

EEB response draft prioritisation Ecodesign for Sustainable Products Regulation

12th May 2023

Key messages

- **Prioritisation** of products should be based primarily on their environmental footprint, utilising consumption and material footprint as headline indicators.
- **Product environmental footprint** data should be used, where available, for close investigation and always complimented with information on broader environmental impacts (such as biodiversity loss or waste).
- **Horizontal requirements** present several advantages, including a broader scope to address otherwise unregulated products. Measures should build on existing experience (e.g. for standby and the common charger).
- **Intermediate products** for high impact sectors should be a high priority to decarbonise industrial products, address a range of products, support information exchange in supply chains and create a level playing field.
- **Chemicals** represent an important priority intermediary product group due to their high impact, pervasive use in end-use products, and clear data gaps on their impacts. Chemicals legislation cannot substitute work in ecodesign due to its exclusive focus on chemical risks.
- **Cement** is notably absent from the prioritisation despite having amongst the largest footprint of any intermediary product group. The approach expected in the construction products regulation is unlikely to decarbonise this product, so a credible fall-back option must be clarified.
- **Digital and ICT products** are unnecessarily excluded from the prioritisation. Although they are energy-using products, this quickly evolving sector should be considered from the perspective of resource use and is well suited to horizontal material efficiency requirements.
- **Textiles** should be considered as both intermediaries (in the form of fibers, yarns and fabrics) and end-use products in order to avoid slow progress on diverse product groups. Additionally, attention must be given to reducing output in the sector rather than simply a focus on recycled content and technical durability.

Products should be prioritised primarily on their environmental footprint

The prioritisation of products within the ESPR should be based primarily on the potential for environmental savings which can be achieved through the development of a legislative act.

In the existing ecodesign directive, products were prioritised according to the potential for energy savings through efficiency gains. Although in the latest working plans, consideration was also given to the material efficiency savings which were converted into energy equivalents to allow for their comparability. Given the broader focus of the Ecodesign for Sustainable Products Regulation, a much broader set of environmental impacts should be considered. Furthermore, considering the limited resources which the Commission and member state authorities have to both design and implement ecodesign requirements, a strong focus should be on delivering impact in environmental savings.

To provide a first screening of the environmental impact of different product categories we would support the use of two metrics, which we believe provide a robust proxy for the overall environmental savings potential:

- Consumption Footprint ¹
- Material Footprint ²

Material footprint provides an estimate of their resource intensity, which in turn is good proxy for the impact of consumption on the environment.³ Consumption footprint can strongly compliment this indicator as a measure of impacts based on LCA data.

An initial ranking of product groups or groups of products according to these two metrics would give a first basis to long list priority products. Where available product level full life cycle assessment results on specific products could be used to provide a more precise picture of a product groups impacts and hotspots. We would prioritise, where possible, the use of Product Environmental Footprint data based on Category Rules, due to the stricter data requirements and quality that such assessments deliver. However, we also recognise that PEFCRs and studies may not be available for relevant product groups so data from different sources

¹ <https://eplca.jrc.ec.europa.eu/sustainableConsumption.html>

² https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Material_flow_accounts_statistics_-_material_footprints

³ Steinmann et all (2017) <https://pubs.acs.org/doi/10.1021/acs.est.7b00698#>

may be used for the purpose of prioritisation. Novel tools such as automated LCAs could be considered for the purpose of prioritisation.

