

**ECODESIGN FOR
SUSTAINABLE
PRODUCTS
REGULATION**

June 2022

The European furniture industry is following closely Green Deal initiatives aimed at making circular economy the norm, such as the Sustainable Products Initiative (SPI). As such, building on the [EFIC position on the SPI of June 2021](#), we welcome the possibility to provide our views on the Ecodesign for Sustainable Products Regulation (ESPR) proposal.

EXECUTIVE SUMMARY

- 1** The European furniture industry welcomes the ESPR, a key proposal to promote circularity. Furniture is well suited for a circular economy, a transition that is seen as an opportunity.
- 2** SMEs should be offered guidance and flexibility in adapting to a more circular economy and performance and information requirements should be reasonable and manageable.
- 3** The European Furniture Industries Confederation (EFIC) is keen to provide sector-specific expertise, as well as to have a seat in Ecodesign Forum; industry associations being a natural partner in such expert groups.
- 4** Create one EU circular economy and not 27 different ones. Harmonised legislation at EU level is needed to preserve the Single Market and ensure a level playing field. We welcome the internal market basis and article 3 of the ESPR.
- 5** Standardisation to be the backbone of harmonised legislation. Consultation with standardisation bodies is essential and existing standardisation work should be used as a basis for the eco-design framework. Standardisation committee CEN/TC 207 and its WG 10 on Furniture Circularity is already working on circular design product parameters (dis/re-assembly requirements and evaluation methods - prEN 17902) and is ready to cooperate with policymakers.
- 6** We believe the Commission should generally refrain from issuing its own technical specifications and that an in-depth expertise and a flexible process are needed to take into account innovations on the market, in close dialogue with standardisation bodies and the industry concerned. Bottlenecks in standardisation should be addressed. EN standards should be the first choice and if not available, they should be developed.
- 7** Innovation should be promoted and technology / material / business model neutrality safeguarded, avoiding lock-in effects in product categories.

- 8** Ecodesign product and performance requirements: Consider the specificities and complexity of the furniture value chain (designs, products, materials used), ensure that the requirements contribute to effect goals and a truly sustainable development, and that they are of a general nature, relevant, appropriate and proportionate, considering the whole lifecycle of a product.
- 9** Ecodesign product and performance requirements: Consider that the methodology to assess or verify many of proposed eco-design and performance requirements is being developed or no harmonised system exists.
- 10** Ecodesign product and performance requirements: Industry needs support to ensure compliance with the Regulation, such as for example with harmonised flammability requirements across EU to ensure toxic flame retardants are not used.
- 11** Ecodesign product and performance requirements: Minimum recycled content & durability: recycled content should not be an isolated sustainability criterion and the whole product and limitations should be considered. Recycled content should not have a negative effect on durability and the availability of recycled material and the technical possibility of replacing virgin with recycled material should be considered.
- 12** Ecodesign and performance requirements: renewable content should be considered as a criteria in Annex I as it contributes to moving away from fossil-based materials.
- 13** Clarification is needed on how the legislation affects existing products, including future performance and information requirements. Also, the Regulation focuses primarily on obligations of manufacturers and does not consider the responsibilities of other players in the value chain & the need for shared responsibility. The term manufacturer needs to be defined more clearly to avoid uneven competition between new products and repaired/remanufactured products. Also, the definitions of the different actors along value chain should be aligned in all EU legislation.
- 14** Information on the environmental sustainability of products: product passports should be workable, designed on need-to-know basis, with clear delimitation of liability of value chain partners in updating the passport (including those that extend the lifetime of furniture such as repairers, upgraders, refurbishers). Most information should be provided via the product passport as opposed to other means.
- 15** Information on the environmental sustainability of products: product passports should consider the complexities of furniture products and the furniture value and supply chain, not become an administrative burden and differentiate between compulsory and voluntary information.
- 16** Information on the environmental sustainability of products: product passports should be respectful of companies' trade secrets. The Regulation in its current form does not seem to be compatible with the need to protect knowledge-based assets. Such protection is crucial for the competitiveness of European companies.
- 17** Information on the environmental sustainability of products: Provision on tracking and sharing information on substances of concern risks bringing huge burden on companies. We believe that substances of very high concern (SVHCs) should be prioritised. We are concerned of the broad definition of substances of concern (SoCs) and that no process is proposed for identifying substances that hinder recyclability. The selection criteria of substances inhibiting recycling should be clarified. There should be no duplication or inconsistencies with ongoing work on revising chemical legislation. The SoCs to be reported in the product passport must be defined based on the usefulness of the information they provide and selected with care.
- 18** We welcome mandatory Green Public Procurement as a tool to drive circularity forward.
- 19** We welcome increased market surveillance focus including on imported products, leading to increased level playing field.
- 20** Incentives (recital 86, article 57) should also include measures that stimulate the market for refurbishment or remanufacturing, not only newly produced products.
- 21** Clear definitions are needed (manufacturer, distributor, recycling, substances of concern, product group ...).

