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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC

Delegations will find attached document COM(2022) 142 final.

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC

(Text with EEA relevance)

{SEC(2022) 165 final} - {SWD(2022) 81 final} - {SWD(2022) 82 final} - {SWD(2022) 83 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The main objectives of this regulation are to reduce the negative life cycle environmental impacts of products and improve the functioning of the internal market. These objectives seek to resolve the problems and their causes analysed in the impact assessment. They reflect the fact that products are available on the internal market that generate unnecessary adverse environmental impacts. This Regulation also contributes to the objectives of EU industrial policy to boost the supply of and demand for sustainable goods, deliver on sustainable production, and ensure a level playing field for products sold on the internal market. Industry needs harmonised requirements applicable across the board, efficient means to comply with them, proper enforcement, reinforced market surveillance and customs controls based on a risk analysis[1].

Products play a vital role in the lives of EU citizens and the number, range and variety of products on offer to us are constantly increasing. With the technological leaps that have taken place over past decades, our reliance on them has also increased: from the ICT products that kept us connected during the COVID-19 crisis, to the furniture and the appliances that help to run our homes on a daily basis. The free circulation of products is essential to ensuring the functioning of the internal market, which remains the foundation for EU companies' competitiveness and for consumers' choice.

By applying the Ecodesign approach to a very broad range of products and enabling it to set a wide range of targeted product requirements, this regulation seeks to address the most detrimental environmental impacts of products. It therefore lays down a framework for setting ecodesign requirements based on the sustainability and circularity aspects listed in the Circular Economy Action Plan[2], such as product durability, reusability, upgradability and reparability, the presence of substances of concern in products, product energy and resource efficiency, recycled content of products, product remanufacturing and high-quality recycling, and for reducing products' carbon and environmental footprints.

In doing so, it will contribute to achieving the EU's overall climate, environmental and energy goals, while supporting economic growth, job creation and social inclusion. By making materials last for longer, ensuring their value is retained for as long as possible and boosting the use of recycled content in products, it will promote decoupling of economic development from natural resource use and reduction of material dependencies – thus fostering EU open strategic autonomy and resilience. Several recent events have reminded us of the possible vulnerabilities of global supply chains.

This regulation is part of a package of initiatives presented by the Commission relating to sustainable products and fostering sustainable product choices. The package includes targeted sectoral initiatives on textiles[3] and construction products[4], which address products with most

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1 As foreseen in Article 46 of Regulation (EU) No 952/2013 on the Union Customs Code.
2 COM(2020) 98 final.
3 COM(2022) 141 final.
4 COM(2022) 144 final.

significant impacts on the environment and climate, and an initiative to empower the consumers in the green transition, through better protection against unfair practices and better information[5]. Finally, until this regulation is in place, the Commission will ensure work under the existing Ecodesign Directive continues, including via adoption of a new Ecodesign and Energy Labelling Working Plan for the period 2022–2024, addressing new energy-related products and updating and increasing the ambition of those already regulated.

- **Consistency with existing policy provisions in the policy area**

This regulation will broaden the scope of the **Ecodesign Directive** both in terms of products and new kinds of requirements. For reasons of legal clarity, the Ecodesign Directive should therefore be repealed. Given the wide scope of the proposed regulation, it is necessary to define in so far as possible how it relates to existing legislation applicable to the products covered, and to other initiatives linked to or relevant its goals. The aim is to prevent duplication so as to minimise the administrative burden for businesses and authorities.

The general approach is that this Regulation will set requirements where existing legislation does not, or where it insufficiently addresses environmental sustainability aspects. The general principle of law, *lex specialis derogat legi generali,* (where more specific rules will prevail over more general rules) will therefore apply. To be more specific, the approach covers two categories: product-specific legislation and legislation addressing horizontal aspects.

Product-specific legislation refers to legislation focused on a specific product or well-defined product group, often regulating mainly safety aspects (e.g. on **batteries, toys, detergents and packaging**). It is not feasible to provide specifications for every piece of existing product-specific legislation at the general level of this Regulation. However, before setting concrete requirements at product-specific level through measures under this Regulation, the Commission will assess in detail any potential overlaps or conflicts with existing legislation to avoid duplicating requirements and putting an excessive burden on businesses. As a matter of principle, this Regulation will only apply to products not covered by existing legislation, or when legislation does not sufficiently address the sustainability of those products. In addition, product-specific requirements under this Regulation will be included in delegated acts and as such cannot supersede requirements set through legislative acts such as directives or regulations (although they can be more specific), following the principle of the hierarchy of norms.

In relation to construction products in particular, whilst these will be in the scope of this Regulation, given the need to manage the strong interlinkages between their environmental and structural performance, including their health and safety, ecodesign requirements will be laid down under the revised Regulation (EU) No 305/2011[6] (the Construction Products Regulation), except for energy-related construction products, which are already regulated under the existing Ecodesign Directive.

Legislation governing horizontal aspects refers to legislation that addresses or can address horizontal aspects under this Regulation of a broad range of products, such as the **REACH**

[5] COM(2022) 143 final.

[6] Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).

rules that govern chemicals and grant empowerments in relation to chemical substances in products. Where legislation already addresses or may address specific aspects covered by this Regulation in a more horizontal manner, there is the clear need and possibility to specify how this relates to this Regulation at a more general level. Similarly, this Regulation will also build upon the general framework set for market surveillance in the **Market Surveillance Regulation**, while tailoring the provisions where needed to the specific aims of the Initiative.

Please see **Section 7.9** as well as **Annex 14** to the impact assessment, which details how the Initiative interacts and is consistent with existing and emerging legislation.

Finally, the **Energy Labelling Regulation** will continue to apply in parallel to the proposed regulation to energy-related products. Coherence will be ensured. This means, for instance, that as a principle such products must only bear the energy label specified under the Energy Labelling Regulation.

- **Consistency with other Union policies**

This Regulation builds on several Union policies.

The bedrock for this initiative is the **European Green Deal[7],** the growth strategy to transform the EU into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use. The European Green Deal also announced the new industrial strategy for Europe and the Circular Economy Action Plan, published together in in March 2020.

The **European Commission's 2020 industrial strategy for Europe[8]** sets out the EU's overarching ambition to foster a 'twin transition' to climate neutrality and digital leadership. It echoes the European Green Deal in highlighting the leading role that Europe's industry must play in this, by reducing its carbon and material footprint and embedding circularity across the economy. It underlines the need to move away from traditional models, and revolutionise the way we design, make, use and dispose of products. In 2021, the Commission published an **update to the industrial strategy[9]**, which reinforces the main messages of the 2020 strategy and provides a range of additional implementation tools.

The **Circular Economy Action Plan (CEAP)** aims, amongst other aspects, to stimulate the development of lead markets for climate-neutral and sustainable **products**, in the EU and beyond. To achieve this, it establishes a sustainable product policy framework, including measures in three broad areas: fostering sustainable product design; empowering consumers and public buyers; and promoting circularity in production processes[10].

While the three areas of the sustainable product policy framework are synergetic with each other, this regulation focuses primarily on the measures set out under the first area (sustainable product design) that aim to make products fit for a climate-neutral, resource-efficient and circular economy, reduce waste and ensure that the performance of frontrunners in sustainability progressively becomes the norm. As announced in the CEAP, the core of this legislative initiative is to extend the scope of the **Ecodesign Directive** beyond energy-related

[7] COM(2019) 640 final.
[8] COM(2020) 102 final.
[9] COM(2021) 350 final.
[10] Also in synergy with actions under the Zero Pollution Action Plan, COM(2021) 400 final.

products so that it covers the broadest possible range of products and helps achieve a circular economy.

The product requirements set out in this legislation should complement and strengthen the requirements set under other CEAP initiatives. In particular, the product requirements set in this legislation should help achieve the objectives and be in line with other measures on key value chains defined in implementation of the CEAP, such as the **EU strategy for sustainable and circular textiles**. Furthermore, the **Empowering consumers for the green transition initiative** will improve information on products at the point of sale in particular on their durability and reparability, and help prevent greenwashing and premature obsolescence. The upcoming Commission initiative on **Green Claims** will also complement measures in this legislation, by increasing the reliability, comparability and verifiability of environmental claims about products, via requirements that such claims be substantiated and verified using life-cycle analysis methods, including the Product Environmental Footprint method[11]. In addition, the objectives of this legislation will be further supported by the legislation on **Corporate Sustainable Due Diligence[12]**, in particular the environmental due diligence rules it lays down for companies.

Finally, the requirements will also **contribute to achieving EU climate goals**: they will synergise with and complement instruments with more direct climate focus[13] by going beyond the production of basic materials/basic material components to cover final products themselves. This will allow for taking action on negative impacts generated along the entire value chain (including the embedded emissions of a product throughout its lifecycle, or other negative consequences), directly supporting Green Deal objectives and consistent with the 'do no significant harm' principle.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The proposal is based on Article 114 of the Treaty on the Functioning of the European Union (TFEU), which is to be used for measures aiming at the establishment and functioning of the internal market. The Ecodesign Directive (which the Commission proposes to repeal by this regulation) was itself based on Article 95 of the Treaty establishing the European Community (now Article 114 TFEU).

The issues tackled by this initiative are related to the internal market, including the uneven playing field for companies attempting to implement more sustainable approaches or the fact current EU rules only partially cover sustainability aspects of products. This means that there is no comprehensive set of requirements to ensure that all products placed on the EU market become increasingly sustainable. As a result, the Member States have begun to adopt multiple approaches at national level (leading to internal market fragmentation) and the enforcement of current Ecodesign rules is insufficient and uneven.

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[11] Set out in Commission Recommendation (EU) 2021/2279 of 15 December 2021 on the use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations.

[12] COM(2022) 71 final.

[13] Such as the Fit for 55 package: https://ec.europa.eu/commission/presscorner/detail/en/IP_21_3541

The lack of sufficient and comprehensive internal market rules leaves room for initiatives developed by Member States or by industries that impair the functioning of the internal market by giving rise to potential barriers, fragmentation and incoherent approaches. In addition, in the absence of a comprehensive set of requirements defining product's environmental sustainability, or ecodesign requirements, the same product considered sustainable in one Member State might not qualify as sustainable in another Member State. What's more, recently adopted national legislation is likely to oblige manufacturers (and retailers) operating across EU borders to comply with a range of different national obligations varying from one Member State to another.

These new national obligations, ranging from information requirements on technical operations performed on refurbished electronic devices, on the duration of software compatibility in France, to reporting obligations on handling unsold durable goods in Germany, give clear indications of a trend to take regulatory action by setting ecodesign requirements on goods. As a consequence, without EU action, there will inevitably be an increase in national obligations and increased market fragmentation.

The problems outlined above are the rationale for basing this proposal on Article 114 TFEU.

- **Subsidiarity (for non-exclusive competence)**

The necessity test questions whether the objectives of a proposal can be sufficiently achieved by action taken by Member States alone. On this test, it is essential to put in place a harmonised set of rules to achieve a harmonised and well-functioning internal market for sustainable products across all Member States, and therefore a level playing field for businesses operating on the internal market. This includes product requirements and the obligation to provide reliable information to users.

Member States alone would not be able to enact measures of this scope without creating divergences in the requirements for business and obstacles to the free movement of products, regulatory burden and excessive costs for business. In addition, action taken by Member States alone would inevitably give rise to different tools that would render consumer choices more complicated. If Member States take individual action there would therefore be a high risk of ending up with different competing systems based on different methods and approaches, especially for products traded across the internal market. This fragments the market and is likely to lead to differing levels of awareness and information on the environmental performance of products across the EU and additional costs for companies trading across EU Member States.

The effectiveness test checks whether action at EU level is more effective than action at national level. On this test, only EU-level action can set harmonised product requirements and information requirements on sustainability aspects applicable across the EU, ensuring the free movement of goods and providing consumers with relevant and reliable information about sustainable characteristics and circular features of products in whatever Member State they are purchased. There is clear added value in setting requirements at EU level, as this will create a harmonised and well-functioning internal market across all Member States and, therefore, a level playing field for businesses operating on the internal market . With harmonised minimum and information requirements set at EU level, sustainable products and circular practices will be promoted in all Member States, creating a larger and more efficient market and hence greater incentives for industry to develop them. Finally, the size of the internal market provides a critical mass enabling the EU to promote product sustainability and influence product design and value chain management worldwide.

- **Proportionality**

The proposal does not go beyond what is necessary to provide a regulatory framework for the development of ecodesign requirements for the broadest possible range of products.

The Commission will continue the approach followed for the Ecodesign Directive of issuing implementing measures, based on impact assessments carried out in line with the Commission's Better Regulation guidelines. Therefore it will carry out an analysis of the economic and environmental impacts of different options for each set of requirements. This will allow for proportionality to be maintained.

The proposal is designed as a flexible framework as a means of ensuring proportionality. For this reason, it will not set any criteria or targets for the requirements unless they are justified on the basis of a prior assessment. To ensure proportionality, each individual requirement will need to be justified before being applied to any product group. Setting requirements, criteria or targets at the level of well-defined product groups will enable a careful assessment of impacts. It will enable the Commission to take account of the added value and proportionality of setting requirements, targets or criteria depending on the inherent characteristics of the products, their manufacturing processes and their market situation.