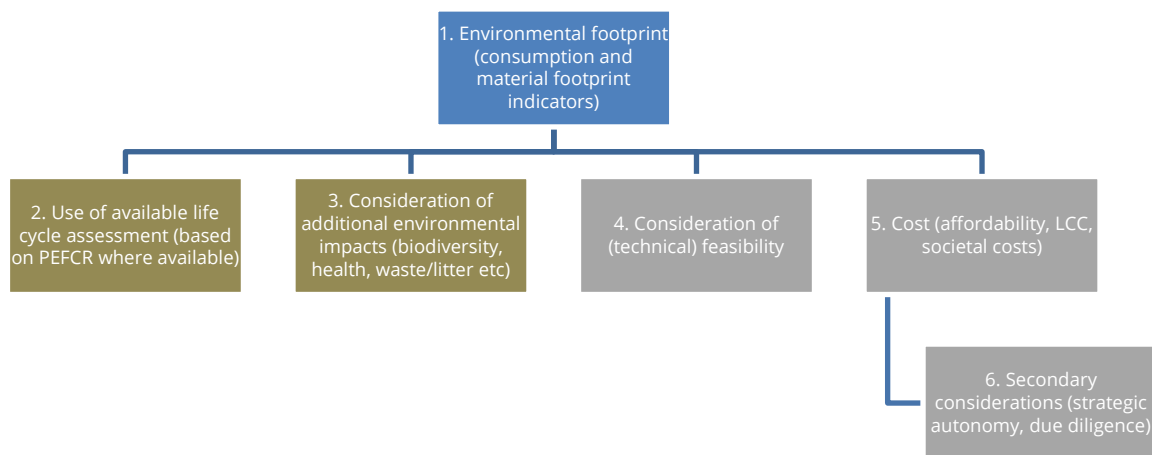


Figure 1 – Key considerations when defining priority products

We also agree with the JRC, that additional environmental impacts not covered by life cycle assessment should also be considered in the prioritisation process – such as biodiversity, exposure to substances and waste generation (including marine litter). These must be taken into consideration when prioritising product groups, and it may be necessary to do this in a qualitative way where there is no scientific consensus on appropriate methodologies. Prioritisation of a product group on the basis of these types of impacts should not be excluded.

Additional factors could be used to compliment environmental impacts – such as technical feasibility and affordability. Regarding affordability as well as proportionality of costs, it is essential that not only the “sale price” of products under investigation is considered but also the least life cycle cost and societal costs. In the case of societal costs, very high pollution abatement costs for products with sizeable environmental footprints may justify considerable increases in the costs of products. The use of abatement costs for known

pollutants such as carbon-dioxide or air pollutants, as well as clean-up costs for litter amongst others, should also be considered in this regard and are already being applied in other policy areas (e.g. single use plastic clean-up costs calculation for EPR in Article 8 of the Single Use Plastics Directive).

Although the complimentary analysis on additional factors such as strategic autonomy as presented by the JRC is interesting it risks undermining the credibility of ecodesign as a policy, which is first and foremost an environmental measure not a geopolitical one. Therefore, this kind of prioritisation should not carry any significant weighting in defining the final working plan. If strategic autonomy is taken forward, other international “socio-economic” considerations could be considered such as products with known due diligence or human rights issues in their supply chains.

All characteristics could be combined with the environmental footprint indicators to carry out a multicriteria analysis to develop a shortlist and final working plan. Though, the biggest weighting should be given to the headline environmental footprint indicators (material footprint and consumption footprint).

In the past, the Commission have made untransparent choices regarding the product groups to prioritise. For example, seemingly high impact groups such as “Base Stations” were excluded from the final working plan without justification. Where political decisions are made not to include a product group in the work plan these should be justified in a transparent manner to the Ecodesign Forum.

Horizontal measures: an opportunity to be seized

Horizontal measures present a number of opportunities which should be taken advantage of in the context of the ESPR:

- **More adaptive for innovation:** Because requirements are not product or part-specific, there is a lower risk of them becoming outdated as new technology and devices enter the market.
- **Coherence:** Such approaches can foster consistency across different sectors and products, ensuring a level playing field and avoiding unintended consequences, such as shifting environmental impacts from one product to another.
- **Closes gaps in product coverage:** small or diverse product groups that it would be challenging to address via product specific measures (due for example high environmental impact / low sales volume or lower

environmental impact / high sales volume) can more easily be addressed via horizontal measures. Collectively small product groups may deliver more savings than one very impactful group.

- **Encourages ecodesign of new products:** Sets a precedent for overarching material efficiency requirements that encourages circular ready design of emerging products even if these are not currently covered by requirements due to the threat that they could be easily included in future scope revisions.
- **Easier to address B2B and custom products:** by their nature, horizontal requirements are less part-specific, enabling widely varying form factors such as those often found in B2B products to be addressed.

For these reasons, it is welcome that horizontal measures are considered as an option in the ESPR proposal and are explored in the preliminary study on new product priorities from the JRC.

