ECOS calls for a strong ESPR

Brussels, 17 February 2025

It is with great pleasure that ECOS send its first contribution as newly appointed member of the Ecodesign Forum, which will be meeting next week in Brussels on 19-20 February.

The Ecodesign framework has a proven track record in delivering on circular economy objectives by making products easier to repair, reuse and recycle. With the Ecodesign for Sustainable Products (ESPR), a new era for sustainable products has been activated[i]. More and more products are to be covered by ambitious ecodesign rules, pushing the most polluting goods off the market and incentivising manufacturers to prioritise the environment, addressing environmental impacts embedded in products by design, a step forward in addressing the EU's material footprint as well as impacts on land, water and climate fuelled by Europe's unsustainable production and consumption patterns1. Production models based on short-lived, disposable, inefficient, toxic, and unrepairable items must become a thing of the past. Product requirements must be guided by the best available evidence on ecological thresholds so that the ESPR can contribute to the EU's climate and energy goals to become climate neutral in 2050 and the broader environmental goals of staying within planetary boundaries. The ESPR has the potential to create an energy-efficient, circular and toxic-free economy by using ecodesign – a proven success in several sectors. It needs to be implemented without delay, tackling all high-impact products.

The ESPR will play an important role in the years to come in achieving EU climate and environmental aims, complementing sectoral and overarching legislation. Just to quote some examples:

- On steel, for example, the ESPR will complement and further strengthen the implementation of other key policies such as the EU CBAM and the creation of lead markets in Europe.
- While the Commission has not prioritised chemicals or plastics[ii] as intermediate, their inclusion now would have positive implications on other Commission priorities such as the Clean Industrial Deal, the Chemicals Industry Package, and decarbonisation efforts.
- The ESPR will also complement strategies now under development, such as the Water Efficiency strategy, since "water use and water efficiency" are included as possible ecodesign requirements to be addressed by each sector.

Feedback on the discussion paper for the 1st ESPR working plan

The Commission's discussion document lists three final product groups, two intermediate products and potentially two horizontal requirements targeted for inclusion in the first working plan, representing a significant reduction in final and intermediate products to be addressed in the first term of the ESPR. We understand that the Commission is burdened with an extensive workload and the reduction in ambition is not altogether surprising. However, with a reduced scope such as this, ECOS emphasise the need to then create delegated acts for these sectors that are comprehensive and

[i] https://ecostandard.org/publications/espr-analysis-eu-ecodesign/
[ii] https://ecostandard.org/publications/letter-plastics-polymers-ecodesign-espr/

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ambitious, showing how the ESPR can be impactful. We support the sectors that the Commission has identified as priorities for this term (textiles, furniture, tyres, steel, aluminium, and the horizontal requirements of repairability and recyclability). At the same time, we urge the Commission, while developing these preparatory studies and product categories, that the categories are broadly defined and cover a wide range of products, to ensure the impact and work put into the sector is worthwhile. And yet, ECOS also looks to the Commission to set a clear timeline, and prioritise other sectors that have large environmental impacts, especially: ICT products, footwear, chemicals (intermediate sector), and plastics/polymer (intermediate sector). The ESPR's implementation needs to be swift and thorough.

The ESPR text in article 18(5) identifies priority product groups for the first working plan but allows the Commission to alter the list, as long as the Commission can "provide a justification for its decision." In the discussion document, the Commission notes in Part D, the reasons given for excluding the sectors of footwear, detergents, paints, lubricants, chemicals, and mattresses. We have a few remarks about the reasons given, presented below:

- Footwear: Footwear production is responsible for at least a fifth of the greenhouse gas emissions and a third of the resource and water use of the entire textile and footwear sector. Complex material composition and early disposal of footwear pose significant challenges, leading to large amounts of waste. While we acknowledge that the environmental impact of footwear is lower than the one of apparel, we believe it is still rather significant in absolute terms and should be addressed. Ecodesign for footwear should focus, above all, on their durability, repairability, recyclability, environmental impact and waste generation.[iii]
- Detergents: The EU is currently working on the detergents regulation revision, therefore the justification given that "some sustainability aspects may be covered by the proposed revision" is not enough to justify the exclusion of the sector. The trilogues will not be completed until June, and we do not yet know what will be included in the final text. When it comes to "effects on water," for instance, the Commission's proposal was not ambitious, and on that issue in particular, the negotiations have not yet started. There are additionally areas that can be addressed under ESPR which are not even included in the revision.
- Paints: Paints continue to have a high impact on microplastic generation, substances of concern, and water pollution, and the sector must be encouraged to innovate to improve environmental performance. The ESPR will play a key role in that progress.
- Chemicals: While we welcome a study on this topic, to delay addressing this incredibly important topic under the ESPR while it is being discussed as a key sector for European competitiveness and industry risks the Commission only approaching the sector from one angle, with its environmental and circularity impacts going ignored during this next period. By including chemicals in this first working plan, the sector will have more regulatory predictability and it will better be able to adapt to future challenges and requirements.
- Mattresses: It seems premature to exclude furniture as a sector when the furniture preparatory study has not yet been initiated.

Horizontal measures: Repairability

Almost 2 years ago, ECOS, EEB, and DUH, with the support of 31 civil society and repair organisations, published a letter urging the European Commission to introduce horizontal ecodesign requirements to improve the longevity and repairability of electronic products. We now have indications that the European Commission will move forward with this initiative, with a regulation planned for 2026. We salute this move and encourage the European Commission to stay the course.

[iii] https://ecostandard.org/publications/espr-ecodesign-footwear/

In 2022, the world generated 62 million tonnes of electronic waste worldwide[iv]. That's 250 the weight of the Icon of the Seas, the heaviest cruise ship ever built. Two thirds of this e-waste is made of small electronics, none of which being currently tackled by regulation on their longevity and repairability. Many of these products contain critical raw materials, often extracted in ways that harm local communities, deplete natural resources, and fuel conflicts. The economic model of short-lived electronics products also has direct consequences on consumers, particularly for lower-income households, for whom replacing a device can be a major financial burden, and repairing is simply impossible due to the design of these products. What if our devices lasted longer and were easier to repair? Consumers and businesses relying on these technologies would spend less time and money dealing with non-functioning products, and more jobs in the repair and refurbishment sectors would be created.

It would be extremely time consuming to devise regulations on this issue one product at a time. Who can think that a strategy consisting in developing a specific regulation for each and every one of these products (including power tools, coffee machines, kitchen robots, portable radios, watches/clocks, toasters, gaming-related accessories, irons, kettles, decorative lights, electric toys, hair and beauty items, headphones, hair dryers, etc.) would be more efficient than drafting a regulation making all these products more durable and repairable? It is true that all these products are different, but they also all have common features that make a horizontal approach possible and necessary:

- Batteries that could be made more long-lasting (as a regulation on smartphones has already mandated).
- Casings and plastic parts, power chords, connectors, motors and other spare parts that are common to many electronic products could be made replaceable, and available for purchase at a reasonable price (as a regulation on batteries has already mandated).
- Software practices that hinder repair, for example through preventing swapping spare parts, could be banned for all products.

The feasibility of this approach is also demonstrated by the existence of the Longtime® label, developed by Ethikis, which, with the same set of criteria, certifies the reliability and repairability of products (37 different types of products have been certified already).

Chemicals

Policies should keep the circular loops clean through phasing out the most harmful substances in consumer products and promoting clean manufacturing and non-toxic material cycles. This will enable safer recycling and ensure that secondary materials are ready for reuse. Moreover, by choosing materials free of hazardous substances, industry can simplify their procedures.

Circularity and chemical safety cannot be separated. Some chemicals may be able to be physically recycled but they can still pose hazards if subsequently repaired and re-used or used partly in another product. The presence of these chemicals in reused and recycled content can therefore hamper the viability and safety of recyclates and perpetuate the toxic material cycles problem.

The planetary boundaries of chemical pollution were exceeded long ago. It is important that the ESPR sets a precedent for the European Commission to potentially restrict substances of concern (within products) that carry significant risks to human health or the environment. The EU's transition towards a clean circular economy by phasing out substances that are harmful to human health or the environment and substances that prevent clean recycling. Minimise the presence of substances of concern in products (in the context of ESPR), by introducing product requirements and ensure availability of information on chemical content and safe use, by introducing information requirements.