- **Choice of the instrument**

A regulation will set direct requirements for all operators, thus providing the necessary legal certainty and scope for enforcement of a fully integrated market across the EU. A regulation also ensures that the obligations are implemented at the same time and in the same way in all 27 Member States.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

In March 2019, the Commission published a staff working document entitled *Sustainable Products in a Circular Economy - Towards an EU Product Policy Framework contributing to the Circular Economy*[14]. This examined the extent to which EU policies affecting products contribute to the transition to a circular economy, and where there is potential to make a stronger contribution. It found that there is **no overarching, integrated EU policy instrument covering the sustainable production and consumption of all products and/or the availability and reliability of information on these products to consumers**.

Though successive evaluations[15] of the Ecodesign Directive have confirmed that it is clearly relevant and effective as a regulatory tool, they identified potential to improve implementation and enforcement. These evaluations, for example, noted that 'while it is broadly recognised

[14] SWD(2019) 92 final.

[15] Evaluation of the Ecodesign Directive (2009/125/EC), Centre for Strategy and Evaluation Services (CSES), 2012; Evaluation of the Energy Labelling Directive and specific aspects of the Ecodesign Directive, Ecofys, June 2014; EU action on Ecodesign and Energy Labelling: important contribution to greater energy efficiency reduced by significant delays and non-compliance, European Court of Auditors, Special Report 01/2020.

that the energy efficiency aspects of the SCP/SIP action plan[16] and of EU resource efficiency policy can be served by the Ecodesign Directive and the implementing measures, is also suggested by some Member State representatives and by environmental NGOs that there have been missed opportunities as a result of the limited coverage in implementing measures of other environmental aspects'[17]. The evaluation also highlighted the untapped potential of the Directive to address aspects beyond energy efficiency, concluding that 'there may have been non-energy improvements that have not been addressed as a result of the product scope, policy choices or the underlying technical analysis'.

- **Stakeholder consultations**

In line with the Better Regulation guidelines, several consultation activities took place.

– Consultation on an **inception impact assessment** from 14 September to 16 November 2020[18]. 193 responses received.

– An **open public consultation** from 17 March to 9 June 2021. 626 responses received.

– A series of **workshops** from April to July 2021, on different topics related to Sustainable Product Initiative, widely attended by participants from several stakeholder groups.

– A **survey of small and medium-sized enterprises** from 26 April to 15 June 2021. 332 responses received.

– A **second targeted survey** for small and medium enterprises (SMEs) from 20 October to 4 November 2021. This drew primarily on the expertise of organisations representing SMEs. 35 replies received.

– **Tailored questionnaires** submitted to selected stakeholder representatives from 20 May to 9 June 2021.

– A number of **stakeholder interviews** conducted with selected stakeholder representatives.

Overall, the consultation activities demonstrated **strong general support** for a regulatory initiative covering product sustainability. Most stakeholders advocated for the initiative to cover a wide product scope and take a whole life cycle approach to product regulation. It indicated strong support to extend the scope of the current Ecodesign Directive, with general agreement that the sectors identified in the 2020 circular economy action plan should be prioritised. The feedback showed a preference (in particular from manufacturers/importers) for an approach that takes product specificities firmly into account. There is general agreement that the lack of clear, comprehensive and binding legislation, and the lack of trustworthy information are all barriers to increasing the availability of sustainable products on the EU market, as is uneven enforcement of ecodesign requirements. The idea to bring in a

16 Communication on the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan

17 Evaluation of the Ecodesign Directive p.19.

18 https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative_en

digital product passport is generally supported by clear majorities across all stakeholder groups, as are incentives and tools to stimulate demand for sustainable products. Stronger enforcement and market surveillance activities (e.g. inspections or audits) are seen as necessary to accompany implementation of this initiative.

Detailed conclusions from the stakeholder consultations are set out in **Annex 2** to the impact assessment.

- **Collection and use of expertise**

The Commission awarded a contract to external experts to carry out a **study** to feed into the impact assessment accompanying this proposal. This study provided part of the data underlying the analysis of the policy options set out in that document, and in turn fed into the measures included in the current proposal. The external experts worked in close cooperation with the Commission throughout the different phases of the study.

- **Impact assessment**

The proposal is based on an impact assessment. After resolving the issues raised in the Regulatory Scrutiny Board's negative opinion issued on 17 September 2021, the impact assessment received a positive opinion on 21 January 2022. In its final opinion, the Board asked for additional details on the choice of options, the method to be employed under the regulation and how the rules for digital product passports will be laid down in practice.

The main problem this initiative seeks to remedy, its related sub-problems, and the policy options identified are detailed in **Sections 2** and **5.2** of the impact assessment. The preferred combination of options is described in detail in **Section 7** of the impact assessment. **Annex 10** to the impact assessment provides a summary overview of the costs and benefits of all sub-options analysed, while **Annex 12** provides more information on the costs and benefits likely to be associated with the preferred combination of options. All these aspects are summarised in the **executive summary** accompanying the impact assessment.

Due to the framework architecture foreseen, exact costs stemming from the requirements are difficult to estimate with precision. Most will be incurred only in a second stage, following the enactment of the secondary legislation.

The dedicated impact assessments that will be done in connection to each delegated act in the future will assess in detail the impacts expected, including on third country operators, also in light of their WTO notification.

It should be noted that, due to the adoption of the Commission Proposal for a Directive on **Corporate Sustainable Due Diligence**[19] during the preparation of this initiative, it was deemed appropriate to exclude requirements on social aspects from the scope of this legislative proposal.

As specified in the legal text, an evaluation will take place after 8 years from the date of application of this Regulation. Among other aspects, this evaluation may consider the inclusion of social requirements in the regulatory framework.

[19] COM(2022) 71 final.

- **Regulatory fitness and simplification**

This regulation is expected to create a level playing field for businesses operating on the internal market. The harmonised requirements proposed at EU level are likely to reduce overall compliance costs, given that they are likely to replace multiple existing or planned requirements at national level.

Producers that use more sustainable production and transparent supply chains are expected to gain EU market share and increase their competitiveness over producers that use less sustainable methods.

Though SMEs suggested that certain negative impacts may stem from some of the measures under the preferred combination of policy options identified in the impact assessment, many also expressed the belief that these can be offset and bring added value over time (due to reduced material expenditure, increased customer loyalty, better access to the market for greener products, reputational benefits etc.). In addition, the Commission has looked specifically at ways to mitigate the negative impacts on SMEs. These are detailed in Annex 19 to the accompanying impact assessment, and in specific provisions of the current proposal.

For consultation purposes, in continuation of the successful example of the existing Consultation Forum under the Ecodesign Directive, the proposal establishes an Ecodesign Forum with a balanced participation of Member States' representatives and all interested parties such as industry, including small and medium-sized enterprises and craft industry, trade unions, traders, retailers, importers, environmental protection groups and consumer organisations. The Ecodesign Forum is limited to providing expertise to the Commission on the working plan and on the preparation of ecodesign requirements, before the Commission formally exercises its delegated powers. The Commission may set up an additional expert group to consult Member States on the delegated acts to be adopted under this Regulation, in accordance with the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[20].

The proposal also includes the creation of a digital product passport to electronically register, process and share product-related information amongst supply chain businesses, authorities and consumers. This is expected to increase transparency, both for supply chain businesses and for the general public, and increase efficiencies in terms of information transfer. In particular, it is likely to help facilitate and streamline the monitoring and enforcement of the regulation carried out by EU and Member State authorities. It is also likely to provide a market-intelligence tool that may be used for revising and refining obligations in the future.

The Fit for Future Platform's opinion on Ecodesign[21] recognised the need to improve the sustainability of products and the necessity to introduce new obligations whilst keeping the burden on business to the minimum. The Platform made nine suggestions that were considered in the design of the new legislation on digitalisation; considering the burdens on SMEs; and ensuring consistency and clarity. For example, enabling consumers to have better access to information whilst ensuring that the Digital Product Passport allows for efficient information flows following best practices; and the possibility of accompanying the measures under this Regulation with mitigating measures so that impacts are expected to remain proportionate for SMEs.

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[20] OJ L123, 12.5. 2016, p. 1.

[21] https://ec.europa.eu/info/sites/default/files/final_opinion_2021_sbgr2_10_ecodesign.pdf

- **Fundamental rights**

Ecodesign requirements can have benefits for the protection and promotion of fundamental rights as laid down in the EU Charter of Fundamental Rights, including on the freedom to conduct a business (Article 16), the right to environmental protection (Article 37) and the right to consumer protection (Article 38).

4. BUDGETARY IMPLICATIONS

The proposal has limited budgetary implications for the Commission. Specifically, it requires 54 full-time equivalents to fully implement the regulation and the related delegated acts over the period 2022-2027 of the EU Multiannual Financial Framework (MFF). New commitments would be needed on existing budget lines, amounting to EUR 23,338 million in Heading 1 of the MFF (Single Market, Innovation and Digital), EUR 43,912 million in Heading 3 (Natural Resources and the Environment) and EUR 38,621 million in Heading 7 (Administrative Expenditure). The new commitments will be covered from the existing budgetary envelopes of the relevant programmes.

The budget implications mainly stem from the following work to:

– review, between 2022 and 2026, 33 Commission regulations and adopt 5 new measures under the current Ecodesign Directive, which cannot be carried out by staff currently working on implementation of the Directive;

– prepare and adopt up to 18 new delegated acts between 2024 and 2027; 12 new delegated acts would also be adopted between 2028 and 2030, with staff and budget implications in 2025-2027;

– prepare implementing acts (on average one per year as from 2024) when this is needed to ensure uniform conditions for the implementation of this Regulation, for example in relation to market surveillance, disclosure of information on the destruction of unsold consumer goods or the acknowledgement of self-regulatory measures; and

– carry out horizontal tasks related to the digital product passport, support for market surveillance and customs control, and a European circular business hub to support the exchange of experience between economic actors in integrating circularity in product design and manufacturing[22].

In terms of staffing needs, the Commission has looked carefully at ways to share the work between lead DGs, reallocate staff when possible and outsource scientific and technical support for the preparation of delegated and implementing acts and for crosscutting tasks.

[22] The Hub will support the uptake of circular business models, channel information and services including awareness raising, cooperation, training and exchanges of best practices. It will build upon the expertise and service offer of existing EU actions, notably the European Circular Economy Stakeholder Platform, Enterprise Europe Network Sustainability Advisors and the network of European green tech clusters.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

In accordance with the Better Regulation guidelines published in November 2021 and in particular tool 38, the Commission will draw up an implementation strategy after the legislative proposal has been adopted by the co-legislators. It will present the different compliance promotion tools to be used and will include aspects related to digital implementation.

- **Detailed explanation of the specific provisions of the proposal**

Article 1 lays down the subject matter of this Regulation, namely a framework for setting ecodesign requirements, creating a digital product passport, and prohibiting the destruction of unsold consumer products. It lays down the product aspects to which the eco-design requirements relate, such as durability and reliability, reusability, upgradability, reparability, and possibility of maintenance and refurbishment, presence of substances of concern, energy and resource efficiency, recycled content. It further sets the scope of the Regulation – only a few sectors, such as food, feed, and medicinal products, are exempted.

Article 2 lays down the definitions needed for the purposes of this Regulation. A number of these definitions are taken over from the New Legislative Framework (Regulation (EC) No 765/2008 and Decision 768/2008/EC), from the repealed Ecodesign Directive or from existing Union environmental legislation (such as the Waste Framework Directive). A set of new definitions is brought in, for instance on the provisions on the product passport and on the destruction of unsold consumer products.

Article 3 sets out the general principle related to the free movement of products that comply with delegated acts adopted pursuant to this Regulation.

Article 4 lays down the empowerments for the Commission to adopt delegated acts to supplement this Regulation by establishing ecodesign requirements, requirements relating to conformity assessment procedures, requirements for the measure of energy consumption or of performance in relation to other parameters, requirements for manufacturers, authorised representatives or importers to provide information to the Commission or market surveillance authorities, requirements on the use of online tools to calculate the performance of products, requirements on alternative rules for the declaration of conformity or for markings and finally, requirements on Member States incentives and on public procurement criteria.

Article 5 lays down the general framework for the adoption of ecodesign requirements. It lays down the product aspects that those requirements can improve. It explains that those requirements may apply to one specific product group or horizontally to more product groups, where technical similarities allow for the setting of common requirements. It specifies that ecodesign requirements include performance requirements and information requirements). Finally, it lays down a number of conditions to be met by the Commission when preparing ecodesign requirements, as well as a number of criteria that those requirements would need to meet.

It also enables the Commission to require that supply chain actors cooperate with manufacturers, notified bodies and competent national authorities for the verification of products' compliance with eco-design requirements.

Article 6 provides more details about performance requirements, for instance that they can take the form of either a quantitative level or a non-quantitative requirement, set to improve a product aspect, on the basis of selected product parameter(s) (the list of which is in Annex I).

Article 7 focuses on information requirements. It establishes that those requirements shall always include requirements related to the product passport and requirements related to substances of concern The Article further details other type of information that can be provided, e.g. information on the performance of a product or information for consumers on how to install or use the product. This information can take the form of 'classes of performance' for instance ranging from A to G, to facilitate comparison between products.

Finally, the Article specifies the different ways in which the information can be provided (e.g. on the passport, on a website, on a label, etc.).

Article 8 sets out the elements that the Commission needs to specify in the information requirements in relation to the digital product passport, for example the information to be included and who has access to what information. *Articles 9 to 11* lay down the necessary provision to implement the product passport. *Article 9* lays down the general requirement in relation to the product passport. *Article 10* provides the essential requirements for the technical design and operation of the product passport. *Article 11* lays down the rules related to unique operator and facility identifiers.

