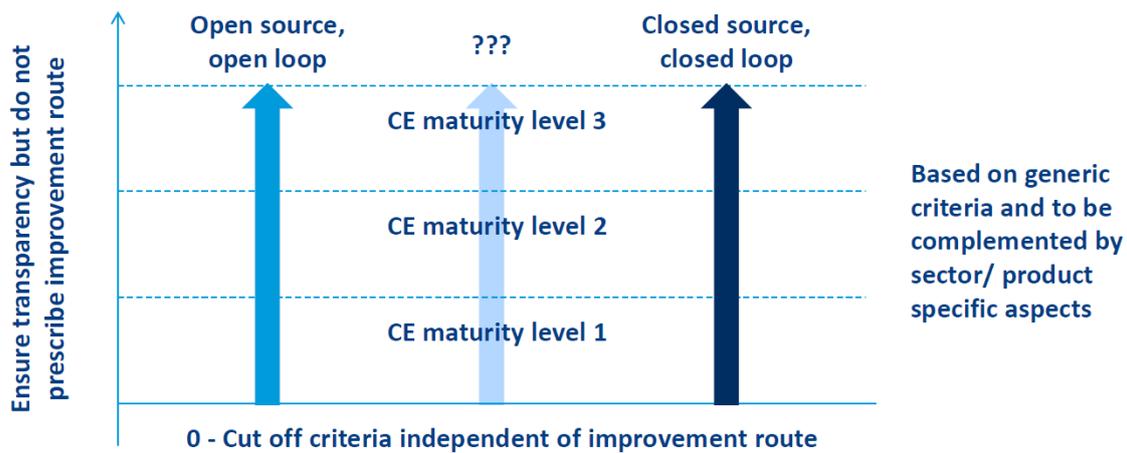
- **Better material utilisation** (e.g. non-toxic, reused & recycled content)
- **Extended product lifetime** (e.g. maintenance, repair, upgrades)
- **Shared use / rental or lease** (e.g. increasing usage intensity)
- **Value recovery** (e.g. take back, reuse, refurbish, remanufacture)
- **Sustainability check** (e.g. carbon balance, health and safety aspects)

Although not all of the above mentioned aspects can be translated into criteria applicable to all types of policy instruments, we still envision their integration into some sort of Circular Economy rating system. Such an approach would incentivize companies to go beyond compliance with minimum

(regulatory) provisions and allow them to differentiate from their competitors. This would represent the same type of push & pull mechanism like we have today for efficiency of energy-related products but oriented towards an overall reduction of the environmental footprint of our current production and consumption model while avoiding or at least mitigating trade-offs.

The Vision: a Circularity Rating System

How to ensure a level playing field in a Circular Economy (CE)?



How to get there?

Instead of discussing circular economy-related criteria for the same product categories in an isolated manner in different processes set up e.g. for Ecodesign, EPR, GPP or Ecolabel policies, there is a huge potential to create more synergies through re-organising this work. Aligning the analytical framework for circular economy aspects in EU product policies and developing joint mechanism for verification would help to come up with better and more integrated proposals which measures could be implemented under the different policy instruments.

This would also help taking on board circularity considerations that were e.g. rejected as mandatory minimum requirements for putting products on the European single market but could serve as a criterion for modulation of EPR fees or should inform public procurement decisions. Currently, we are repeating the same type of discussions again and again in the different consultation fora without necessarily benefitting from previous conclusions. Proposing a joint set of measures across the different instruments would avoid dropping circular economy relevant criteria just because they were raised in the wrong process.