RECOMMENDATIONS IN DETAIL

1) The European furniture industry welcomes the ESPR

Circular economy is nothing new in the furniture industry. Furniture products are generally long lasting. Also, renewable raw materials such as wood are very common in the industry¹, which also uses a wide range of other materials such as foams, steel, aluminium, plastics or glass. The furniture industry promotes circular design principles and business models based on repair, reuse, refurbishment and remanufacturing and many best practices and frontrunners already exist. Despite this, the challenge will be to encourage the whole manufacturing industry to turn to a circular logic and upscale certain business models like remanufacturing.

Furniture is well suited for a circular economy and there is a large potential to drive it further in the industry. The transition from a linear to a circular economy will be the main contribution of the industry to climate neutrality objectives and it is seen as a business opportunity. It can not only address current practices like landfilling and incineration (some of the main environmental impacts of the industry as of today) but also provide solutions to the scarcity of primary natural resources and challenges in supplying raw materials, by keeping materials longer in the loop and using waste as a resource.

However, to allow the use and application of secondary materials to a full extent, the current definition of 'waste' should be revised uniformly throughout Europe so that existing restrictions and/or high administrative expenses for transport and storage for secondary materials (pre- and post-consumer) due to the current definition are eliminated. This is important for turning to a circular logic and encouraging the cascading principle of material usage. Also, collection systems with the lowest environmental impact should allow conducting different operations as appropriate (from returning whole pieces of furniture for e.g. refurbishment to furniture recycling).

2) SMEs

It is positive that the European Commission mentions many ways for SMEs to receive support with the upcoming requirements, as the legislation is likely to be very challenging for many SMEs and micro-enterprises. Performance and information requirements (e.g. in the product passports) should therefore be reasonable and manageable. Collecting and managing large amounts of information is demanding and special consideration must be given to the limited resources of SMEs. SMEs may need special guidance, skills development and access to administrative tools to effectively manage information without adversely affecting their competitiveness. It is also important that sufficient resources are allocated to the European Commission and to the Member States to enable this support.

3) Ecodesign Forum

The ESPR is very comprehensive and given that the details for product groups will be developed via delegated acts, it is difficult to fully grasp at this stage what it will mean for the industry in concrete terms. EFIC, representing over 70% of the European industry, including SMEs and large companies, is keen to actively collaborate with policymakers and contribute during the development of product specific legislation on furniture, as well as to have a seat at the Ecodesign Forum to share sector-specific expertise and science-based evidence. Business and industry organisations should be a natural party in the Ecodesign Forum, representing a wide variety of industry players and company sizes. In the Regulation, 'business organisations' should be added when referred to 'industry'.

4) Harmonised circular economy rules at EU level

We welcome the fact that the chosen legislative act is a Regulation, that it is based on an internal market basis, and especially article 3 of the ESPR on Free Movement, crucial to drive harmonisation across the EU. To ensure the well-functioning of the internal market and a level playing field for the industry, legislation on product environmental sustainability should take a holistic approach and be harmonised at EU level, preventing differing rules in the Member States, which may bring barriers to the free movement of goods, increased costs or even be contradictory to the principles of a circular economy.