Article 12 provides for the setting up of a registry storing information included in the products passport, allowing the Commission to specify which information needs to be uploaded

Article13 includes the provisions specifying what is expected form customs authorities in relation to the product passport and to what information they should have access to facilitate their work.

Article 14 specifies the requirements attached to labels, when they are to be used for a given product group. It explains that in such cases, delegated acts must specify the label's content (including classes of performance) and layout, and how they are to be displayed to consumers. If the product is already covered by a label as provided for in the Energy Labelling Regulation (EU) 2017/1369, and the information on other parameters, including on other classes of performance, cannot be included in it, that information might be included in a separate label if the Commission finds it appropriate.

Article 15 specifies that economic operators cannot display labels mimicking the labels provided for under this Regulation.

Article 16 provides for the Commission to adopt a working plan which must cover at least 3 years and indicates the criteria for prioritising products. The working plan includes an indicative list of product groups that the Commission intends to tackle in the coming years.

Article 17 establishes an Ecodesign Forum (expert group). It is based on the existing Consultation Forum established under Directive 2009/125/EC.

Article 18 concerns self-regulation measures. These are industry-led measures that can be used as alternatives to delegated acts establishing ecodesign requirements adopted pursuant to

Article 5. Directive 2009/125/EC[23] already contained an article on voluntary agreements. Article 17 of this Regulation expands upon the original article from Directive 2009/125/EC. In particular, it lays down what the self-regulation measure should contain, what the industry should submit as evidence to the Commission, and the procedure for the Commission to recognise the self-regulation measure as a valid alternative to a delegated act.

Article 19 lays down a number of measures that the Member States and the Commission are required to take to help SMEs with the general implementation of this Regulation and the future delegated acts. Such measures include guidelines, financial assistance and training.

Article 20 first establishes a general obligation of transparency for economic operators who discard unsold consumer products. It also provides for the possibility to adopt delegated acts to prohibit economic operators from destroying unsold consumer products. These delegated acts may also contain exemptions to the general prohibition for instance for reasons of health and safety. If such an exemption is used, economic operators also have an obligation of transparency (i.e. disclosing the number of products destroyed, reasons for destruction, etc.). The article does not apply to SMEs, but the delegated act prohibiting the destruction of products may specify that some obligations apply to certain categories of SMEs (micro, small or medium).

Articles 21, 22, 23 and 24 lay down obligations of manufacturers, authorised representatives, importers and distributors. They are based on standard provisions from Decision 768/2008/EC.

Article 25 lays down obligations of dealers (who are typically retailers or sellers) especially in relation to the display of labels and access to the product passport, including in case of (online) distance selling.

Article 26 gathers together the different obligations that the economic operators have to comply with if the delegated act requires the product to have a label (e.g. providing dealers with labels).

Article 27 concerns obligations of fulfilment service providers, namely ensuring that when they handle a product, the conditions during warehousing, packaging, addressing or dispatching do not jeopardise the products' compliance with the ecodesign requirements.

Article 28 is a standard article from Decision 768/2008/EC, which lays down the two cases in which manufacturers' obligations apply to importers and distributors.

Article 29 sets out the obligations of online marketplaces and online search engines in particular concerning cooperation with market surveillance authorities. It also specifies that market surveillance authorities should have the power to order an online marketplace to remove illegal content.

Article 30 lays down the possibility for future delegated acts to require economic operators to make the technical documentation available digitally without request. Further, in order to

[23] Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (Text with EEA relevance) (OJ L 285, 31.10.2009, p. 10).

assess market penetration of products for which ecodesign requirements have been set, the Article requires economic operators to provide information about products supplied.

Article 31 specifies that products should be able, where appropriate, to measure the energy they consume while in use, or its performance in relation to other relevant parameters and to make this data available to the end user. When so established in a delegated act manufacturers shall collect, anonymise and report this data to the Commission.

Chapter VIII on the conformity of products is mostly standard provisions on how to assess the conformity of products. It concerns:

– the use of reliable, accurate and reproducible methods for tests, measurements and calculations (*Article 32*);

– harmonised standards providing a presumption of conformity (*Article 34*);

– the possibility for the Commission to adopt common specifications where harmonised standards are not available (*Article 35*);

– the conformity assessment procedures (*Article 36*);

– the EU declaration of conformity (*Article 37*); and

– the CE marking (*Articles 38 and 39*) and the possibility to use alternative markings (*Article 40*).

Noteworthy in this standard Chapter are the presumption of conformity with ecodesign requirements for products bearing the Union Ecolabel (*Article 34*) and the possibility to amend, in the delegated act, the relevant conformity assessment module depending on the product at stake (*Article 36*).

Article 33 concerns the prevention of circumvention. For instance, products designed to be able to detect they are being tested and automatically altering their performance to a more favourable result will not be permitted on the market.

Chapter IX (*Articles 41* to *56*) concerns the notification of conformity assessment bodies and consists of standard provisions based on Decision 768/2008/EC, combined with targeted enhancements of those provisions to ensure legal clarity and further strengthen the independence, competence and monitoring of notified bodies.

Article 57 provides that if Member States adopt incentives to reward products, those incentives should, in principle, target the highest two populated classes of performance or that bear the EU Ecolabel. In case no class of performance is set, or the class of performance is based on several product parameters, the Commission can further specify in a delegated act how the Member States incentives must work.

Article 58 concerns green public procurement and more specifically the possibility for delegated acts adopted pursuant to this Regulation to establish requirements applicable to public contracts (e.g. technical specifications, selection criteria, award criteria, etc.), based on the product parameters listed in annex to this Regulation.

Chapter XI concerns market surveillance. It generally builds upon the obligations that exist under the Market Surveillance Regulation (EU) 2019/1020, while providing for some more specific obligations where relevant for this Regulation.

Article 59 requires Member States to draw up an action plan for market surveillance activities, which must include 'priorities for market surveillance', to be identified based on a number of criteria laid down in the Article, and the nature and number of checks planned.

Article 60 empowers the Commission to adopt delegated acts setting out a minimum number of checks to be performed on specific products.

Article 61 makes reference to the information and communication system under the Market Surveillance Regulation (ICSMS) and requires Member States to enter information on penalties imposed pursuant to this Regulation. On that basis, the Commission is required to adopt a report including indicative benchmarks on the frequency of checks and the nature and severity of penalties imposed.

Article 62 makes reference to the administrative cooperation group ('ADCO') set up pursuant to the Market Surveillance Regulation and sets out its role in the context of this Regulation. This role includes identifying common priorities for Member States' action plans or priorities for Union support (such as joint market surveillance and testing projects, joint investment in market surveillance capacities, including equipment and IT tools, common training sessions, and guidelines).

Chapter XII concerns safeguard procedures and is based on standard provisions. *Article 61* sets out the procedure to be followed by a national market surveillance authority where it considers that a product presents a risk. In such case, the national market surveillance authority must initiate a procedure informing other market surveillance authorities of the measures taken (prohibition or restriction on making the product available, withdrawal or recall).

Article 64 lays down the Union safeguard procedure to be used if a Member State or the Commission disagrees with a measure taken at national level under the safeguard procedure set out in *Article 63*. Following a consultation, the Commission will adopt an implementing act deciding whether the measure is justified or not. Once adopted, all Member States must ensure that the non-compliant product is withdrawn from their market.

Article 65 concerns the particular case where a case of non-compliance relates to a formal obligation (affixing the CE marking, EU declaration of conformity, etc.)

Chapter XIII is a standard chapter with articles on delegated acts (*Article 66*) and on implementing acts (*Article 67*).

Chapter XIV is a standard chapter on final provisions, with articles on penalties (*Article 68*), on carrying out an evaluation of the Regulation 8 years after adoption (*Article 69*), and on repeal and transition provisions (*Article 70*). Noteworthy is the fact that implementing measures adopted under the Ecodesign Directive should remain applicable until they are repealed by a delegated act adopted pursuant to this Regulation.

Annex I sets out the product parameters to be used for setting performance and information requirements for products under this Regulation.

Annex II lays down the procedure for setting such performance requirements.

Annex III lists the information that can be included in the product passport and specifies the information to be included in it.

Annex IV reproduces the standard conformity assessment module referred to in Article 35 (from Decision 768/2008/EC).

Annex V reproduces the standard EU declaration of conformity.

Annex VI gives more detailed information about the content of delegated acts setting ecodesign requirements to be adopted pursuant to this Regulation.

Annex VII lays down general criteria applicable to self-regulation measures (Article 18).

Annex VIII is a standard annex including the correlation table with the Ecodesign Directive.

2022/0095 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[24],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The European Green Deal[25] is Europe's sustainable growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, competitive, climate-neutral and circular economy. It sets the ambitious objective of ensuring that the Union becomes the first climate neutral continent by 2050. It recognises the advantages of investing in the Union's competitive sustainability by building a fairer, greener and more digital Europe. Products have a pivotal role to play in this green transition. Underlining that current production processes and consumption patterns remain too linear and dependent on a throughput of new materials extracted, traded and processed goods and finally disposed of as waste or emissions, the European Green Deal emphasises the urgent need to transition to a circular economy model and stresses the significant progress that remains to be made. It also identifies energy efficiency as a priority for the decarbonisation of the energy sector and for reaching the climate objectives in 2030 and 2050.

(2) To accelerate the transition to a circular economy model, the Commission designed a future-oriented agenda in its Circular Economy Action Plan for a cleaner and more

[24] OJ C ,, p. .

[25] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions *The European Green Deal* COM(2019)640 final.

competitive Europe[26] (CEAP), with the objective of making the regulatory framework fit for a sustainable future. As set out in this plan, there is currently no comprehensive set of requirements to ensure that all products placed on the Union market become increasingly sustainable and stand the test of circularity. In particular, product design does not sufficiently promote sustainability over the whole life cycle. As a result, products are being replaced frequently, involving significant energy and resource use in order to produce and distribute new products and dispose of old ones. It is still too difficult for economic operators and citizens to make sustainable choices in relation to products given that relevant information and affordable options to do so are lacking. This leads to missed opportunities for sustainability and for value-retaining operations, limited demand for secondary materials and obstacles to the adoption of circular business models.

(3) The European Industrial Strategy[27] sets out the Union's overarching ambition to foster a 'twin transition' to climate neutrality and digital leadership. It echoes the European Green Deal in pointing to the leading role that Europe's industry must play in this, by reducing its carbon and material footprint and embedding circularity across the economy, and underlines the need to move away from traditional models, and revolutionise the way we design, make, use and dispose of products. The 2021 Update to the Industrial Strategy[28] reinforces the main messages of the 2020 Strategy and focuses on the lessons from the COVID-19 crisis, including the need to foster resilience.

(4) In the absence of legislation at Union level, diverging national approaches to improving the environmental sustainability of products have already emerged, ranging from information requirements on the duration of software compatibility of electronic devices to reporting obligations on handling unsold durable goods. This is an indication that further national efforts to achieve the aims pursued by this Regulation will likely lead to further fragmentation of the internal market. Therefore, in order to safeguard the functioning of the internal market while ensuring a high level of environmental protection, there is a need for a regulatory framework to progressively introduce ecodesign requirements for products. This Regulation will, by making the ecodesign approach initially set out in Directive 2009/125/EC of the European Parliament and of the Council[29] applicable to the broadest possible range of products, provide such a framework.

(5) This Regulation will contribute to making products fit for a climate-neutral, resource-efficient and circular economy, reducing waste and ensuring that the performance of frontrunners in sustainability progressively becomes the norm. It should provide for

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26 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions *A new Circular Economy Action Plan For a cleaner and more competitive Europe* COM(2020)98 final.

27 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions *A New Industrial Strategy for Europe* COM(2020)102 final.

28 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions *Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe's recovery* COM(2021)350 final

29 Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (Text with EEA relevance) (OJ L 285, 31.10.2009, p. 10).

the setting of new ecodesign requirements to improve product durability, reusability, upgradability and reparability, improve possibilities for refurbishment and maintenance, address the presence of hazardous chemicals in products, increase their energy and resource efficiency, reduce their expected generation of waste materials and increase recycled content in products, while ensuring their performance and safety, enabling remanufacturing and high-quality recycling and reducing carbon and environmental footprints.

(6) The European Parliament, in its Resolution of 25 November 2020 'Towards a more sustainable single market for business and consumers'[30], welcomed promoting durable products which are easier to repair, re-use and recycle. In its report on the New Circular Economy Action Plan adopted on 16 February 2021[31], the European Parliament further endorsed the agenda presented by the Commission in the CEAP. It considered that the transition to a circular economy can provide solutions to address the current environmental challenges and the economic crisis brought on by the COVID-19 pandemic. The Council, in its conclusions on 'Making the Recovery Circular and Green' adopted on 11 December 2020[32], also welcomed the Commission's intention to submit legislative proposals as part of a comprehensive and integrated sustainable product policy framework that promotes climate neutrality, energy and resource efficiency and a non-toxic circular economy, protects public health and biodiversity, and empowers and protects consumers and public buyers.