The ESPR proposal defines horizontal measures in the following way: “intended to apply to two or more product groups which display sufficient technical similarities to allow a product aspect to be improved based on a common requirement(s)”. Nevertheless, horizontal measures could be characterised in a number of different ways, which have to a greater or lesser degree already been implemented in some requirements, for example:

- Requirements on a specific function contained in an arrange of products with a catch all provision (e.g. stand-by regulation)
- Requirements on a specific component for a limited number of products (e.g. common charger policy or external power supply)
- Requirements on a group of similar but distinct products (e.g. smartphones and tablets; computers and small servers)
- Requirements on diverse product groups (e.g. Article 11 of the battery regulation)
- Requirements on a specific quality to be defined (e.g. recycled content, carbon footprint)

We suggest that the definition of “horizontal” should not be defined too precisely so that the opportunity for different approaches is left open for policy makers. This will permit a flexible approach in defining possible interventions at the stage of prioritisation, considering the market of products will evolve over time and “technical similarities” may not be predictable.

We support the consideration of the JRC that products could be covered either (or both) vertically and horizontally. In these cases, vertical requirements may compliment or be more specific and overrule horizontal ones (i.e. in the spirit of *lex-specialis derogat generali*).

We also support the suggestion that a horizontal measure could become their own delegated acts. Though, given the limited resources in the JRC and the Commission, we do not think investigating horizontal measures which will not be turned into requirements is a legitimate use of time. In previous ecodesign consultation forum meetings the Commission has been explicit that there are insufficient resources to set requirements on product groups such as kettles. Nevertheless, grouping kettles with other similar kitchen appliances could re-open the possibility to set measures on product groups which collectively have a high environmental impact. The EEB has already explored the potential of horizontal measures in a series of case studies on product groups – with one case study looking at kitchen appliances.⁴ This study grouped kettles and microwaves. A further study looking at ICT products is underway and will be published in the coming weeks.

Intermediate products: an opportunity to decarbonise intensive industry

Intermediate products are unfinished goods made from materials such as steel, cement and chemicals that require further manufacturing or transformation such as mixing, coating, or assembling to make them into suitable products for end-users. The introduction of this category of products in scope of ESPR is very welcome, to address the substantive CO₂ emissions and embodied environmental impacts of intermediate products, produced in some of the most energy-intensive industries.

Developing requirements at the intermediate level can bring a number of opportunities:

- Setting requirements on the materials with the biggest share of carbon and environmental footprint.
- Setting requirements which will reduce the environmental footprint of products in a broad range of product groups which depend on these intermediaries.

⁴ <https://eeb.org/library/new-eu-eco-design-proposals-case-studies-to-illustrate-their-potential-impact/>

- Creating a level playing field with imported products, as industrial policy only tackles materials (such as steel, cement and glass) produced within the EU.
- Improving transparency on the environmental footprint associated with upstream processes.

Creating a strong push and pull towards more sustainable production processes.

For this reason, we welcome the inclusion of intermediate products in the scope of the ESPR and the scoping work on product prioritisation. We would like to stress the relevance of two product groups to this work.

Chemicals as a high impact intermediary in need of investigation

We strongly support the inclusion of chemicals in the shortlist of prioritised intermediaries. Overall, the environmental impact of this sector deserves much closer scrutiny, and discussion amongst national experts and stakeholders at EU level.

Though it might be argued that REACH and other chemicals legislation sufficiently address these products, the approach is completely different. Chemicals legislation restricts substances based on their properties and risks. However, it does not consider that within a given group of chemicals there may be significant opportunity to reduce their life-cycle impacts considering further aspects than their toxicity – such as their carbon footprint, recycled content, and recyclability.

Additionally, we think that covering chemicals with Ecodesign could provide necessary information that industries using chemicals in their products may have to provide, notably if they are themselves covered by ESPR.

Textiles, furniture, detergents, bed mattresses which are likely to be prioritised as end use products will have to disclose the *substances of concern* contained in their products, notably if those chemicals can hamper circularity and recycling of materials (a dimension not addressed by chemicals policy so far). Electric and electronics products already under the Ecodesign scope may also have to disclose their *substances of concern* contents in the future for similar circularity and recycling perspectives. If chemicals are covered by ESPR priority product list, some if not most of the information that ‘users’ of chemicals intermediate products will have to disclose would be potentially already available as documented by the industry placing chemicals on the market. In contrast, should chemicals not be under the priority work plan of ESPR, the duty to report on chemicals and

document their properties would only fall under the responsibility of the manufacturer or importer of end use products.