¹ In some countries such as Italy wood is recycled to a high extent in a closed loop and used in other furniture components

5) Standardisation: consultation with standardisation bodies and ongoing work

Existing standardization work should be used as a basis for the ecodesign framework. For example, existing CEN standards are securing product durability by specifying relevant requirements and test methods. The standardisation bodies are also advancing proactive work on areas relevant to circularity. For example, standardisation committee CEN/TC 207 WG 10 - Furniture Circularity has started working on 'dis/re-assembly requirements and evaluation methods' (prEN 17902) which will be published in 2023. The committee is also continuing its work on many of the circular product design parameters proposed (including reparability, refurbishment, remanufacturing, product lifetime, product care & maintenance, upgradeability). CEN/TC 207 is ready to cooperate with policymakers in the development of standards related to ecodesign and resulting performance and information requirements. In addition, as the furniture value chain is of a global nature, international equivalent standards should be considered as well.

6) Standardisation: Technical specifications

According to Article 35 of the ESPR, the Commission will be able to formulate 'common specifications' in the absence of harmonised standards. We believe the Commission should generally refrain from issuing its own technical specifications in implementing acts. This option may only be used in exceptional cases. There is a need for in-depth expertise and a flexible process to take into account new products and processes due to innovations available in the market. Hence the development of technical specifications must follow strict criteria established in close dialogue with stakeholders, primarily the standardisation organisations and the industry concerned, a cooperative process involving experts from different fields.

Joint efforts should be made to remove the bottlenecks in the process of developing harmonised standards for a more efficient process. We encourage the Commission to enter a dialogue with standardisation organisations and industry to identify and remove barriers to the system. The use of market-based standards to verify compliance with requirements is central for Europe to be a leader in setting global standards and for standards to keep pace with the latest technological developments.

Furthermore, in Article 32 (2) there should be a reference to using EN standards. In fact, EN standards should be the first choice and in cases where standards are lacking, other methods should be used. If no EN standard exists, it should be ensured that they are developed. If no standards were to be used, it is even more important that e.g. online tools are developed by a broad representation of industry and business to obtain a fair and robust method for verification.

7) Innovation & technology, material and business model neutrality

It is important that the proposal and future product-specific regulation promote innovation and technology development and safeguard technology, material and business model neutrality. Innovation often leads to new types of products and services, which in turn also changes industries. This also means that companies should be able to choose their own way of 'being circular' as long as the required performance is achieved.

The proposal is based on product categories, which creates a risk of lock-in effects where unconditional technology development with innovation across product boundaries risks being hampered. Also, the interpretation of the term "nature of the product" is unclear.

8) Ecodesign product and performance requirements: general recommendations and complexities

Ecodesign requirements must be relevant, appropriate and proportionate to promote a truly sustainable development, focusing on effect goals such as durability of products, reusability and the resulting lifetime of products, reduction of waste generation and associated material recovery, as well as the reduction of greenhouse gas emissions, with the circular economy as a tool to achieve these objectives. The entire lifecycle of products with materials used in the process and their impact on the carbon footprint should be considered.

Ecodesign rules should be of general nature and continue allowing competition based on

design. It is important to have a fluid set of criteria that companies can use depending on their specificities. For example, a company that makes custom furniture may aim at increased reparability or refurbishment, whereas an industrial company at extreme standardisation of spare parts and thus good interchangeability.

Furniture is a complex type of product, with a variety of materials used (wood-based materials, PU foam, plastics, steel, etc.) and a broad range of different designs and products. As such, there is a need to carefully assess, via impact assessments, the different functions, materials, lifespans of furniture products, as well as the affordability and acceptance for consumers, impacts on competitiveness and administrative burden on companies. Care should be exercised when merging several product groups and industry and business stakeholders should be consulted.