(7) This Regulation should contribute to achieving the Union's climate and energy objectives. In line with the goals set out in the Paris Agreement, ratified by the Union in 2016[33], Regulation (EU) 2021/1119 of the European Parliament and of the Council, the 'European Climate Law'[34] establishes a binding Union domestic reduction commitment of net greenhouse gas emissions of at least 55 % by 2030 and enshrines in legislation the target of economy-wide climate neutrality by 2050. In 2021 the Commission adopted the Fit for 55 Package[35] to make the Union's climate and energy policies fit for achieving these objectives. To do so, in line with the energy efficiency first principle enshrined in Directive (EU) 2018/2002 of the European Parliament and of the Council[36], energy efficiency improvements need to be significantly stepped up, to around 36% in terms of final energy consumption by 2030[37]. Product requirements established under this Regulation should play a significant role towards this target by substantially decreasing products' energy footprint. These energy efficiency requirements will also reduce consumer

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30 P9_TA(2020)0318.

31 P9_TA(2021)0040.

32 13852/20.

33 Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

34 Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

35 https://ec.europa.eu/commission/presscorner/detail/en/IP_21_3541

36 Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency (OJ L 328, 21.12.2018, p. 210).

37 According to the impact assessment accompanying the Climate Target Plan (*Stepping up Europe's 2030 climate ambition – Investing in a climate-neutral future for the benefit of our people*, COM/2020/562 final) and to the [Energy Efficiency Directive proposal]

vulnerability to energy price increases. As recognised by the Paris Agreement improving the sustainability of consumption and production will also play an important role in addressing climate change.

(8) This Regulation should also contribute to achieving the Union's wider environmental objectives. The 8th Environmental Action Programme[38] enshrines in a legal framework the Union's objective of staying within the planetary boundaries and identifies enabling conditions to achieve priority objectives, which include the transition to a non-toxic circular economy. The European Green Deal also calls for the Union to better monitor, report, prevent and remedy air, water, soil and consumer products pollution. This means that chemicals, materials and products have to be as safe and sustainable as possible by design and during their life cycle, leading to non-toxic material cycles[39]. In addition, both the European Green Deal and the CEAP recognise that the Union internal market provides a critical mass that is able to influence global standards on product sustainability and product design. This Regulation should therefore play a significant role towards achieving several targets established under the United Nations' Sustainable Development Goals of the UN's 2030 Agenda for Sustainable Development 'Responsible consumption and production'[40], both inside and outside the Union.

(9) Directive 2009/125/EC establishes a framework for the setting of ecodesign requirements for energy-related products. It has, in combination with Regulation (EU) 2017/1369 of the European Parliament and of the Council[41], significantly reduced EU primary energy demand for products and it is estimated these savings will continue to increase. Implementing measures adopted under Directive 2009/125/EC have also included requirements on circularity aspects, such as durability, reparability and recyclability. At the same time, instruments such as the EU Ecolabel, introduced by Regulation (EC) No 66/2010 of the European Parliament and of the Council [42] or the EU green public procurement criteria[43] are broader in scope but have a reduced impact due to the limitations of voluntary approaches.

(10) Directive 2009/125/EC has been generally successful in fostering the energy efficiency and some circularity aspects of energy-related products, and its approach has the potential to progressively address the sustainability of all products. To deliver on Green Deal commitments, this approach should be extended to other product groups and systematically address key aspects for increasing the environmental sustainability of products with binding requirements. By ensuring that only products that meet those requirements are placed on the Union market, this Regulation should

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38 Decision (EU) 2022/…. of the European Parliament and of the Council of … on a General Union Environment Action Programme to 2030 [Add reference when published in OJ – trilogue agreement 2 December 2021].

39 As set out in the EU Action Plan *Towards zero pollution for air, water and soil* (COM(2021)400 final) and the *Chemicals Strategy for Sustainability* (COM(2020)667 final), which calls for embracing the zero pollution goals in production and consumption.

40 Including in particular targets under SDG 12 ("Responsible consumption and production").

41 Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU (OJ L 198, 28.7.2017, p. 1).

42 Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1).

43 Communication "Public procurement for a better environment" (COM (2008) 400) https://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm

not only improve the free movement of such products by avoiding national disparities, but also reduce the negative life cycle environmental impacts of products for which such requirements are set.

(11) In order to create an effective and future-proof regulatory framework, it is necessary to allow for the setting of ecodesign requirements on all physical goods placed on the market or put into service, including components and intermediate products. This should allow the Commissions to take into account the broadest range of products possible when prioritising the establishment of ecodesign requirements and thereby maximise their effectiveness. Where needed, specific exemptions should be made when setting ecodesign requirements, for example for products with a particular purpose that could not be fulfilled when complying with ecodesgin requirements. In addition, exemptions should be made at the level of the framework for those products for which it is already clear that ecodesign requirements would not be suitable or where other frameworks provide for the setting of such requirements. This should be the case for food and feed as defined in Regulation (EC) No 178/2002 of the European Parliament and of the Council[44], medicinal products for human use as defined in Directive 2001/83/EC of the European Parliament and of the Council[45], veterinary medicinal products as defined in Regulation (EU) 2019/6 of the European Parliament and of the Council[46], living plants, animals and micro-organisms, products of human origin, and products of plants and animals relating directly to their future reproduction.

(12) The proposal for a Directive of the European Parliament and of the Council on the energy performance of buildings (recast)[47] requires Member States to set minimum energy performance requirements for building elements that form part of the building envelope and system requirements in respect to overall energy performance, the proper installation and the appropriate dimensioning, adjustment and control of technical building systems installed in new or existing buildings. It is consistent with the objectives of this Regulation that these minimum energy performance requirements may in certain circumstances limit the installation of energy-related products which comply with this Regulation and its delegated acts, provided that such requirements do not constitute an unjustifiable market barrier.

(13) In order to improve the environmental sustainability of products and to ensure the free movement of products in the internal market, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by setting out ecodesign requirements. Those ecodesign requirements should in principle apply to specific product groups, such as washing machines or washing machines and washer dryers. In order to maximise the effectiveness of ecodesign requirements and to efficiently improve environmental sustainability of products, it should also be possible to set out one or more horizontal ecodesign requirements for a wider range of products groups, such as electronic appliances or

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44 Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

45 Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

46 Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC (OJ L 4, 7.1.2019, p. 43).

47 COM (2021) 802 final.

textiles. Horizontal ecodesign requirements should be established where the technical similarities of product groups allow their environmental sustainability to be improved based on the same requirements.

(14) In order to allow the Commission to set requirements as appropriate to the product groups covered, ecodesign requirements should include performance and information requirements. Those requirements should be used to improve product aspects relevant for environmental sustainability, such as energy efficiency, durability, reparability and carbon and environmental footprints. Ecodesign requirements should be transparent, objective, proportionate and in compliance with international trade rules.

(15) Once a delegated act setting ecodesign requirements is adopted by the Commission for a given product group, Member States should, in order to ensure the functioning of the internal market, no longer be allowed to set national performance requirements based on product parameters covered by such performance requirements laid down in that delegated act, and no longer be allowed to set national information requirements based on product parameters covered by such information requirements laid down in that delegated act. In order to ensure the functioning of the internal market, the Commission should be empowered to establish that no ecodesign requirements in the form of performance requirements and/or in the form of information requirements are necessary in relation to a specific product parameter.

(16) When establishing ecodesign requirements the Commission should take into account the nature and purpose of the products concerned as well as the characteristics of the relevant markets. For example, defence equipment has to be able to operate under specific and sometimes harsh conditions, which needs to be considered when setting ecodesign requirements. Certain information on defence equipment should not be disclosed and should be protected. Therefore, for military or sensitive equipment ecodesign requirements should take into account the security needs and the characteristics of the defence market, as defined in Directive 2009/81/EC of the European Parliament and of the Council[48]. Similarly, the space industry is strategic for Europe and for its technological non-dependence. As space technologies operate in extreme conditions, any ecodesign requirements for space products should balance sustainability considerations with resilience and expected performance. Further, for medical devices as defined in Article 2(1) of Regulation (EU) 2017/745 on medical devices[49] and *in vitro* diagnostic medical devices as defined in Article 2(2) of Regulation (EU) 2017/746 on *in vitro* diagnostic medical devices[50], the Commission should take into account of the need to not negatively affect health and safety of patients and users.

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48 Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

49 Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC (OJ L 117 5.5.2017, p. 1).

50 Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on *in vitro* diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117, 5.5.2017, p. 176).

(17) To avoid duplication of efforts and regulatory burden, consistency should be ensured between this Regulation and requirements set in or pursuant to other Union legislation, especially products, chemicals and waste legislation[51]. However, the existence of empowerments under other Union legislation to set requirements with the same or similar effects as requirements under this Regulation does not limit the empowerments included in this Regulation, unless specified in this Regulation.

(18) Delegated acts including ecodesign requirements should, as was the case under Directive 2009/125/EC, undergo a dedicated impact assessment and stakeholder consultation, and should be drawn up in line with the Commission's Better Regulation guidelines, and include an assessment of the international dimension and impacts on third countries. When doing so, the Commission should take due consideration of all aspects of the life cycle of the product and base its impact assessment on best available evidence. When preparing ecodesign requirements the Commission should use a scientific approach and also take into consideration relevant technical information in particular coming from Regulation (EC) No 66/2010 of the European Parliament and of the Council[52], Directive 2010/75/EU of the European Parliament and of the Council[53], technical screening criteria adopted pursuant to Regulation (EU) 2020/852 of the European Parliament and of the Council[54] and green public procurement criteria[55].

(19) In order to take into account the diversity of products, the Commission should select the methods to assess the setting of the ecodesign requirements and, as appropriate, develop them further based on the nature of the product, its most relevant aspects and its impacts over its life cycle. In doing so, the Commission should take account of its experience in assessing the setting of requirements under Directive 2009/125/EC and the continuing efforts to develop and improve science-based assessment tools, such as the update of the methodology for ecodesign of energy-related products, and the Product Environmental Footprint method set out in Commission Recommendation (EU) 2021/2279[56], including as regards temporary storage of carbon, as well as the development of standards by international and European standardisation organisations, including on the material efficiency of energy-related products. Building on these tools and using dedicated studies when needed, the Commission should further reinforce circularity aspects (such as durability, reparability including reparability scoring, identification of chemicals hindering re-use and recycling) in the assessment of products and in the preparation of ecodesign requirements, and should develop new

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51 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *on the implementation of the circular economy package - options to address the interface between chemical, product and waste legislation* (COM(2018) 32 final).

52 Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1).

53 Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

54 Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

55 Communication "Public procurement for a better environment" (COM (2008) 400)

56 Commission Recommendation (EU) 2021/2279 of 15 December 2021 on the use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations.

methods or tools where appropriate. New approaches may also be needed for the preparation of mandatory public procurement criteria and for bans on the destruction of unsold consumer products.

(20) Performance requirements should relate to a selected product parameter relevant to the targeted product aspect for which potential for improving environmental sustainability has been identified. Such requirements may include minimum or maximum levels of performance in relation to the product parameter, non-quantitative requirements that aim to improve performance in relation to the product parameter, or requirements related to a product's functional performance to ensure that the selected performance requirements do not negatively impact the ability of the product to perform the function for which it was designed and marketed. Regarding minimum or maximum levels, they may for example take the form of a limit on energy consumption in the use phase or on the quantities of a given material incorporated in the product, a requirement for minimum quantities of recycled content, or a limit on a specific environmental impact category or on an aggregation of all relevant environmental impacts. An example of a non-quantitative requirement is the prohibition of a specific technical solution that is detrimental to product reparability. Performance requirements will be used to ensure the removal of the worst performing products from the market where this is necessary to contribute to the environmental sustainability objectives of the Regulation.

(21) In order to ensure consistency, performance requirements should complement the implementation of Union legislation on waste. While requirements for placing on the market packaging as a final product are laid down under European Parliament and Council Directive 94/62/EC[57], this Regulation may complement that Directive by setting product-based requirements focussing on the packaging of specific products when placed on the market. Where relevant, such complementary requirements should contribute in particular to minimising the amount of packaging used, in turn contributing to the prevention of waste generation in the Union.

(22) Chemical safety is a recognised element of product sustainability. It is based on chemicals' intrinsic hazards to health or the environment in combination with specific or generic exposure, and is addressed by chemicals legislation, such as Regulation (EC) No 1935/2004 of the European Parliament and of the Council[58], Regulation (EC) No 1907/2006 of the European Parliament and of the Council[59], Regulation (EC) No 1223/2009 of the European Parliament and of the Council[60], Regulation (EU)

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57 European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

58 Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (OJ L 338, 13.11.2004, p. 4).

59 Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

60 Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ L 342, 22.12.2009, p. 59).

2017/745 of the European Parliament and of the Council [61] and Directive 2009/48/EC of the European Parliament and of the Council[62]. This Regulation should not enable the restriction of substances based on chemical safety, as done under other Union legislation. Similarly, this Regulation should not enable the restriction of substances for reasons related to food safety. Union law on chemicals and food, however, does not allow addressing, through restrictions on certain substances, impacts on sustainability that are unrelated to chemical safety or food safety. To overcome this limitation, this Regulation should allow, under certain conditions, for the restriction, primarily for reasons other than chemical or food safety, of substances present in products or used in their manufacturing processes which negatively affect products' sustainability. This Regulation also should not result in the duplication or replacement of restrictions of substances covered by Directive 2011/65/EU of the European Parliament and of the Council[63], which has as its objective the protection of human health and the environment, including the environmentally sound recovery and disposal of waste from electrical and electronic equipment

(23) To improve environmental sustainability of products, information requirements should relate to a selected product parameter relevant to the product aspect, such as the product's environmental footprint or its durability. They may require manufacturer to make available information on the product's performance in relation to a selected product parameter or other information that may influence the way the product is handled by parties other than the manufacturer in order to improve performance in relation to such a parameter. Such information requirements should be set either in addition to, or in place of, performance requirements on the same product parameter as appropriate. Where a delegated act includes information requirements, it should indicate the method for making the required information available, such as its inclusion on a free-access website, product passport or product label. Information requirements are necessary to lead to the behavioural change needed to ensure that the environmental sustainability objectives of this Regulation are achieved. By providing a solid basis for purchasers and public authorities to compare products on the basis of their environmental sustainability, information requirements are expected to drive consumers and public authorities towards more sustainable choices.