Additionally, end use products may also be required to document and report on their life cycle carbon and environmental footprint. Should they integrate some chemicals, they would have to also integrate in their carbon and environmental footprinting profile the carbon and environmental impacts of the chemicals they will use. The lack of availability of information on the impact of feedstocks is a known issue in different sectors trying to carry out environmental footprint assessments. But if chemicals are covered as a priority under the ESPR work plan, the duty to calculate the carbon and environmental footprint of used chemicals will be facilitated.

Furthermore, we think that covering chemicals as a priority intermediate product group under ESPR would enhance the level playing field with regards to chemical disclosure for products using such chemicals. Ecodesign requirements should apply in the same way to all products, should they be produced in the EU or imported.

Cement notably absent the prioritisation without a credible fall-back option

Although used in almost all supply chains, intermediate products are particularly central to the construction sector. In this regard, applying the ESPR to intermediate products is a unique opportunity to drive the decarbonisation of construction materials, and therefore of the built environment.

Products with bigger environmental footprints should be prioritised to successfully decarbonise the construction sector. In this regard, one major omission can be identified in the current draft prioritisation: cement, which is expected to be regulated under the Construction Products Regulation (CPR). Cement is the second most consumed product globally after water, represents 8% of GHG every year, and – despite the push to decarbonise – the CO₂ intensity of cement production is on the rise. The current harmonised standards developed under the CPR are failing to decarbonise this sector, which is preventing the entire construction value chain from a true decarbonisation. Cement is the intermediate product of concrete. It is comparable to aluminium, glass, iron and steel, all identified as prioritised intermediate products for actions under ESPR, and all also used in the construction sector. Therefore, cement should not get differential treatment to other energy and carbon intensive products. Considering its considerable environmental footprint, cement should be a first priority product

under ESPR, benefiting from the development of clear provisions under this successful legislation, and working on an accelerated timeline.

Concerns about the gap between the ambition of the ESPR and the CPR

According to the *lex specialis* principle, construction products are to be primarily regulated under the CPR, using Ecodesign style requirements. However, over the past decades, the CPR has failed to regulate the environmental impacts of the sector: no standards have been developed in support of environmental objectives, and there is currently a huge backlog of standards (i.e. 400+ standards not compliant with existing CPR or rejected for citation in the OJEU). Confronted with the urgency to decarbonise the construction sector, the existing CPR has failed to provide an appropriate instrument to drive this change.

Therefore, the current revision of the CPR is an unmissable opportunity to rise to the challenge, and deliver on the joint objectives of the European Green Deal and the Circular Economy Action Plan. The CPR is the main legislative instrument to supply decarbonised, circular and toxic-free construction materials to the EU market. However, the current proposal for CPR revision, does not seize this opportunity, and the sustainability provisions in the new CPR will still be anchored in a failing standardisation system, leaving construction products falling in this scope without much needed requirements for decarbonisation. This will create a gap between products covered by the CPR, and products falling under ESPR where provisions will be introduced, from information to performance requirements, with a clear implementation plan.

We recommend that in the CPR, sustainability provisions should be excluded from the scope of standardisation processes, and ecodesign requirements must be gradually developed in secondary legislation, through a structured, participative, and evidence-based process, and tackling most polluting products first.⁵

Clarity regarding the functioning of the fall-back option.

According to Commission's proposal, if construction products (including cement) are to primarily be regulated under the CPR using Ecodesign style requirements, the ESPR is to be used as a fallback option should the CPR fail to deliver sustainability improvements. This fallback option needs to be better defined to

⁵ EEB and 22 other signatories, Letter to Member State representatives in the Council to support ambitious environmental provisions for construction products in the revised Construction Products Regulation (CPR). Available at: https://eeb.org/wp-content/uploads/2023/04/CPR-Member-state-Letter_18-April-2023_final.pdf.

make sure it can be used in practice, including the conditions to trigger it and the processes. Firstly, cases of non-compliance that would trigger a fall-back option where the ESPR would apply must be defined in the product-specific legislation. In the case of the CPR, non-compliance of harmonised standards with the CPR or rejection for citation in the OJEU could characterise cases of non-compliance triggering the intervention of the European Commission. Furthermore, appropriate deadlines must also be laid down in the text to make sure it can be activated in case of need.