[iv] https://ewastemonitor.info/wp-content/uploads/2024/12/GEM_2024_EN_11_NOV-web.pdf

Iron and steel

As the first energy-intensive product to be covered under the ESPR, the Commission must be ambitious and set the bar high. This is more relevant than ever before with the steel industry calling for a comprehensive set of policy measures to ensure an internationally competitive and climate-neutral steel production with quality jobs in Europe for today and years to come. The ESPR is key in delivering upon this, allowing to promote and mainstream the cleanest and most circular production processes, while in parallel phase out the most polluting and resource intensive products from the European market.

Feedback on the discussion paper on Disclosure of information on unsold consumer products

ECOS strongly calls for requiring companies to disclose their unsold goods using 4-digit CN code level granularity. Reporting the number of unsold goods based on 4-digit CN codes rather than 2-digit codes is crucial for achieving a higher level of detail and accuracy in supply chain analysis, inventory management, and reporting. Classifying products using 2-digit CN codes will prove too broad and will obscure significant differences within product categories, especially in the case of electronics. On the other hand, the 4-digit CN codes offer a more granular view, allowing companies, civil society, and policymakers to understand precisely which types of products remain unsold. Furthermore, using 4-digit CN codes enhances transparency and comparability across industries and markets.

This detailed classification will benefit policymakers, companies, civil society, and our planet. This level of detail will support the Commission to evaluate the need for proposing new bans on the destruction of unsold goods, as foreseen in Article 25 of the ESPR and to propose more targeted policies, with reliable and actionable data. Furthermore, it will help companies to identify specific market trends, assess demand more accurately, and make informed decisions on production adjustments, marketing strategies, and inventory optimization. It will promote a more precise tracking of product-specific surpluses and shortages, which is essential for managing financial risks associated with unsold inventory. It will incentivise better resource allocation and hopefully reduce waste. We believe that companies should collect those data anyway as part of the general obligation of Article 23 ESPR which provides that economic operators shall necessary measures which can reasonably be expected to prevent the need to destroy unsold consumer products,

ECOS also calls for reasonable assurance to be required as means of verification of unsold goods reporting. Reasonable assurance ensures that reported figures on unsold goods are thoroughly verified. This will ensure that the data provided by companies is accurate, reliable, and trustworthy and will mitigate the risk that companies underreport or misrepresent their unsold inventory, whether due to oversight, inconsistent methodologies, or intentional manipulation to project a more favourable financial position or sustainability performance.

Feedback on the discussion paper on Derogations to the prohibition on the destruction of unsold consumer products

Preventing the destruction of unsold clothing and footwear is critical in addressing the environmental impact of the textile industry and its wasteful practices. Every discarded garment represents precious lost resources – water, energy, and raw materials – that exacerbate environmental degradation and climate change. Destroying unsold items not only contributes to overflowing landfills and pollution but also perpetuates overproduction and depletes the planet's finite resources. The introduction of the ban on the destruction of unsold clothing and footwear is a critical piece of legislation and exceptions to this ban should be kept as narrow as possible, not to justify the wasteful status quo.

We welcome that considerations on cost-effectiveness are limited to derogations a) and b). Such justification should not be considered further because it would advantage companies with very low profit margins, a feature that is typical of fast fashion companies. If the ban on the destruction of unsold goods is to be effective, then considerations on cost-effectiveness should not be taken in consideration or at least cannot be linked to profit margins. We recommend deleting its reference from derogation a).

We welcome that the Commission proposes not to include derogation g). We strongly agree that actual use of products is always the best environmental solution compared to recycling or other forms of destruction. We encourage the Commission to keep this position in the final act.

Compared to the support study, the working document has a more open formulation in defining derogations a) and c). We call on the Commission to be more precise and strictly define the applicability of health, hygiene, safety and unfitness considerations, to avoid companies misusing and taking advantage of any loopholes.

Finally, we encourage the Commission to further investigate the feasibility of removing logos if technically possible to avoid the destruction of perfectly functioning products. Companies who own the intellectual property or companies that manufacture the products should bear the cost of removing the logo, not waste management operators.

AOB

We regret to experience further unjustifiable delays in the development of new requirements for solid fuel heaters (solid fuel boilers - EU2015/1189 and EU2015/1189 - and solid fuel local space heaters - EU2015/1185). They are instrumental in reaching air quality objectives set out in the adopted 2024 Ambient Air Quality Directive, while contributing to energy efficiency targets, improving indoor air quality and drastically reducing health-related gov expenditures.