(24) Where delegated acts include information requirements, they may in addition determine classes of performance in relation to one or more relevant product parameters, in order to facilitate comparison between products on the basis of that parameter. Classes of performance should enable differentiation of products based on their relative sustainability and could be used by both consumers and public authorities. As such, they are intended to drive the market towards more sustainable products.

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61 Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117, 5.5.2017, p. 176).

62 Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys (OJ L 170, 30.6.2009, p. 1).

63 Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJ L 174, 1.7.2011, p. 88).

(25) Information on the presence of substances of concern in products is a key element to identify and promote products that are sustainable. The chemical composition of products determines largely their functionalities and impacts, as well as the possibilities for their re-use or for recovery once they become waste. The Chemicals Strategy for Sustainability[64] calls for minimising the presence of substances of concern in products, and ensuring the availability of information on chemical content and safe use, by introducing information requirements and tracking the presence of substances of concern throughout the life cycle of materials and products. Regulation (EC) No 1272/2008 of the European Parliament and of the Council[65] and other existing chemicals legislation such as Regulation (EC) No 1223/2009 already ensure communication on hazards to health or the environment posed by certain substances of concern on their own or in a mixture. Users of substances and mixtures should also be informed about pertinent sustainability-related information not primarily related to hazards to health or the environment. Furthermore, users of products other than substances or mixtures, and managers of waste from such products, should also receive sustainability-related information, including information primarily related to chemicals' hazards to health or the environment. Therefore, this Regulation should allow for the setting of requirements related to the tracking and communication of sustainability information, including the presence of substances of concern in products throughout their life cycle, including with a view to their decontamination and recovery when they become waste. Such a framework should aim to progressively cover all substances of concern in all products listed in working plans setting out the product groups the Commission intends to tackle.

(26) The information requirements set under this Regulation should include the requirement to make available a product passport. The product passport is an important tool for making information available to actors along the entire value chain and the availability of a product passport should significantly enhance end-to-end traceability of a product throughout its value chain. Among other things, the product passport should help consumers make informed choices by improving their access to product information relevant to them, allow economic operators other value chain actors such as repairers or recyclers to access relevant information, and enable competent national authorities to perform their duties. To this end, the product passport should not replace but complement non-digital forms of transmitting information, such as information in the product manual or on a label. In addition, it should be possible for the product passport to be used for information on other sustainability aspects applicable to the relevant product group pursuant to other Union legislation.

(27) To take account of the nature of the product and its market, the information to be included in the product passport should be carefully examined on a case-by-case basis when preparing product-specific rules. To optimise access to the resulting information while also protecting intellectual property rights, the product passport needs to be

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64 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *Chemicals Strategy for Sustainability Towards a Toxic-Free Environment* COM(2020)667 final.

65 Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

designed and implemented allowing differentiated access to the information included in the product passport depending on the type of information and the typology of stakeholders. Similarly, to avoid costs to companies and the public that are disproportionate to the wider benefits, the product passport should be specific to the item, batch or product model, depending on for example the complexity of the value chain, the size, nature or impacts of the products considered.

(28) In order to ensure interoperability, the types of permitted data carriers should be specified. For the same reason, the data carrier and the unique product identifier should be released in accordance with internationally recognised standards. The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend this Regulation by replacing or adding standards in accordance with which the data carrier and the unique identifiers may be released, in light of technical or scientific progress. This should ensure that the information contained in the product passport can be recorded and transmitted by all economic operators, as well as to guarantee the compatibility of the unique identifier with external components such as scanning devices.

(29) In order to not unnecessarily delay the establishment of ecodesign requirements other than on the product passport or to ensure that product passports can be effectively implemented, the Commission should be allowed to exempt product groups from the product passport requirements in case technical specifications are not available in relation to the essential requirements for the technical design and operation of the product passport. Similarly, in order to prevent unnecessary administrative burden for economic operator, the Commission should be allowed to exempt product groups from the product passport requirements in case other Union law already includes a system for the digital provision of product information allowing actors along the value chain to access relevant product information and facilitating the verification of product compliance by competent national authorities. These exemptions should be periodically reviewed taking into account further availability of technical specifications.

(30) Unique identification of products is a fundamental element to enable traceability across the supply chain. Therefore, the product passport should be linked to a unique product identifier. In addition, where appropriate, the passport should allow for the tracing of the actors and manufacturing facilities related to that product. In order to ensure interoperability, the unique operator identifiers and unique facility identifiers enabling traceability should be released in accordance with internationally recognised standards. The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend this Regulation by replacing or adding standards in accordance with which unique operator identifiers and unique facility identifiers may be released, in light of technical or scientific progress.

(31) Digitalised information about the product and its life cycle or, where applicable, its passport should be easily accessible by scanning a data carrier, such as a watermark or a quick response (QR) code. Where possible, the data carrier should be on the product itself to ensure the information remains accessible throughout its life cycle. However, exceptions are possible depending on the nature, size or use of the products concerned.

(32) To ensure that the product passport is flexible, agile and market-driven and evolving in line with business models, markets and innovation, it should be based on a

decentralised data system, set up and maintained by economic operators. However, for enforcement and monitoring purposes, it may be necessary that competent national authorities and the Commission have direct access to a record of all data carriers and unique identifiers linked to products placed on the market or put in service.

(33) To ensure the effective roll-out of the product passport, technical design, data requirements and operation of the product passport should adhere to a set of essential technical requirements. Such requirements should provide a basis for the consistent deployment of the product passport across sectors. Technical specifications should be established to ensure the effective implementation of those essential requirements, either in the form of harmonised standard referenced in the Official Journal or, as a fall-back option, common specification adopted by the Commission. The technical design should ensure that the product passport carries data in a secure way, respecting privacy rules The digital product passport will be developed in an open dialogue with international partners, in order to take account of their views when developing technical specifications and to ensure that they help remove trade barriers for greener products and lower costs for sustainable investments, marketing and compliance. Technical specifications and requirements related to traceability across the value chain should, in order to allow for their effective implementation, to the extent possible be developed based on a consensual approach and on the involvement, buy-in, and effective collaboration of a diverse set of actors, including standardisation bodies, industry associations, consumer organisations, experts, NGOs and international partners, including developing economies.

(34) In order to improve enforcement of ecodesign requirements, it is necessary that national authorities and the Commission have direct access to a record of all data carriers and unique identifiers linked to products placed on the market or put in service. To this end, the Commission should set up and maintain a product passport registry to store such data. Where needed to further facilitate enforcement, the Commission should, as appropriate, specify other information included in the product passport that needs to be stored in the registry.

(35) Any processing of personal data pursuant to this Regulation should comply with the applicable rules on the protection of personal data. Processing of personal data by the competent national authorities within Member States should be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council[66]. Processing of personal data by the Commission should be carried out in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council[67].

(36) Effective enforcement in relation to products placed on the Union market, whether domestically produced or imported, is essential for achieving the aims of this Regulation. Therefore, where the Commission has set up a registry, customs

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66 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

67 Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

authorities should have direct access to it via the EU Single Window Environment for Customs set up by Regulation (EU) …/…. The role of customs should be to ensure that the reference of a product passport is made available in the customs declaration and that this reference corresponds to a unique product identifier that is stored in the registry. This would allow the verification by customs that a product passport exists for imported products.

(37) Where certain information included in the product passport is stored in the registry in addition to data carriers and unique identifiers, the Commission should be able to provide, where appropriate, that customs authorities verify the consistency between this information and the customs declaration, in order to improve the compliance of products with ecodesign requirements and taking into account the need to avoid disproportionate burden for customs authorities.

(38) The information included in the product passport can allow customs authorities to enrich and facilitate risk management and enable the better targeting of controls at the border. Therefore, customs authorities should be able to retrieve and use the information included in the product passport and the related registry for carrying out their tasks in accordance with Union legislation including for risk management in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council[68].

(39) To drive consumers towards more sustainable choices, labels should, when required by the delegated acts adopted pursuant to this Regulation, provide information allowing for the effective comparison of products, for instance by indicating classes of performance. Specifically for consumers, physical labels can be an additional source of information at the place of sale. They can provide a quick visual basis for consumers to distinguish between products based on their performance in relation to a specific product parameter or set of product parameters. They should, where appropriate, also allow for the accessing of additional information by bearing specific references like website addresses, dynamic QR codes, links to online labels or any appropriate consumer-oriented means. The Commission should set out in the relevant delegated act the most effective way of displaying such labels, including in the case of online distance selling, taking into account the implications for customers and economic operators and the characteristics of the products concerned. The Commission may also require the label to be printed on the packaging of the product.

(40) Regulation (EU) 2017/1369 setting a framework on energy labelling applies, in parallel to this Regulation, to energy-related products. This means that energy labels are the primary instrument providing the appropriate information to consumers for energy-related products and that classes of performance determined under this Regulation should, where appropriate, be incorporated in the label as supplementary information as provided for in Article 16 of Regulation (EU) 2017/1369. In cases where relevant information on a product's performance in relation to a product parameter cannot be included as supplementary information in the energy label established for the energy-related product pursuant to Regulation (EU) 2017/1369, the Commission should assess whether a label in accordance with this Regulation is to be

[68] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

established, taking into account the need for consumers to be informed on the most relevant parameters for the product and the disadvantages in terms of risks of confusion for the public and of excessive administrative burden for economic operators.

(41) Consumers should be protected from misleading information that could hamper their choices for more sustainable products. For this reasons it should be prohibited to place on the market products bearing a label mimicking the labels provided for in this Regulation.

(42) To deliver in the most efficient way on the European Green Deal's objectives and to address the most impactful products first, the Commission should carry out a prioritisation of products to be regulated under this Regulation and requirements that will apply to them. Based on the process followed for prioritisation under Directive 2009/125/EC, the Commission should adopt a working plan, covering at least 3 years, laying down a list of product groups for which it plans to adopt delegated acts as well as the product aspects for which it intends to adopt delegated acts of horizontal application. The Commission should base its prioritisation on a set of criteria pertaining in particular to the delegated acts' potential contribution to the Union climate, environmental and energy objectives and their potential for improving the product aspects selected without disproportionate costs to the public and economic operators. Considering their importance for meeting the Union's energy objectives, the working plans should include an adequate share of actions related to energy-related products. Member States and stakeholders should also be consulted through the Ecodesign Forum. Due to the complementarities between this Regulation and Regulation (EU) 2017/1369 for energy-related products, the timelines for the working plan under this Regulation and the one provided for under Article 15 of Regulation (EU) 2017/1369 should be aligned.

(43) In addressing construction products, this Regulation should set requirements on final products only when the obligations created by [the revised Construction Products Regulation] and its implementation are unlikely to sufficiently achieve the environmental sustainability objectives pursued by this Regulation. In addition, when formulating working plans, the Commission should take into account that, in continuation of current practice, [the revised Construction Products Regulation] will, in relation to energy-related products that are also construction products, give prevalence to sustainability requirements set under this Regulation. This should be the case for instance for heaters, boilers, heat pumps, water and space heating appliances, fans, cooling and ventilating systems and photovoltaic products (excluding building-integrated photovoltaic panels). For these products, [the revised Construction Products Regulation] may intervene in a complementary manner where needed, mainly in relation to safety aspects, also taking account of other Union legislation on products such as on gas appliances, low voltage, and machinery.

(44) In order to encourage self-regulation as a valid alternative to regulatory approaches, this Regulation should, in continuation of Directive 2009/125/EC, include the possibility for industry to submit self-regulation measures. The Commission should assess the self-regulation measures proposed by industry, along with the information and evidence submitted by the signatories, including in light of the international trade commitments of the Union and the need to ensure coherence with Union law. In order to ensure uniform conditions for the implementation of this Regulation, implementing

powers should be conferred on the Commission to adopt and update an act listing the self-regulation measures considered as valid alternatives to a delegated act setting ecodesign requirements. It is also appropriate, for instance in view of relevant market or technological developments within the product group concerned, that the Commission be able to request a revised version of the self-regulation measure whenever considered necessary. Once a self-regulation measure is listed in an implementing act, there is a legitimate expectation for economic operators that the Commission will not adopt a delegated act establishing ecodesign requirements for this specific product group. However, it is not excluded that the Commission may adopt horizontal ecodesign requirements also applying to the products covered by a recognised self-regulation measure for the product aspects not addressed by that self-regulation measure. Where the Commission considers that a self-regulation measure no longer fulfils the criteria set in this Regulation, it should remove that self-regulation from the implementing act listing the recognised self-regulation measures. Consequently, ecodesign requirements may then be established for the product groups previously addressed by the self-regulation measure, in accordance with this Regulation.