Unfinished work on ICT products

The environmental footprint from ICT and digital products is rapidly increasing. Recent research has demonstrated that digital products and services account for around 9.3% of European electricity consumption and 4.2% of emissions, yet more important than these indicators is their impact on resource use. And notably, end-user products have the biggest environmental footprint from the ICT product group accounting for 54-90% of the impact across different indicators.⁶ E-waste is also one of the EU's fastest growing waste streams⁷ due to the proliferation of short-lived, unrepairable ICT and consumer electronic products flooding the EU market today.

Despite their significant and growing impact, ICT products are not referred to and energy-using products are explicitly excluded from the scope of the consultation and the report by the JRC.

ICT products risk falling through the gaps between these two separate investigation streams and be left unregulated. Europe could miss out on sizeable savings by allowing unaddressed products in this area to fall between the boundaries of traditional Ecodesign requirements and the new scope areas being addressed within the plans for ESPR implementation.

The Ecodesign working plan preparatory study⁸ highlighted that there are also substantial untapped opportunities to address the repair and reuse of business-

⁶Bordage, F., de Montenay, L., Benqassem, S., DelmasOrgelet, J., Domon, F., Prunel, D., Vateau, C. and Lees Perasso, E. GreenIT.fr. 2021. Digital technologies in Europe: an environmental life cycle approach.

<https://www.greens-efa.eu/opinions/digital-technologies-in-europe/>

⁷ <https://www.europarl.europa.eu/news/en/headlines/society/20201208STO93325/e-waste-in-the-eu-facts-and-figures-infographic>

⁸ Viegand Maagøe A/S, Oeko-Institut e.V., & Van Holsteijn en Kemna BV. (2021, April). Preparatory study for the Ecodesign and Energy Labelling Working Plan 2020-2024: Assistance to the European Commission, TASK

to-business products that have been overlooked in preparatory studies to date. Horizontal measures (as explored in the current consultation) present the ideal approach to enable these extensive savings to be accessed.

Gaps in existing legislation

The ESPR draft proposal states that products have been excluded from the scope when covered by other legislation or “when legislation does not sufficiently address the sustainability of those products”.⁹ It cannot be said for ICT that the sustainability of this wide-ranging product group is sufficiently addressed in existing legislation, as there are many gaps. To date, the only ICT products covered by requirements are servers, smartphones, tablets and displays, as well as the requirements on computers currently being revised.

A number of relevant ICT products falling under the conventional scope of Ecodesign have not been taken forward in the existing Ecodesign Working Plan 2022-2024 and were also not incorporated into the current consultation on ESPR product priorities. It is important to close gaps in current ecodesign regulations that have limited product coverage due to exemptions and scope limitations. This is particularly the case in relation to higher specification and business-to-business products. It is essential that the following gaps are filled:

- Electronic displays (Regulation EU 2019/2021): This regulation could be expanded to address digital signage, medical displays, projectors, interactive whiteboards and video conference systems.
- Servers & data storage (Regulation EU 2020/1955): This regulation could be widened to include High Performance Computing, which will become more prolific as AI expands, as well as smaller products such as home network assisted storage (NAS) and external hard drives.
- Common charger (Revision to EPS Regulation 2019/1782 & RED 2014/53): This could go further to also address external power supplies used with network products and kiosks.
- Imaging equipment: Preparatory work is underway for the first Ecodesign regulation for this product group, but intentions should be set in the review clause to include 3D printers in scope.

3 PRELIMINARY ANALYSIS OF PRODUCT GROUPS AND HORIZONTAL INITIATIVES [Final report]. European Commission, DG GROW.

⁹ ESPR proposal page 3:

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In addition, recently regulated product groups like smartphones and tablets are insufficient to address certain barriers to repair, such as parts-pairing. Horizontal requirements, such as a horizontal prohibition of parts-pairing, would therefore be an opportunity to counteract such discrepancies and lead to true environmental savings.

Why ICT products should be identified as priority products.

The sheer size and scale of the market for ICT means that it is increasingly risky to exclude them from ecodesign rules from an environmental perspective. In recent years, homes and offices have become filled with audio-visual equipment, electronic displays, video devices, imaging equipment, videoconference systems, and wearable electronics like smartwatches or VR devices. In public spaces, there has also been a proliferation of ICT, such as ATMs and cash machines, ticketing machines like access gates, toll related ICT and security devices. Analysis predicts that the global market for consumer electronics and smart devices will continue to grow exponentially. ¹⁰

As further evidence, the majority of the top selling electronics¹¹ on major online marketplaces are not subject to ecodesign measures nor are they included in current workplans.