9) Ecodesign product and performance requirements: assessing and verifying requirements

Consider that the methodology to assess and verify many of the proposed eco-design and performance requirements is either in process of development or there is no standardised system in the furniture sector/at EU level. Harmonised methods must be developed for a level playing field. CEN/TC 207 on Furniture is developing a standard for dis- and reassembly and many existing standards are being adapted with regards to their pre-existing durability requirements in order to improve the circularity (e.g. in terms of durability).

10) Ecodesign product and performance requirements: harmonised flammability requirements

The industry needs support and a coherent legislative framework to ensure compliance with the legislation, such as Article 5, paragraph 5b (*Ecodesign requirements shall meet the following criteria: b) there shall be no adverse effect on the health and safety of persons*). One example is the need for harmonisation of flammability and fire safety standards across the EU to ensure that unwanted toxic flame retardants are phased out in the industry as a tool to ensure compliance with such requirements. Many flame retardants have been documented to be harmful for the environment and human health. The cigarette test (EN 1021) would be a suitable solution across the EU, as it would allow for full-scale production of furniture without flame retardants. ([Alliance for Flame Retardant Free Furniture position paper on SPI & Alliance website](#)).

11) Ecodesign product and performance requirements: Minimum recycled content & durability

We support investigating the introduction of requirements on minimum recycled content. However, several aspects should be considered: Recycled content should not be an isolated sustainability criterion, to avoid falling into a linear economy logic, and recycling should be looked at in the context of the whole product and limitations should be considered. Recycled content should not be applicable to all materials in the same way and implications should be assessed on a material basis. Also, recycled content should not have a negative effect on durability (one of the key points of the Circular Economy). If requirements are in place, carefully consider the technical possibility of replacing virgin with recycled material, the concrete availability of recycled materials and maturity and size of the market. Last but not least, sustainable and renewable materials such as wood should not be disregarded because they do not fulfil a minimum recycled content quota.

12) Ecodesign and performance requirements: renewable content

We recommend the inclusion of 'renewable content' among the criteria listed in Annex 1. While the presence of renewable content – as the other criteria – cannot be considered in isolation, it is important to include it as it contributes to the goal of moving away from fossil-based materials.

13) Clarification needed on existing products & obligations of market actors

The Regulation focuses primarily on new production of products. There is a lack of focus on how already existing products on the market are affected and how these are to be

covered and managed regarding future performance and information requirements. This should be clarified in the legislation.

Also, the Regulation focuses primarily on the original manufacturer or the first player to place a product on the internal market and there is a lack of focus on the responsibilities of other players along the value chain. The definition of the role of the producer in the circular economy should include, in addition to the 'original manufacturer', corresponding differentiations of players that modify or add to the product in different ways (e.g. repairer, refurbisher, remanufacturer) and thus also assume the role of a producer with the associated obligations to different degrees. So far, there is no sufficient differentiation of the roles and no description of the resulting obligations. It is central that the need for shared responsibility is clarified in the Regulation to avoid uneven competition between new products and products that have been repaired / remanufactured etc. and to enable existing products to be put on the market again. The description of the roles of the market actors must be aligned in all EU legislation to have a common understanding (including of responsibilities and liability).

Furthermore, in article 28 '*Cases in which obligations of manufacturers apply to importers and distributors*' it is stated that '*An importer or distributor shall be considered a manufacturer for the purposes of this Regulation and shall be subject to the obligations of a manufacturer under Article 21, where they (...) modify such a product already placed on the market in a way that affects compliance with the requirements set out in delegated acts adopted pursuant to Article 4 by which the product is covered.*' It is unclear which economic actors are included in the definition 'distributor', i.e. whether those who renovate, repair, upgrade or remanufacture a product are thus covered by the requirements for manufacturers. This needs to be clarified in the Regulation by changing the definition of 'distributor' in Article 2 on Definitions.