(45) Micro, small and medium-sized enterprises (SMEs) could greatly benefit from an increase in the demand for sustainable products but could also face costs and difficulties with some of the requirements. The Member States and the Commission should, in their respective areas of responsibility, provide adequate information, ensure targeted and specialised training, and provide specific assistance and support, including financial, to SMEs active in the manufacturing of products for which ecodesign requirements are set. Those actions should, for example, cover the calculation of the product environmental footprint and the technical implementation of the product passport. Member States actions should be taken in respect of applicable State aid rules.

(46) The destruction of unsold consumer products, such as textiles and footwear, by economic operators is becoming a widespread environmental problem across the Union, in particular due to the rapid growth of online sales. It amounts to a loss of valuable economic resources as goods are produced, transported and afterwards destroyed without ever being used for their intended purpose. It is therefore necessary, in the interest of environmental protection, that this Regulation establishes a framework to prevent the destruction of unsold products primarily intended for consumers pursuant to Directive (EU) 2019/771 of the European Parliament and of the Council[69], including products that have been returned by a consumer in view of their right of withdrawal as laid down by Directive (EU) 2011/83/EU of the European Parliament and of the Council[70]. This will reduce the environmental impact of those products by reducing the generation of waste and by dis-incentivising overproduction of products. In addition, given that several Member States have introduced national legislation on the destruction of unsold consumer products thereby creating market

[69] Directive (EU) 2019/771 of the European Parliament and of the Council f 20 May 2019 on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC (OJ L 136, 22.5.2019, p. 6).

[70] Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

distortions, harmonised rules on the destruction of unsold consumer products are necessary to ensure that distributors, retailers and other economic operators are subject to the same rules and incentives across Member States.

(47) To dis-incentivise the destruction of unsold consumer products and to further generate data on the occurrence of this practice, this Regulation should introduce a transparency obligation for economic operators holding consumer products in the Union, requiring them to disclose information on the number of unsold consumer products discarded per year. The economic operator should indicate the product type or category, the reasons for their discarding and their delivery for subsequent waste treatment operations. While economic operators should be free to determine how to disclose that information in a manner appropriate to their business environment, it should be considered a best practice to include the required information in a publicly available non-financial statement drafted in accordance with Article 19a of Directive 2013/34/EU of the European Parliament and of the Council[71] where applicable.

(48) In order to avoid the destruction of unsold consumer products, where the destruction of such products is prevalent, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by prohibiting the destruction of such products. Given the wide range of products that may potentially be destroyed without ever being sold or used, it is necessary to establish such empowerment in this Regulation. However, the prohibition set in the delegated acts should apply to specific product groups to be determined based on an assessment by the Commission of the extent to which the destruction of such products takes place in practice, taking into account the information made available by economic operators where appropriate. To ensure that this obligation is proportionate, the Commission should consider specific exemptions under which destroying unsold consumer products may still be permitted, for instance in view of health and safety concerns. To monitor the effectiveness of this prohibition and to dis-incentivise circumvention, economic operators should be required to disclose the number of unsold consumer products destroyed and the reasons for their destruction under applicable exemptions. Finally, to avoid any undue administrative burden on SMEs, they should be exempted from the obligations to disclose their unsold discarded products and from the prohibition to discard specific products groups set in delegated acts. However, where there is reasonable evidence that SMEs may be used to circumvent those obligations, the Commission should be able to require, in those delegated acts, for some product groups, that these obligations also apply to micro, small or medium sized enterprises.

(49) Economic operators should be responsible for products' compliance with the ecodesign requirements under this Regulation, in relation to their respective roles in the supply chain, so as to ensure those products' free movement on the internal market and to improve their sustainability. Economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they only make available on the market products that are in conformity with this Regulation and the delegated acts adopted pursuant to it.

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[71] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

(50) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure. Conformity assessment should therefore remain solely the obligation of the manufacturer.

(51) In order to safeguard the functioning of the internal market, it is necessary to ensure that products from third countries entering the Union market comply with this Regulation and the delegated acts adopted pursuant to it, whether imported as products, components, or intermediate products. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to those products. Provision should therefore be made for importers to ensure that the products they place on the market comply with those requirements and that the CE marking and documentation drawn up by manufacturers are available for inspection by the competent national authorities. Provision should also be made for importers to ensure, where applicable, that a product passport is available for those products.

(52) When placing a product on the, every importer should indicate on the product their name, registered trade name or registered trade mark as well as their postal address and, where available, electronic means of communication through which it can be contacted. Exceptions should be provided for in cases where the size of the product does not allow for such indications. This includes cases where the importer would have to open the packaging to put the name and address on the product or where the product is too small in size to affix this information.

(53) As the distributor makes a product available on the market after it has been placed there by the manufacturer or importer, it should act with due care in relation to the applicable ecodesign requirements. The distributor should also ensure that its handling of the product does not adversely affect its compliance with the requirements of this Regulation or the delegated acts adopted pursuant to it.

(54) As distributors and importers are close to the marketplace and have an important role in ensuring product compliance, should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the product concerned.

(55) As the dealer offers a product for sale, hire or hire purchase, or displays products to customers or installers, it is necessary for the dealer to ensure that its customers can effectively access the information required under this Regulation, including in the case of distance selling. In particular, this Regulation should require dealers to ensure that the product passport is accessible to their customers and that labels are clearly displayed, in line with the applicable requirements. The dealer should comply with this obligation every time the product is offered for hire.

(56) To facilitate the choice of more sustainable products, labels, where required, should be displayed in a clearly visible and identifiable way. They should be identifiable as the label belonging to the product in question, without the customer having to read the brand name and model number on the label. Labels should attract the attention of the customer browsing through the products displayed. To ensure that the label is accessible to customers when considering a purchase, both the dealer and the

responsible economic operator should display the label whenever advertising the product, also in cases of distance selling, including online.

(57) Any importer or distributor that either places on the market a product covered by a delegated act adopted pursuant to this Regulation under the importer's or distributor's own name or trademark, or modifies such a product in such a way that compliance with this Regulation or with the relevant delegated act might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.

(58) Online marketplaces play a crucial role in the supply chain, allowing economic operators to reach a large number of customers. Given their important role in intermediating the sale of products between economic operators and customers, online marketplaces should take responsibility for addressing the sale of products that do not comply with ecodesign requirements and should cooperate with market surveillance authorities. Directive 2000/31/EC of the European Parliament and of the Council[72] provides the general framework for e-commerce and lays down certain obligations for online platforms. Regulation […/…] on a Single Market for Digital Services (Digital Services Act) and amending Directive 2000/31/EC[73] regulates the responsibility and accountability of providers of intermediary services online with regard to illegal content, including products that do not comply with ecodesign requirements. Building on this general framework, specific requirements to effectively address the sale of non-compliant products online should be brought in.

(59) It is essential that online marketplaces cooperate closely with the market surveillance authorities. An obligation of cooperation with market surveillance authorities is imposed on information society service providers under Article 7(2) of Regulation (EU) 2019/1020 of the European Parliament and of the Council[74] in relation to products covered by that Regulation, including products for which ecodesign requirements are set. To further improve cooperation to tackle illegal content related to non-compliant products, this Regulation should include concrete obligations to put this cooperation into practice as regards online marketplaces. For instance, market surveillance authorities are constantly improving the technological tools they use for online market surveillance in order to identify non-compliant products sold online. For these tools to be operational, online marketplaces should grant access to their interfaces. Moreover, market surveillance authorities may also need to scrape data from the online marketplaces.

(60) Article 14(4) of Regulation (EU) 2019/1020 provides market surveillance authorities with the power, where no other effective means are available to eliminate a serious risk, to require the removal of content referring to non-compliant products from an online interface or to require the explicit display of a warning to end-users when they access an online interface. The powers entrusted to market surveillance authorities by

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72 Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1).

73 [Add reference when adopted Proposal for a regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC (COM(2020)825 final)].

74 Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L169, 25.6.2019, p. 1).

Article 14(4) of Regulation (EU) 2019/1020 also apply to this Regulation. However, for effective market surveillance under this Regulation and to avoid non-compliant products being present on the Union market, this power should apply in all necessary and proportionate cases, including for products presenting a less than serious risk. This power should be exercised in accordance with [Article 8] of the [Digital Services Act].

(61) Ensuring a product's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant products. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.

(62) To speed up and facilitate the verification of compliance of products placed on the market, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring responsible economic operators, where necessary, to make specific parts of the technical documentation digitally available both to competent authorities and to the Commission. This should allow competent national authorities to access this information without request, while continuing to guarantee the protection of trade secrets. Possible means of making this information digitally available should in principle include a product passport, or via inclusion in the compliance part of the product database referred to in Regulation (EU) 2017/1369, or on a website of the economic operator. Such an obligation should not take away from the competent national authorities' right to access other parts of the technical documentation on request.

(63) In order to allow for a better estimation of relevant products' market penetration, to better inform studies feeding into the drafting or updating of ecodesign requirement and working plans, and to help identify the market share of specific product groups in order to speed up the formulation or review of ecodesign requirements, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring the collection of adequate and reliable data on the sales of products, by allowing the collection of such data by or on behalf of the Commission directly from manufacturers or retailers. When adopting rules on monitoring and reporting, the Commission should take into account the need to maximise the available data on market penetration and the need to minimise the administrative burden for economic operators.

(64) In order to improve future ecodesign requirements and improve end-users confidence identifying and correcting deviations between energy in-use and other performance parameters when measured under test conditions and actual functioning, the Commission should have access to products' actual energy consumption while in use and where relevant to other performance parameters. To that end, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring individual products, similarly to road vehicles, to determine their in-use energy consumption and other relevant performance parameters and display it to the end-user. For products connected to the internet, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring economic operators to remotely collect such in-use data and report it to the Commission, as it is essential to identify how the products perform and to inform the public. For products whose in use

performance depends significantly also on climatic or geographical conditions, climatic or geographical information should also be collected, anonymised and reported.

(65) In order to ensure the effective and harmonised application of ecodesign requirements set under this Regulation, including on aspects such as energy use or efficiency, durability and reliability, and recycled content, compliance with those requirements should be measured using reliable, accurate and reproducible methods that take into account the generally recognised state-of-the-art methods. Delegated acts establishing ecodesign requirements for products should in principle include the specifications for tests, measurements or calculations needed to establish or verify compliance. In addition, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring the use of online tools reflecting applicable calculation requirements, in order to ensure their harmonised application.

(66) In order to ensure that ecodesign requirements achieve their intended effects, this Regulation should set out comprehensive and overarching provisions, applicable to all products covered by ecodesign requirements, prohibiting circumvention of such requirements. Therefore, any practice leading to an unjustified alteration of the product's performance during compliance testing or within a short period after putting the product into service, leading to a declared performance that misrepresents the product's actual performance while in use should be prohibited..

(67) Where appropriate, delegated acts establishing ecodesign requirements for products may refer to the use of standards to establish or verify compliance. In order to ensure that there are no barriers to trade on the internal market, such standards should be harmonised at Union level. Once a reference to such a standard has been adopted in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council[75] and published in the *Official Journal of the European Union*, products in conformity with such standards, for which ecodesign requirements have been adopted pursuant to this Regulation, should be considered in conformity with those requirements to the extent that they are covered by the relevant harmonised standards. Similarly, methods for tests, measurement or calculation that are in conformity with harmonised standards should be considered in conformity with the test, measurement and calculation requirements set out in the relevant delegated acts laying down ecodesign requirements, to the extent that they are covered by the relevant harmonised standards.

(68) In the absence of harmonised standards, recourse to common specifications should be used as a fall-back solution to facilitate the manufacturer's obligation to comply with ecodesign requirements, for instance when the standardisation process is blocked due to lack of consensus between stakeholders or where there are undue delays in establishing a harmonised standard. Such delays could for example occur when the

[75] Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

required quality is not reached. In addition, recourse to this solution should be possible where the Commission has restricted or withdrawn the references to relevant harmonised standards in line with Article 11(5) of Regulation (EU) No 1025/2012. Compliance with common specifications should also give rise to the presumption of conformity.

(69) In order to enable economic operators to demonstrate, and competent authorities to verify, that products made available on the market comply with the ecodesign requirements adopted pursuant to this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by laying down conformity assessment procedures appropriate and proportionate to the nature of the product concerned and of the product parameters regulated. To ensure coherence with other Union law, the conformity assessment procedures should be chosen from among the internal production control module included in this Regulation and the modules included in Decision No 768/2008/EC of the European Parliament and of the Council[76], ranging from the least stringent to the most stringent depending. To further ensure that the applicable module is appropriate and proportionate to the nature of the product concerned and of the product parameters regulated, the Commission should where needed adapt the module chosen in light of that nature.

(70) Manufacturers should draw up an EU declaration of conformity to provide information on the conformity of products with this Regulation. Manufacturers may also be required by other Union legislation to draw up an EU declaration of conformity. To ensure effective access to information for market surveillance purposes, a single EU declaration of conformity should be drawn up in respect of all Union acts. To reduce the administrative burden on economic operators, it should be possible for that single EU declaration of conformity to be a dossier made up of relevant individual declarations of conformity.

(71) Regulation (EC) No 765/2008 of the European Parliament and of the Council[77] lays down rules on the accreditation of conformity assessment bodies, provides a framework for the market surveillance of products and for controls on products from third countries, and lays down the general principles of the CE marking. That Regulation should be applicable to products covered by this Regulation in order to ensure that products benefiting from the free movement of goods within the Union fulfil requirements providing a high level of protection of public interests such as human health, safety and the environment. Where ecodesign requirements have been adopted for a product, the CE marking should indicate that product's conformity with this Regulation and the ecodesign requirements adopted pursuant to it, insofar as they relate to the product. General principles governing the CE marking and its relationship to other markings are set out in Regulation (EC) No 765/2008. Considering that this Regulation provides for the setting of ecodesign requirements for a large range of products, the power to adopt acts in accordance with Article 290 TFEU should be

[76] Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).