As a result of these trends, the EU market is being flooded with short-lived devices. When these products fail, their lack of repairability means that they likely will be inefficiently disposed of and their material components thus wasted.

Prioritisation of products should rightly be allocated according to their environmental impact and the potential for improvement of these impacts.

Though investigating small devices individually might not be an efficient use of resources, there are huge environmental savings to be reaped from applying robust ecodesign measures to these products in a horizontal way.

Although we are aware that the Commission has chosen to exclude Energy-related Products from the scope of this consultation, we believe that the decision to categorise the main environmental impacts of ICT as energy-related is misled,

¹⁰ [https://www.globenewswire.com/en/news-release/2023/03/20/2630666/0/en/Global-Consumer-Electronics-Market-Size-Analysis.html#:~:text=The%20Global%20Consumer%20Electronics%20Market%20size%20is%20estimated%20to%20exceed,period%20\(2023%2D2030\).](https://www.globenewswire.com/en/news-release/2023/03/20/2630666/0/en/Global-Consumer-Electronics-Market-Size-Analysis.html#:~:text=The%20Global%20Consumer%20Electronics%20Market%20size%20is%20estimated%20to%20exceed,period%20(2023%2D2030).)

¹¹ https://www.amazon.com/Best-Sellers-Electronics/zgbs/electronics/ref=zg_bs_pg_1?encoding=UTF8&pg=1

as climate and material savings are more apt indicators of this product group's impact. As is outlined in the JRC's ICT Task Force Study; *"Addressing the environmental impacts of ICT product use calls not only for a wider consideration of environmental aspects beyond energy efficiency, but also for a policy approach that spans beyond the boundary of individual products as hardware."*¹²

As the energy-use of most modern ICT products is increasingly small as their dependence on cloud infrastructure, and the biggest share of their impact comes from manufacturing. The ICT product group might therefore be more appropriately addressed in the new ESPR working plan rather than the working plan for energy-using products.

Additionally, many typically non-ICT consumer products (such as fridges) have been becoming increasingly connected, which means that they are now subject to issues such as software obsolescence that are not addressed in current requirements. Tackling such issues horizontally could effectively avoid negative environmental consequences related to such trends.

As is outlined in the JRC's ICT Task Force study; *"As the majority of impacts associated with ICT products (especially consumer electronics) stems from material extraction and manufacturing, reliability and durability are very relevant aspects for this product family."*¹³ **Therefore, if assessment is focused primarily on energy consumption rather than material use, these products will remain unaddressed by ecodesign.**

An upcoming report*¹⁴ commissioned by the EEB will uncover the significant climate savings to be derived from horizontally regulating ICT products, in groupings of products with sufficient technical similarities. Emerging from the analysis were key groupings of heterogeneous form-factor products with common elements that could be addressed through horizontal regulations.

Preliminary modelling results already project significant climate savings should requirements be applied horizontally to these products. Such requirements include measures for both hardware and software related durability measures

¹² JRC ICT Task Force p. 39

¹³ JRC ICT Taskforce page 11

¹⁴ ***Note:** The EEB's upcoming report (**ICT: A TOP HORIZONTAL PRIORITY IN SUSTAINABLE PRODUCT POLICY**) will be published in the weeks following the closure of this consultation and should provide clear indicators of potential horizontal measures for ICT products, as well as the savings potential that could result from the application of such measures.

such as information on spare part availability and time, introduction of a repair index, availability of repair information to independent operators and end-users, minimum requirements for availability of software functionality, information on due diligence, reliable data erasure through encryption combined with factory reset, part removability, scratch resistance, charger decoupling etc.

The horizontal measures proposed in this consultation would be highly applicable to this product group. Whilst energy efficiency requirements can be challenging to address at a horizontal level due to levels varying by product, many material efficiency requirements can be applied in the same way across product groups without the need to be adapted. Prioritizing this problematic product group would send a clear message to industry that the EU will crack down on the growing environmental footprint from digital devices. It is imperative that ICT products do not slip through the legislative cracks, which could occur if not prioritised in neither this list of product priorities, nor the Ecodesign working plan for energy related products. **We therefore call on the Commission to urgently address the environmental impact of ICT products by prioritising this product group for Ecodesign measures.**

Textiles

To ensure an appropriate approach to reduce the environmental impacts of textile products is planned, we urge the Commission to consider the following elements in the development of the ESPR Working Plan, as well as in the ‘Preparatory Study on textiles for product policy instruments’ being prepared by the Joint Research Centre.