14) Information on the environmental sustainability of products: product passport on need-to-know basis and clarification on responsibilities of players along value chain

Information requirements and tools should be harmonised at EU level and designed in a way that they drive circular economy forward and based on standardised and consistent definitions. Information sharing is an important part of the circular economy. The product passport is a tool that may indeed facilitate a more circular economy if designed correctly and is harmonised at EU level.

The product passport must be workable for the industry and value chain, including SMEs and microenterprises, and it should equally apply to imported products to ensure a level playing field. It must be relevant and based on need-to-know basis (and depending on end target user) promoting commercial cooperation between actors along the value chain. The need-to-know basis should be reflected in the text of the Regulation. Also, existing tools and data-standards should be considered to avoid reinventing the wheel.

In the text of the Regulation, there seems to be an emphasis on the responsibility of the original producer. In the circular economy, however, more players will be active along the value chain (repairer, upgrader, refurbisher, etc.), and it must be clarified in what way the passport can be updated when a product is renovated or upgraded during its life, as these 'new business models' can be carried out by companies independently of the original manufacturers.

We believe that most product and product sustainability information should be provided via the digital product passports, e.g. in the form of digital user manuals (instead of physical manuals which, as printed versions, are more easily lost during the lifespan of the product and also consume paper resources), which would be accessible via a QR or code on the furniture (as opposed, for example, to packaging which is disposed of long before the end of the lifespan of the product). Whether the information should be on a customised order by the customer, model, batch or item level should be defined at a later stage via delegated acts and taking into consideration the differences in furniture manufacturers and their outputs (single-piece production or series production).

15) Information on the environmental sustainability: product passports & complexities of furniture value chain and differentiation between compulsory and voluntary information

Consider the complexity of products and value and supply chains, as well as of the quantity of data required via the product passports to avoid duplication of reporting and ensure interoperability. Make a differentiation between information that is a) compulsory and b) voluntary information that can be provided by companies that want to go beyond what is compulsory ('must have' versus 'good to have'). Allowing that certain information is voluntary will give incentives to companies and a gentle push to the market towards circularity, disclosing additional information which may be useful for certain users. Certain information cannot be mandatory (such as carbon footprint).

16) Information on the environmental sustainability of products: product passport companies' trade secrets

The product passports should not contain sensitive trade secrets. The Regulation in its current form does not seem to be compatible with the need to protect knowledge-based assets. Such protection is crucial for the competitiveness of European companies, which is also shown in the European Commission's Action Plan on Intellectual Property Rights, which is part of the Industry Strategy.

Before the EU Trade Secrets Directive (Directive 2016/943) was adopted, Baker McKinsey conducted a survey on the importance of trade secrets, where 48% of respondents answered that they are more important than patents and trademarks. EUIPO / EPO has published several reports on the importance of patents and trademarks, but companies report that trade secrets are more important. To be a trade secret, it must be kept secret. What constitutes a trade secret is a strategic choice that the company makes and can be different types of information for different companies. It is difficult to see how this can be handled in the product passport when it comes to sharing information between different economic actors, even if different access rights are implemented, and there is a risk that competitors have access to companies' trade secrets.

17) Information on the environmental sustainability of products: Provision on tracking and sharing information on substances of concern (SoCs)

The provisions under article 7 on tracking substances of concern risk bringing a huge burden on companies if the proposal in its current form becomes a reality. We believe that substances of very high concern (SVHCs) should be prioritised and we are concerned by the broad definition of 'substances of concern' and that there is no process proposed to ensure that decisions on 'substances that hinder recyclability' are made based on a scientific and participative approach. The Regulation must be supplemented with a reference to the development of horizontal criteria for how such selection should be made, to have a clear system.

We also invite the Commission to ensure that there are no duplication and inconsistencies with the ongoing work in revising chemical legislation, for example by defining "safe and sustainable by design" criteria in chemical legislation - which may serve a similar purpose.