[77] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

delegated to the Commission to supplement this Regulation by setting out alternative or more specific rules on the declaration of conformity or conformity marking in relation to ecodesign requirements in order to ensure coherence with requirements under Union law applicable to the products covered, prevent confusion with other marking or declarations and minimise administrative burden for economic operators.

(72) Some of the conformity assessment modules laid down in Decision No 768/2008/EC require the intervention of conformity assessment bodies. In order to ensure uniform conditions for the implementation of this Regulation, those bodies should be notified to the Commission by Member State authorities.

(73) To ensure a consistent level of quality in the performance of conformity assessment, it is necessary to set requirements for notifying authorities involved in the assessment, notification and monitoring of notified bodies. In particular, it should be ensured that the notifying authority is objective and impartial with regard to its activity. Furthermore, notifying authorities should be required to safeguard the confidentiality of the information they obtain, but should nonetheless be able to exchange information on notified bodies with national authorities, the notifying authorities of other Member States and the Commission to ensure consistency in the conformity assessment. To effectively establish and monitor the competence and independence of applicant bodies, notifying authorities should take as a basis for notification only the precise legal body applying, not taking into account the credentials of parent or sister companies. For the same reason, they should assess applicant bodies against all relevant requirements and conformity assessment tasks, relying on harmonised standards for the requirements and tasks covered by those standards.

(74) Given their central role in ensuring the reliability of conformity assessments in relation to ecodesign requirements, it is essential that notifying authorities have a sufficient number of competent personnel and sufficient funding at their disposal for the proper performance of their tasks. Where, in the implementation of this Regulation, it occurs that notifying authorities do not effectively verify and monitor notified bodies due to a lack of competent personnel, implementing powers should be conferred on the Commission to lay down a minimum number of full-time equivalents that should be at the disposal of notifying authorities, where appropriate in relation to specific conformity assessment tasks.

(75) It is essential that all notified bodies perform their functions to the same level and under conditions of equal competition and autonomy. Therefore, requirements should be set for conformity assessment bodies wishing to obtain the status of notified body in order to provide conformity assessment activities. Those requirements should continue to apply to maintain the competence of the notified body. To ensure its autonomy, the notified body and the staff it employs should be required to maintain independence from economic operators in the value chain of the products in relation to which it has been notified and from other companies, including business associations and parent companies and subsidiaries.

(76) If a conformity assessment body demonstrates conformity with the criteria laid down in harmonised standards it should be presumed to comply with the corresponding requirements set out in this Regulation.

(77) Conformity assessment bodies frequently subcontract parts of their activities linked to the assessment of conformity or have recourse to a subsidiary. To ensure that products placed on the Union market comply with ecodesign requirements, conformity assessment subcontractors and subsidiaries should fulfil the same requirements as notified bodies in relation to the performance of conformity assessment tasks under this Regulation.

(78) In order for notifying authorities to effectively establish and monitor the competence and independence of applicant bodies, those bodies should be and remain autonomous. Therefore, certain activities and decision-making processes, both regarding the conformity assessment of products and other activities internal to the notified body, should exclusively be carried out by the individual notified body itself.

(79) To facilitate the process of establishing and monitoring the competence and independence of applicant bodies, applicant bodies should draw up and regularly update a qualification matrix. This matrix should match personnel and their qualifications to specific conformity assessment tasks, enabling the notifying authority to more effectively assess the adequacy of staffing and the continued autonomy of the notified body.

(80) Since the services offered by notified bodies in a Member State might relate to products made available on the market throughout the Union, it is appropriate to give the other Member States and the Commission the opportunity to raise objections concerning a notified body. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to request that the notifying Member State take corrective action if a notified body does not meet, or no longer meets, the requirements of this Regulation.

(81) In the interests of facilitating and accelerating the conformity assessment procedure, and to ensure equal treatment of economic operators, it is crucial that the notified bodies apply the conformity assessment procedures consistently and without creating unnecessary burdens for economic operators.

(82) Prior to taking a final decision on whether a product can be granted a conformity certificate, the economic operator that wishes to place that product on the market should be allowed to supplement the relevant documentation once only. This limitation is necessary to ensure that notified bodies are not able to assist manufacturers in making changes until conformity is reached, as that would mean that the service provided resembles a consulting service and could in practice dilute the public interest nature of notified bodies' tasks. Where appropriate, notified bodies should also be able to restrict, suspend or withdraw any certificates or approval decisions.

(83) To facilitate the identification and resolution of cases of non-conformity of notified bodies, manufacturers or products, notified bodies should proactively forward relevant information at their disposal to notifying authorities or market surveillance authorities.

(84) It is essential to ensure efficient exchange of information between notified bodies and market surveillance authorities, including from other Member States. To that end, it is necessary for notifying authorities and notified bodies to ensure follow-up to requests for information from market surveillance authorities.

(85) The Commission should enable appropriate coordination and cooperation between notified bodies. To ensure harmonised application of ecodesign requirements, notified bodies should discuss and coordinate on topics of possible divergence. In that process, they should take as general guidance any document produced by the administrative cooperation group made up of market surveillance authorities, as referred to in Article 30(2) of Regulation (EU) 2019/1020.

(86) In order to incentivise consumers to make sustainable choices, in particular when the more sustainable products are not affordable enough, mechanisms such as eco-vouchers and green taxation should be provided for. When Member States decide to make use of incentives to reward the best-performing products among those for which classes of performance have been set by delegated acts pursuant to this Regulation, they should do so by targeting those incentives at the highest two populated classes of performance, unless otherwise indicated by the relevant delegated act. However, Member States should not be able to prohibit the placing on the market of a product based on its class of performance. For the same reason, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by further specifying which product parameters or related levels of performance Member States' incentives concern in case no class of performance is determined in the applicable delegated act or where classes of performance are established in relation to more than one product parameter. The introduction of Member State incentives should be without prejudice to the application of the Union State aid rules.

(87) Public procurement amounts to 14% of the Union's GDP. To contribute to the objective of reaching climate neutrality, improving energy and resource efficiency and transitioning to a circular economy that protects public health and biodiversity, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to require , where appropriate, contracting authorities and entities as defined in Directive 2014/24/EU[78] and 2014/25/EU[79] of the European Parliament and of the Council, to align their procurement with specific green public procurement criteria or targets, to be set out in the delegated acts adopted pursuant to this Regulation. The criteria or targets set by delegated acts for specific product groups should be complied with not only when directly procuring those products in public supply contracts but also in public works or public services contracts where those products will be used for activities constituting the subject matter of those contracts. Compared to a voluntary approach, mandatory criteria or targets will ensure that the leverage of public spending to boost demand for better performing products is maximised. The criteria should be transparent, objective and non-discriminatory.

(88) Effective enforcement of ecodesign requirements is essential to ensure equal competition in the Union market and to ensure that this Regulation's expected benefits and contribution to achieving the Union's climate, energy and circularity objectives are achieved. Therefore, Regulation (EU) 2019/1020 setting out a horizontal framework for market surveillance and control of products entering the Union market

[78] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

[79] Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

should apply to products for which ecodesign requirements are set pursuant to this Regulation, in so far as there are no specific provisions with the same objective, nature or effect in this Regulation. In addition, to lower the problematic levels of non-compliance of products covered by implementing measures adopted under Directive 2009/125/EC, to better prevent non-compliance with future ecodesign requirements, and taking account of the broader scope and increased ambition of this Regulation compared to Directive 2009/125/EC, this Regulation should contain specific additional rules complemting the framework created by Regulation (EU) 2019/1020. Those specific additional rules should be aimed at further strengthening the planning, coordination and support of Member State efforts and should provide additional tools for the Commission to ensure sufficient action is taken by market surveillance authroties to prevent non-compliance with ecodesign requirements.

(89) Beyond market surveillance authorities, customs authorities also have an important role to play in enforcing this Regulation with regard to imported goods and can rely on Council Regulation (EC) No 515/97[80] for that purpose.

(90) To ensure that appropriate checks are performed on an adequate scale in relation to ecodesign requirements, Member States should draw up a dedicated action plan identifying the products or requirements identified as priorities for market surveillance under this Regulation and the activities planned to reduce non-compliance of relevant products or with relevant ecodesign requirements. Where relevant, this action plan should be part of Member States' national market surveillance strategies adopted pursuant to Article 13 of Regulation (EU) 2019/1020.

(91) Priorities for market surveillance under this Regulation should be identified based on objective criteria such as the levels of non-compliance observed or the environmental impacts resulting from non-compliance. The activities planned to address those priorities should in turn be proportionate to the facts leading to their prioritisation. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to determine products and requirements that Member States should consider as priorities for market surveillance in the context of their action plans identifying priorities for market surveillance under this Regulation and activities planned to reduce non-compliance.

(92) Where problematic levels of non-compliance with ecodesign requirements are observed despite the enhanced planning, coordination and support laid down by this Regulation, the Commission should be able to intervene to ensure that market surveillance authorities perform checks on an adequate scale. Therefore, in order to safeguard the effective enforcement of ecodesign requirements, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to lay down a minimum number of checks to be performed on specific products or requirements. This empowerment should be additional to the empowerment in Article 11(4) of Regulation (EU) 2019/1020.

(93) Based on data entered into the information and communication system for market surveillance, the Commission should draw up a report containing information on the

[80] Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).

nature and number of checks performed, on the levels of non-compliance identified and on the nature and severity of penalties imposed in relation to ecodesign requirements over the two previous calendar years. The reports should contain a comparison of Member States' activities with the activities planned and indicative benchmarks for market surveillance authorities.

(94) To further strengthen coordination of market surveillance authorities, the administrative cooperation group ('ADCO') set up pursuant to Regulation (EU) 2019/1020 should, for the purposes of identifying the products or requirements identified as priorities for market surveillance under this Regulation and the activities planned to reduce non-compliance is Regulation, meet at regular intervals and identify common priorities for market surveillance to be taken into account in Member States' action plans, priorities for the provision of Union support, and ecodesign requirements that are interpreted differently leading to market distortion.

(95) To support Member States in their efforts to ensure sufficient action is taken to prevent non-compliance with ecodesign requirements, the Commission should, where relevant, make use of the support measures provided for in Regulation (EU) 2019/1020. The Commission should organise and, where appropriate finance, joint market surveillance and testing projects in areas of common interest, joint investments in market surveillance capacities and common trainings for the staff of market surveillance authorities, notifying authorities and notified bodies. In addition, the Commission should draw up guidelines on how to apply and enforce ecodesign requirements where necessary to ensure their harmonised application.

(96) Products should be placed on the market only if they do not present a risk. In order to better align with the specific nature of ecodesign requirements and to ensure that the focus of market surveillance efforts is on non-compliance with such requirements, a product presenting a risk should, for the purposes of this Regulation, be defined as a product that, by not complying with an ecodesign requirement or because a responsible economic operator does not comply with an ecodesign requirement, may adversely affect the environment or other public interests protected by the relevant requirements. This more specific definition should be used when applying Articles 19 and 20 of Regulation (EU) 2019/1020.

(97) A procedure should exist under which interested parties are informed of measures intended to be taken with regard to products presenting a risk. It should also allow market surveillance authorities in the Member States, in cooperation with the relevant economic operators, to act at an early stage with regard to such products. To that end, the safeguard clause currently included in Directive 2009/125/EC should be updated and aligned with the safeguard procedures included in other Union harmonisation legislation and in Decision No 768/2008/EC. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to determine whether national measures in respect of non-compliant products are justified or not.

(98) The market surveillance authorities should have the right to require economic operators to take corrective action on the basis of findings that either a product is not compliant with ecodesign requirements or that the economic operator has infringed the rules on the placing or making available on the market of products or other rules addressed to it.

(99) When adopting delegated acts pursuant to Article 290 TFEU, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[81]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(100) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards: (a) specifying implementation arrangements for the interconnection of the registry referred to in Article 12 and the EU Customs Single Window Certificates Exchange; (b) establishing common requirements for the layout of labels; (c) containing a list of self-regulation measures established as valid alternatives to a delegated act adopted pursuant to Article 4; (d) setting out format for the disclosure of the information on unsold consumer products that have been discarded; (e) laying down, amending or repealing common specifications for ecodesign requirements, the essential requirements for product passports or for test, measurement or calculation methods; (f) laying down a minimum number of full-time equivalents considered sufficient for the proper monitoring of notified bodies; (g) requiring a Member State to take corrective action, including withdrawal of the notification, for non-compliant notified bodies; (h) listing the products or requirements that Member States must at least consider as priorities for market surveillance; and (i) deciding, pursuant to the Union safeguard procedure, whether a national measure is justified or not. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[82]

(101) To enhance trust in products placed on the market, in particular as regards the fact that they comply with ecodesign requirements, the public needs to be sure that economic operators placing non-compliant products on the market will be subject to penalties. It is therefore necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation.

(102) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Interinstitutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, the European Economic and Social Committee, and to the Committee of the Regions a report on the implementation of this Regulation and its impact on the environmental sustainability of products and the functioning of the internal market. Where appropriate, the report should be accompanied by a proposal to amend relevant provisions of this Regulation.