We welcome that the ‘JRC preliminary study on new product priorities’ identifies textiles as one of the highest priority product categories to be addressed in the ESPR given that the sector has a high environmental impact and that textiles and footwear have the second highest market value.

Set Ecodesign requirements at the level of fibres, yarn, and fabric.

In order to increase the impact and efficiency of Ecodesign we recommend aligning its scope with the EU Ecolabel and build on its learnings when setting requirements (e.g. as done in the past for other Ecodesign product groups). It is our view that it should be possible to set requirements for textiles at two ‘levels’:

the fibre, yarn and fabric as a product that will be used for clothing and home textiles and at the level of the finished apparel or home textile. Complex and lengthy discussions to define the granularity of different textile end-use products according to their application could be avoided when it comes to setting mandatory minimum requirements. Following a similar approach to the EU's Ecolabel, the Blue Angel, and the Nordic Swan, requirements should be set to prioritise the achievement of the most environmentally stringent fibres and materials. Such an approach has the potential to save resources, increase impacts and would be consistent with the approach of the ESPR to set horizontal requirements across product groups.¹⁵

Setting requirements horizontally by fibre as the baseline, would still allow for additional requirements that apply to end-use products (e.g. outerwear, jeans) to be set on top (as done already by the EU Ecolabel). For example, when it comes to restricting substances of concern or on the sandblasting of jeans. Such a 'dual' approach would recognise textiles as intermediary products as well as end-use products. While the work being carried out to develop the Product Environmental Footprint category rules for apparel and footwear project should inform this work, it would be the wrong approach to set Ecodesign requirements solely using the nine apparel product categories as defined by the PEF process. These product groups were prioritised on the basis of the interests of the industrial participants in the development of the PEFCRs (i.e. the product groups which they sell) rather than on the basis of their environmental impact. Moreover, within the same category there are many sub-categories that are different in their performance requirements (e.g. a winter jacket and a summer jacket) limiting the possibilities to allow for comparisons at a meaningful level of granularity.

There can be no argument for excluding all sportswear and technical textiles based on artificial distinctions on how these products are used. For example, excluding sportswear from the scope would potentially exclude a huge amount of fast-moving consumer textile products sold as "leisure wear".

Minimum requirements should support both technical durability and reduce production volumes

¹⁵ The EU's Ecolabel sets criteria for nine fibre types: Cotton and other natural cellulosic seed fibres; Flax and other bast fibres; Wool and other keratin fibres; Acrylic; Elastane; Polyamide; Polyester; Polypropylene; and Man-made cellulose fibres (lyocell, modal and viscose).

Durability is defined in the Ecodesign Prioritisation consultation as covering the aspects of 'reliability', 'reparability', 'reusability' and 'upgradability'. To set performance requirements for the technical durability of textiles, we support an approach which builds on the best requirements already established through voluntary schemes, for example, by looking at the EU's Ecolabel, the Blue Angel, and the Nordic Swan. Elements to cover in the technical durability requirements include: *pilling, tear strength, tensile strength (the maximum strength fabrics can manage without breaking), resistance to stresses or ageing mechanisms, colour fastness, quality of zippers, and minimum durability of function*. See the ECOS report 'Standards to measure textile durability'¹⁶ for more information on elements to consider when setting technical durability requirements.

At the same time, the definition of durability should be expanded to go beyond material aspects of durability and consider all the factors behind the drive to dispose of clothing and purchase new items, which extend beyond the need to replace a product that has reached the end of its physical lifespan and concern the availability of so many new products. Ecodesign requirements should be set with a view to enabling products to remain in continuous active use for as long as they are physically durable.