When it comes to sharing information on SoCs, we believe that SoCs to be reported in the product passport must be defined based on the usefulness of the information they provide and selected with care. The definition found in Article 2, paragraph 28, would cover a large list of substances (larger than SVHCs under REACH or SIN list), excluding those substances that may be defined as SoCs that inhibit recycling. It is positive that the Commission states that exceptions can be made for SoC, among others to protect business secret information. However, we believe this should be the general rule, meaning that SoC to be reported in the product passport should be selected based on relevance and the demand for the information in the value chain, as opposed to exceptions to be made on a case-by-case basis.

Consider also that substances used in production usually change in some way during the process (e.g. two-component materials in paints/adhesives) and will therefore never appear in the finished product in this form. For production itself, such substances are regulated by the CLP Regulation and corresponding occupational health and safety legislation. As such, substances to be tracked should be determined at product level on a risk basis. This includes health and environmental risks and recycling in the case of environmental risks.

18) Green Public Procurement

Mandatory green public procurement as a tool to drive circularity forward is very welcome, but we recommend ensuring that the promoted practices are beyond 'second-hand', including more complex practices such as refurbishment or remanufacturing. It is important to have design criteria in the lead, as many tenders will be for purchase in the next years. Then, to encourage the uptake of different business models, different sets of criteria should be derived, e.g. for renting.

19) Market surveillance

With the existing Ecodesign Directive, market control has worked well in many Member States where authorities have had the right competence. Now that in principle many other products will be subject to eco-design requirements, the responsible Member State authorities should have sufficient competence and resources on the materials and products to be controlled to be able to verify that the requirements are met. Without sound market control, there is a risk of unequal conditions of competition in the European market.

Hence it is positive that the Commission is proposing enhanced market surveillance and measures to increase the coordination of market surveillance within the Union, through joint projects, improved digital management, training and guidance for market surveillance authorities. It is also positive that the Commission is proposing that Member States draw up market control action plans to be shared with the Commission and other Member States. It is also positive that the Commission can make demands on what (products and requirements) Member States must at least control.

20) Incentives

The Regulation opens up for incentives such as eco-vouchers, green taxation or other incentives based on classes of performance (according to future rules). However, the latter will incentivise only newly produced products and not stimulate the market for e.g. refurbishment or remanufacturing. We therefore advise to take those aspects into account, as they are essential for the circular economy.

Incentives should also include measures to make the shift towards more refurbishment, remanufacturing (before recycling) that is economically viable. For example: looking at economic incentives, such as reduced VAT on repairs and second-hand purchases, or fiscal measures aimed at making secondary raw materials more competitive than virgin ones. Reduced taxes on services and labour, or other types of incentives for these activities will also be beneficial, given the potential of this circular development to support more labour-intensive sectors (such as repair or refurbishment).

21) Definitions

- The definition of 'manufacturer' and 'distributor' should be more clearly defined (section 13)
- A definition on 'recycling' should be added.
- Substances of concern: we are concerned by the broad definition of 'substances of concern' and the fact that there is no process proposed to ensure that decisions on 'substances that hinder recyclability' are made based on a scientific and participative approach. A reference to the development of horizontal criteria for how the selection should be made should be added in the Regulation to have a clear system (section 17).
- Product groups: the European Commission states that product-specific legislation must be developed for product groups. It needs to be clarified how products will be divided into product groups and which products are considered to be so similar (for purpose, use, function, from a consumer perspective) that they are covered by the same product legislation. How these divisions are to be made needs to be discussed with stakeholders and not least with the business community, primarily applying the regulations in practice.

For further information, please contact: Ms Gabriella Kemendi, EFIC Secretary General (0032 (0)2 287 08 86; gabriella.kemendi@efic.eu)

EFIC is the European Furniture Industries Confederation, representing over 70% of the total turnover of the European Furniture Industries, a sector employing 1 million people in about 120.000 enterprises across the EU and generating a turnover of over 100 billion Euros. The EFIC membership is composed of 17 national associations, one individual company member and several clusters. <https://www.efic.eu/>