Therefore, the EEB proposes the following actions to improve the EU Product Policy Framework:

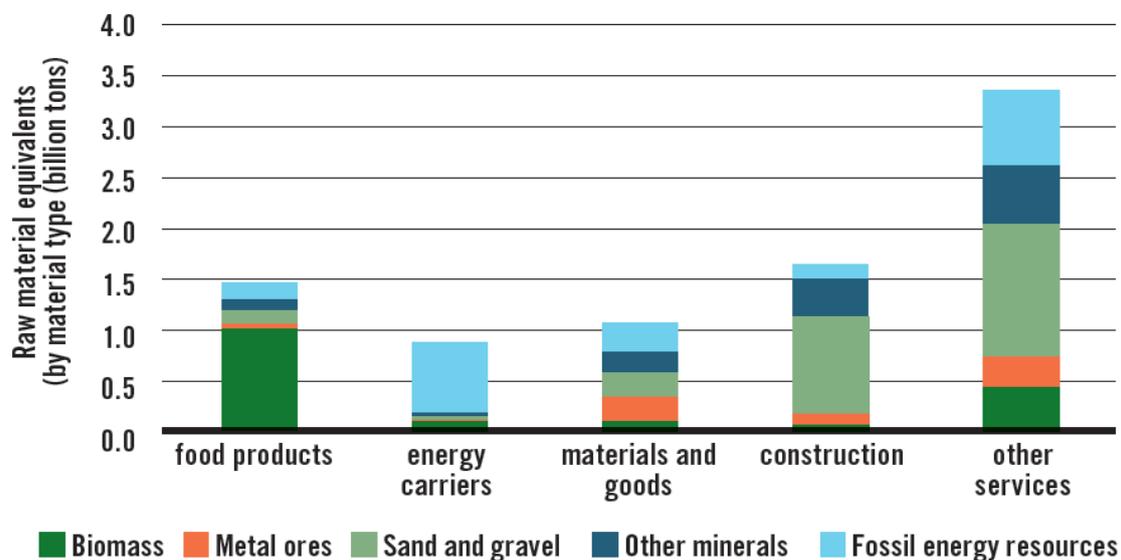
Establish joint preparatory studies & verification systems for different policy instruments

- **Align the different EC work plans** established under different EU legislation, giving the full overview of all preparatory and revision studies coming up for the respective instruments and product categories (Ecodesign, EPR, GPP, Labelling)

- **Harmonise the analysis** of market data, environmental hotspots (PEF plus complementary tools), improvement potential, and life-cycle costs when covering the same product categories
- **Use the same metrics for different policy instruments** but define adequate type of criteria or levels of performances that match with the policy objectives and ambition required for the respective instrument
- **Propose a joint set of measures across the different instruments** that would then be subject to stakeholder consultation, impact assessment and inter-service consultation as well as adoption or scrutiny by Member States and the European Parliament as required

What are priority sectors beyond energy-related products?

As part of the work undertaken on the EU monitoring concept for the transition to a circular economy⁴ and the environmental footprint methodology for organisations and products⁵, more detailed data on material flows of production and consumption in the EU economic area as well as related environmental impacts are available. In 2012, the Raw Material Consumption (RMC) for various fields of use in the EU27 was calculated for the first time. Europe's consumption patterns are summarised in the figure⁶ below. This may in fact still underestimate the real impact, since the RMC methodology does not consider all environmental impacts linked to extraction and manufacturing.



A large number of the product categories that could be addressed through product policy measures are encompassed within the field of 'materials and goods', covering around 13% of Europe's total resource consumption. The use of natural resources in the construction sector is also significant as it includes not only new buildings and streets, but all services connected to real estate. 'Other services' include retail, trade, repair, health, social work, hotels, restaurants, public administration and defence.

⁴ <http://ec.europa.eu/eurostat/web/circular-economy/overview>

⁵ http://ec.europa.eu/environment/eussd/smgp/ef_pilots.htm

⁶ This figure is based on data from Schoer, Weinzettel, Kovanda, Giegrich, Lauwigi for EU27 (2012). A another study on modelling of the economic and environmental impacts of raw material consumption has been prepared for the European Commission: http://ec.europa.eu/environment/enveco/resource_efficiency/pdf/RMC.pdf

This type of analysis could be used as a starting point for further investigation: combined with economic input-output data and environmental footprint information⁷ would help identifying the most relevant product categories that should be covered by EU Product Policies. Therefore, the EEB proposes the following actions to advance the work on performance of non-energy related products in a circular economy:

Develop Ecodesign approaches for non-energy related products and services

- **Commission an impact assessment study** which sectors and product categories not being covered by the EU Ecodesign Directive would benefit the most from minimum requirements on circular economy as requested by the Environmental Council and the European Parliament
- Evaluate possibilities and experiences to **streamline application of horizontal circular economy standards & requirements** to priority sectors as identified in the above-mentioned impact assessment study
- Provide support to **priority sectors to start developing their own circularity rating system** that could be referenced at a later stage in different policy instruments or sector specific legislation
- Kick-start discussions e.g. in the furniture and textiles industries **by setting up piloting schemes with clear governance structures** and investigate how to best link them with information and economic instruments at EU or national level

An EU harmonised and digital Product Information System

When it comes to making available information on products and materials, there are already different pieces of EU legislation that demand for mandatory disclosure of specific information from manufacturers who want to sell their products and services on the European single market. These include the implementing measures under the Ecodesign and Energy Labelling Directives, Article 15 WEEE (Waste Electrical and Electronic Equipment) Directive and Article 33 of the REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) Regulation. An EU harmonised product information system would go one step further in combining these single bits of different environmental information into a standard digital format and making them more easily accessible for distinctly defined target groups.

Different stakeholders agreed on the basic idea at the European Resource Efficiency Platform (EREP) which sent policy recommendations to the European Commission in March 2014 stating: "Inadequate business-to-business information on what resources a product contains and how it can be repaired or recycled is hindering resource efficiency. To tackle this barrier, the possible use of a 'product passport', such as an Environmental Product Declaration, should be explored that would make such information



⁷ For more details investigate the use of tools such as presented here: <https://environmentalfootprints.org/>

easily accessible and applicable to the supply chain, thus facilitating efficient material flows and encouraging the creation of value in the circular economy.”

An EU harmonised product information system should be understood first as an approach to centralise digital access and optimise the reporting and use of circular economy related information. The initial focus should be on information companies are legally required to produce anyway. In combination with the use of product tags linking to more detailed online information the information could be



made more easily accessible and usable in the supply chain. This should not imply necessarily creating a rather static large centralised database. Instead a dynamic, real-time digital information sharing system should not prevent taking up additional information on the same product at a later stage, possibly also on a voluntary basis to start with. Where a relevant EU database has already been established, such as under the Energy Labelling Directive, circular economy related information could be added or linked, of course.

Obligations for manufacturers to provide reliable information must be put in perspective of the expected benefits. For example, leveraging and easing business activities along different value chains, supporting information schemes for procurers and end-consumers as well as easing verification and market surveillance. Such information must be based on clear standards to be meaningful, measurable and enforceable.

National pilots and collaboration between member states could pave the way to a practical European solution. Standardising the technical and environmental information on product properties relevant to facilitate a circular economy could build on the experiences with existing voluntary schemes, such as cradle-to-cradle® certification, environmental product declarations, chemicals or recycling passports. Establishing an EU harmonised product information system would reduce administrative costs for business according to the principle of ‘report once and use several times’.

When deciding if certain information should be made public, industry usually pleads for confidentiality. We believe policymakers must balance open access with the need for commercial sensitivity if we want to stimulate competition between manufacturers with regards the performances of their products and develop repair and recycling services and new business models, such as leasing and sharing platforms. The solution could be found in defining distinct stages of access levels for:

- Market surveillance authorities enforcing the law;
- Professional and qualified service providers for repair, maintenance, refurbishment, remanufacturing and/or recycling;
- Public procurement departments checking compliance with their GPP criteria, and
- Consumer organisations or private consumers to guide their purchasing decisions.



To summarize why the EEB thinks we need to go beyond ratings or labels on circular performance:

- **Increase transparency on environmental performance and circularity potential of products** available on the EU single market

- Trigger a sound competition on best solutions through **direct access to circular economy related information**
- Support and/ or complement existing labelling schemes and legal requirements for information disclosure with digital tools for **enhancing green purchasing and procurement power**
- **Centralise access to environmental product specifications** and **design interfaces for different target groups** without necessarily having to transfer all the data in a static way to one digital place
- **Ensure relevance, timeliness, compatibility, and verification** of the information provided to the digital system & improve market surveillance for checking compliance where relevant

Linking supply and demand levers more effectively

This paper presents mainly our EEB proposals how to improve the existing EU Product Policy Framework and outlines new ideas or recommendations how to promote better 'circularity performance' of products and services on the European single market. The focus is deliberately restricted to product policy measures in the context of ongoing analysis leading to a Communication by the European Commission end of 2018, although we clearly acknowledge that this is only one dimension among others for promoting the transition to a circular economy. Complementary approaches targeting the demand side and innovative business models are also necessary. Nevertheless, the EEB strongly believes that the above-mentioned proposals to improve the EU product policy framework can make a major contribution.