With one third of disposal reasons connected to the perceived value¹⁷ of garments and the environmental impact of a textile product directly linked to the number of times that product is used, an information requirement could be set that would mandate the provision of information on sizing guides and exact metric measurements used for a particular garment at the point of sale, could ensure that consumers who are unable to try on items before buying are more equipped to choose items which are likely to fit them and that they will get most use of for longer, helping to reduce product returns and disposal. Figures from EURATEX¹⁸ show that the amount of textiles and clothing sold online more than doubled since 2009 - and the resulting increase in levels of unsold and returned textile products. This requirement could be considered as a way to build on the suggestion for EU-wide harmonised product size measurements through the Textiles Labelling Regulation., as referenced in the consultation. Harmonised product sizing should

¹⁶ https://ecostandard.org/wp-content/uploads/2023/01/ECOS-Report_Standards-to-measure-textile-durability_December-2023.pdf

¹⁷ <https://clothingresearch.oslomet.no/2022/10/19/review-of-clothing-disposal-reasons/>

¹⁸ https://euratex.eu/wp-content/uploads/EURATEX_FactsKey_Figures_2022rev-1.pdf

not hamper creativity and the important role that drafting clothing for different body types plays in ensuring size inclusivity.

There is a lack of visibility on the scale of overproduction in the fashion industry and few brands publish how many items of clothing they produce or how much surplus stock they have. The Fashion Transparency Index¹⁹ found that most major brands (85%) do not disclose information on their annual production volumes. Setting an information requirement that would require information to be provided on the month, year of production, and the number of garments produced in the batch of that style could contribute to creating the conditions for more responsible consumption and production as it would create more visibility on the speed of throughput from production, purchase, to disposal, and would play a part in emboldening brands to produce in smaller quantities and shift business models towards resource sufficiency. This information should be made available to market surveillance authorities as well as civil society groups.

It is also crucial to swiftly set a horizontal requirement that bans the practice of destroying unsold and returned stock. Available data shows that 677 tonnes of unsold stock is destroyed in Denmark²⁰ each year, and in Norway an investigation²¹ estimated that 825 metric tons of clothing went unsold in 2021.

In a coherent product policy framework, Ecodesign requirements should be coherent with ambitious eco-modulation criteria as part of Extended Producer Responsibility schemes. Incentives should be set for going beyond Ecodesign performance and information requirements. Fees should be designed to provide meaningful incentives to produce less, support communities affected by textile exports, remove substances of concern from product and manufacturing, as well as disclosing information about the supply chain and production volumes.

Post-consumer recycled content and recyclability

Provisions on minimum thresholds of recycled material in textile products should be expressed as a fraction of the total material input and information on whether these fibres come from post-industrial textile waste, pre-consumer waste, or post-consumer textile waste should be accessible. The origin and composition of the material streams incorporated into the recycling process must be proven by

¹⁹ https://issuu.com/fashionrevolution/docs/fti_2022

²⁰ https://kglakademi.dk/sites/default/files/downloads/news/take-back_of_textiles_design_for_circularity.pdf

²¹ <https://www.forbrukerradet.no/siste-nytt/hennes-mauritz-palegges-a-gi-informasjon-om-overproduksjon-av-klaer/>

means of a certificate from recognised certification systems. However, as recognised in the JRC’s preliminary study on new product priorities, recycled content in textile products is a “very complicated and immature field”²². When setting Ecodesign provisions on the minimum content of post-consumer recycled material expressed as a fraction of the total material input it is important to consider the limitations and impacts of current and future recycling techniques and capacities in the EU. The draft JRC report ‘Techno-scientific assessment of the management options for used and waste textiles’) shows that significant barriers exist to recycling fibres from post-industrial, pre-consumer and post-consumer textile waste and that most recycling of post-consumer recycled content does not result in the production of spinnable fibres for applications in the apparel retail sector.

Horizontal performance requirements for textiles should restrict the manufacture, marketing, import, and export of textile products made with or containing substances of concern on the basis of their impacts on both the circularity of a product and on human and environmental health. Through the ESPR framework, it is also vital to restrict the use of substances of concern in production processes, ensure transparency on the substances of concern included in an article using a horizontal requirement that sets the Digital Product Passport for textiles, and restrict the most problematic chemicals commonly used in textile supply chains. Ecodesign requirements should anchor the principle of substituting hazardous substances by safe and non-toxic alternatives. Reducing the complexity of materials used to produce textiles through performance requirements on material composition could have an impact when it comes to supporting recycling and resource sufficiency. To this end, the Digital Product Passport should require the provision of a Bill of Materials for each product. The Digital Product Passport for textile products should also support full supply chain traceability, transparency and facility disclosure as well as the provision of environmental and social information.

²² <https://susproc.jrc.ec.europa.eu/product-bureau/product-groups/635/documents>



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