While supply levers usually need to be defined at EU level as part of single market policies, demand side oriented policies such as information schemes or economic incentives often fall into national competencies. If a basis set of circular economy criteria is streamlined through relevant sectors and product categories, EU Member States will be able e.g. to apply a reduced tax rate or lower fees for extended producer responsibility schemes to reward frontrunners in a circular economy. Existing eco-labelling schemes or green public procurement criteria at national level could easily adapt and incorporate those criteria according to the national situation and needs. For products covered by an EU Energy Label or an Ecodesign implementing measure, a circularity rating system could eventually be integrated directly for the whole EU market.

To elaborate further how such an approach could work for non-energy related products, the EEB commissioned a case study prepared by Eunomia to investigate the circular economy opportunities in the EU Furniture Sector⁸. It calculated benefits implementing integrated policy packages that would address the most relevant levers both on the supply side (i.e. ensuring return of items and creating durable, refurbished and remanufactured items) and the demand side (creating demand for these products). It seems to be paramount to us to increase the overall leverage of this approach across EU Members and different policy instruments by focusing on the most relevant circular economy potentials in the respective sectors.

⁸ For more information, you can download the full report here: http://eeb.org/wp-admin/admin-ajax.php?juwpfisadmin=false&action=wpfd&task=file.download&wpfd_category_id=80&wpfd_file_id=51266&token=fc68d202011e2e832033b4fec11127c3&preview=1

Summary: EEB proposals for a more coherent EU Product Policy Framework contributing to the Circular Economy

1. Currently there is a patchwork of circular economy related criteria across various policy instruments (particularly when all national initiatives and EU-wide schemes are taken into account) which is confusing and challenging both for business and consumers. Therefore, it would be desirable to **develop an agreed common set of criteria on performance of products and services in a circular economy which could be deployed alongside (rather than substituting) existing instruments**, such as for Ecodesign minimum requirements, modulation of EPR fees, GPP Criteria and Eco-Labeling.
2. The next step would be to **harmonise the analysis of market data, environmental hot-spots (using PEF plus complementary tools), improvement potentials, and life-cycle costs through joint preparatory studies covering the same product categories**. While using the same metrics for different policy instruments, it is necessary to define adequate type of criteria or levels of performances that match with the policy objectives and ambition required for the respective instrument. Instead of doing this in separate processes as today, a set of potential measures across the different instruments should be consulted together.
3. It is time to launch **an impact assessment study to identify which sectors and product categories not being covered by the EU Ecodesign Directive would benefit the most from minimum requirements on circular economy** as requested by both the Environmental Council and the European Parliament. In addition, support to priority sectors could help to kick-off developing their own circularity rating system that could be referenced at a later stage in different policy instruments or sector specific legislation.
4. **An EU harmonised product information system would aim at combining different pieces of information relevant for performance in a circular economy into a standard digital format**. The approach could integrate both voluntary and legally required information (e.g. from Chemicals, Product and Waste legislation) to reduce administrative costs for business ('report once and use several times'). A dynamic, real-time information sharing system should not prevent taking up additional information over various product life-cycles.
5. While **supply levers** usually need to be defined at EU level as part of single market policies, **demand side measures** such as information schemes or economic incentives often fall into national competencies. If circular economy criteria are streamlined through relevant sectors or product categories, EU Member States will be able e.g. to apply a reduced tax rate or lower fees for extended producer responsibility schemes to reward circular economy frontrunners.

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<http://eeb.org/work-areas/resource-efficiency/product-policy/>

<http://makeresourcescount.eu/>