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81 OJ L123, 12.5. 2016, p. 1.

82 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(103) It is necessary that ecodesign requirements apply to the widest possible range of products, and not only energy-related products, and that the definition of ecodesign requirements is widened to encompass all aspects of circularity. It is also necessary to align this Regulation to the New Legislative Framework set out in Regulation (EC) No 765/2008 and Decision No 768/2008/EC, and to improve the provisions related to market surveillance. Directive 2009/125/EC should therefore be replaced. In order to ensure legal certainty for all economic operators from the date of entry into force of this Regulation and to guarantee a level playing-field for businesses operating on the internal market, the provisions setting out transparency obligations related to the discarding of unsold consumer products, circumvention, and market surveillance, should be of uniform application for all operators across the Union. Directive 2009/125/EC should therefore be replaced by a Regulation.

(104) In order to ensure legal certainty and continuity for products placed on the market or put into service in conformity with implementing measures adopted pursuant to Directive 2009/125/EC, in its version applicable on the date of application of this Regulation, those measures should remain in force beyond that date, and until repealed by a delegated act adopted pursuant to this Regulation. For the same reasons, a number of provisions of Directive 2009/125/EC should continue to have full effect in the context of applying these implementing measures. This concerns in particular provisions of Directive 2009/125/EC excluding means of transport for goods or persons from its scope, establishing definitions relevant for implementing measures, setting economic operators' responsibilities in relation to products placed on the market, specifying the details of the relevant conformity assessment procedures and the EC declaration of conformity, establishing a presumption of conformity for products which have been awarded the EU ecolabel and enabling necessary action in relation to harmonised standards. Noting the importance of ensuring free movement of goods, banning practices illegally altering products' performance in order to reach a more favourable result and ensuring proper enforcement of ecodesign requirements, relevant provisions of this Regulation should be applicable to energy-related products placed on the market pursuant to implementing measures under Directive 2009/125/EC.

(105) Since the objectives of this Regulation, namely to improve environmental sustainability of products and to ensure the free movement in the internal market of products for which ecodesign requirements are set, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, only be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

CHAPTER I - GENERAL PROVISIONS

Article 1
Subject matter and scope

1. This Regulation establishes a framework to improve the environmental sustainability of products and to ensure free movement in the internal market by setting ecodesign requirements that products shall fulfil to be placed on the market or put into service. Those ecodesign requirements, which shall be further elaborated by the Commission in delegated acts, relate to:

   (a) product durability and reliability;

   (b) product reusability;

   (c) product upgradability, reparability, maintenance and refurbishment;

   (d) the presence of substances of concern in products;

   (e) product energy and resource efficiency;

   (f) recycled content in products;

   (g) product remanufacturing and recycling;

   (h) products' carbon and environmental footprints;

   (i) products' expected generation of waste materials.

   This Regulation also establishes a digital product passport ('product passport'), provides for the setting of mandatory green public procurement criteria and creates a framework to prevent unsold consumer products from being destroyed.

2. This Regulation shall apply to any physical good that is placed on the market or put into service, including components and intermediate products. However, it shall not apply to:

   (a) food as defined in Article 2 of Regulation (EC) No 178/2002;

   (b) feed as defined in Article 3(4) of Regulation (EC) No 178/2002;

   (c) medicinal products for human use as defined in Article 1(2) of Directive 2001/83/EC;

   (d) veterinary medicinal products as defined in Article 4(1) of Regulation (EU) 2019/6;

   (e) living plants, animals and micro-organisms;

(f) products of human origin;

(g) products of plants and animals relating directly to their future reproduction.

Article 2
Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) ‘product’ means any physical good that is placed on the market or put into service;

(2) ‘component’ means a product intended to be incorporated into another product;

(3) ‘intermediate product’ means a product that requires further manufacturing or transformation such as mixing, coating or assembling to make it suitable for end-users;

(4) ‘energy-related product’ means any product that has an impact on energy consumption during use;

(5) ‘product group’ means a set of products that serve similar purposes and are similar in terms of use, or have similar functional properties, and are similar in terms of consumer perception;

(6) ‘ecodesign’ means the integration of environmental sustainability considerations into the characteristics of a product and the processes taking place throughout the product’s value chain;

(7) ‘ecodesign requirement’ means a performance requirement or an information requirement aimed at making a product more environmentally sustainable;

(8) ‘performance requirement’ means a quantitative or non-quantitative requirement for or in relation to a product to achieve a certain performance level in relation to a product parameter referred to in Annex I;

(9) ‘information requirement’ means an obligation for a product to be accompanied by information as specified in Article 7(2);

(10) ‘supply chain’ means all upstream activities and processes of the value chain of the product, up to the point where the product reaches the end-user;

(11) ‘value chain’ means all activities and processes that are part of the life cycle of a product, as well as its possible remanufacturing;

(12) ‘life cycle’ means the consecutive and interlinked stages of a product’s life, consisting of raw material acquisition or generation from natural resources, pre-processing, manufacturing, storage, distribution, installation, use, maintenance, repair, upgrading, refurbishment and re-use, and end-of-life;

(13) ‘end-of-life’ means the life cycle stage that begins when a product is discarded and ends when the product is returned to nature as a waste product or enters another product’s life cycle;

(14) ‘environmental impact’ means any change to the environment, whether adverse or beneficial, wholly or partially resulting from a product during its life cycle;

(15) ‘class of performance’ means a range of performance levels in relation to one or more product parameters referred to in Annex I, ordered into successive steps to allow for product differentiation;

(16) ‘remanufacturing’ means an industrial process in which a product is produced from objects that are waste, products or components and in which at least one change is made to the product that affects the safety, performance, purpose or type of the product typically placed on the market with a commercial guarantee;

(17) ‘upgrading’ means enhancing the functionality, performance, capacity or aesthetics of a product;

(18) ‘refurbishment’ means preparing or modifying an object that is waste or a product to restore its performance or functionality within the intended use, range of performance and maintenance originally conceived at the design stage, or to meet applicable technical standards or regulatory requirements, with the result of making a fully functional product;

(19) ‘maintenance’ means an action carried out to keep a product in a condition where it is able to function as required;

(20) ‘repair’ means returning a defective product or waste to a condition where it fulfils its intended use;

(21) ‘durability’ means the ability of a product to function as required, under specified conditions of use, maintenance and repair, until a limiting event prevents its functioning;

(22) ‘reliability’ means the probability that a product functions as required under given conditions for a given duration without a limiting event;

(23) ‘environmental footprint’ means a quantification of a product’s environmental impacts, whether in relation to a single environmental impact category or an aggregated set of impact categories based on the Product Environmental Footprint method;

(24) ‘Product Environmental Footprint method’ means the life cycle assessment method to quantify the environmental impacts of products established by Recommendation (EU) 2021/2279;

(25) ‘carbon footprint’ means the sum of greenhouse gas (GHG) emissions and GHG removals in a product system, expressed as CO_2 equivalents and based on a life cycle assessment using the single impact category of climate change;

(26) ‘public contracts’ means public contracts as defined in Article 2(5) of Directive 2014/24/EU;

(27) ‘substance’ means a substance as defined in Article 3, point (1), of Regulation (EC) No 1907/2006;

(28) ‘substance of concern’ means a substance that:

(a) meets the criteria laid down in Article 57 and is identified in accordance with Article 59(1) of Regulation (EC) No 1907/2006; or

(b) is classified in Part 3 of Annex VI to Regulation (EC) No 1272/2008 in one of the following hazard classes or hazard categories:

– carcinogenicity categories 1 and 2,

– germ cell mutagenicity categories 1 and 2,

– reproductive toxicity categories 1 and 2, [*to be added in the course of the legislative procedure once Regulation (EC) No 1272/2008 contains these hazard classes: Persistent, Bioacumulative, Toxic (PBTs), very Persistent very Bioaccumulative (vPvBs); Persistent, Mobile and Toxic (PMT), very Persistent very Mobile (vPvM); Endocrine disruption*],

– respiratory sensitisation category 1,

– skin sensitisation category 1,

– chronic hazard to the aquatic environment categories 1 to 4,

– hazardous to the ozone layer,

– specific target organ toxicity – repeated exposure categories 1 and 2,

– specific target organ toxicity – single exposure categories 1 and 2; or

(c) negatively affects the re-use and recycling of materials in the product in which it is present;

(29) ‘product passport’ means a set of data specific to a product that includes the information specified in the applicable delegated act adopted pursuant to Article 4 and that is accessible via electronic means through a data carrier in accordance with Chapter III;

(30) ‘data carrier’ means a linear bar code symbol, a two-dimensional symbol or other automatic identification data capture medium that can be read by a device;

(31) ‘unique product identifier’ means a unique string of characters for the identification of products that also enables a web link to the product passport;

(32) ‘unique operator identifier’ means a unique string of characters for the identification of actors involved in the value chain of products;

(33) ‘unique facility identifier’ means a unique string of characters for the identification of locations or buildings involved in the value chain of a product or used by actors involved in the value chain of a product;

(34) ‘processing’ means processing as defined in Article 3, point (2), of Regulation (EU) 2018/1807;

(35) ‘destruction’ means the intentional damaging or discarding of a product as waste with the exception of discarding for the only purpose of delivering a product for preparing for re-use or remanufacturing operations;

(36) ‘consumer product’ means any product, excluding components and intermediate products, primarily intended for consumers as defined in Article 2, point (2), of Directive (EU) 2019/771;

(37) ‘unsold consumer product’ means any consumer product that has not been sold or that has been returned by a consumer in view of their right of withdrawal in accordance with Article 9 of Directive (EU) 2011/83/EU;

(38) ‘self-regulation measure’ means a voluntary agreement or codes of conduct, concluded by industry sectors on their own initiative, which they are responsible for enforcing;

(39) ‘making available on the market’ means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

(40) ‘placing on the market’ means the first making available of a product on the Union market;

(41) ‘putting into service’ means the first use, for its intended purpose, in the Union, of a product;

(42) ‘manufacturer’ means any natural or legal person who manufactures a product or who has such a product designed or manufactured, and markets that product under its name or trademark or, in the absence of such person or an importer, any natural or legal person who places on the market or puts into service a product;;

(43) ‘authorised representative’ means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer’s obligations under this Regulation;

(44) ‘importer’ means any natural or legal person established in the Union who places a product from a third country on the Union market;

(45) ‘distributor’ means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market;

(46) ‘economic operator’ means the manufacturer, the authorised representative, the importer, the distributor, the dealer and the fulfilment service provider;

(47) ‘technical specification’ means a document that prescribes technical requirements to be fulfilled by a product, process or service;

(48) ‘harmonised standard’ means a standard as defined in Article 2(1), point (c), of Regulation (EU) No 1025/2012;

(49) ‘CE marking’ means a marking by which the manufacturer indicates that the relevant product is in conformity with the applicable requirements set out in Union harmonisation legislation providing for its affixing;

(50) ‘accreditation’ means accreditation as defined in Article 2(10) of Regulation (EC) No 765/2008;

(51) ‘national accreditation body’ means a national accreditation body as defined in Article 2(11) of Regulation (EC) No 765/2008;

(52) ‘conformity assessment’ means the process demonstrating whether the requirements set out in the relevant delegated acts adopted pursuant to Article 4 have been fulfilled;

(53) ‘conformity assessment body’ means a body that performs conformity assessment activities including calibration, testing, certification and inspection;

(54) ‘notified body’ means a conformity assessment body notified in accordance with Chapter IX of this Regulation;

(55) ‘online marketplace’ means a provider of an intermediary service using software, including a website, part of a website or an application, that allows customers to conclude distance contracts with economic operators for the sale of products covered by delegated acts adopted pursuant to Article 4;

(56) ‘dealer’ means a retailer or any other natural or legal person who offers products for sale, hire or hire purchase, or displays products to customers in the course of a commercial activity, whether or not in return for payment;

(57) ‘distance selling’ means the offer for sale, hire or hire purchase of products, online or through other means of distance sales, whereby the potential customer cannot physically access the product displayed;

(58) ‘product presenting a risk’ means a product that, by not complying with a requirement set out in or pursuant to this Regulation other than those listed in Article 65(1), may adversely affect the environment or other public interests protected by that requirement;

(59) ‘product presenting a serious risk’ means a product presenting a risk for which, based on an assessment, the degree of the relevant non-compliance or the associated harm is considered to require rapid intervention by the market surveillance authorities, including cases where the effects of the non-compliance are not immediate.

In addition, the definitions of ‘waste’, ‘hazardous waste’, ‘re-use’, ‘recovery’, ‘preparing for re-use’ and ‘recycling’ in Article 3, points (1), (2), (13), (15), (16) and (17), of Directive 2008/98/EC of the European Parliament and of the Council[83] shall apply.

[83] Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

The definitions of ‘market surveillance’, ‘market surveillance authority’, ‘fulfilment service provider’, ‘online interface’, ‘corrective action’, ‘end-user’, ‘recall’, ‘withdrawal’, ‘customs authorities’ and ‘release for free circulation’ in Article 3, points (3), (4), (11), (15), (16), (21), (22), (23), (24) and (25), of Regulation (EU) 2019/1020 shall also apply.

The definitions of ‘SMEs’, ‘small enterprises’ and ‘microenterprises’ in Article 2(1), (2) and (3), of Annex I to Commission Recommendation 2003/361/EC[84] shall also apply.

Article 3
Free movement

1. Products shall only be placed on the market or put into service if they comply with the ecodesign requirements set out in the delegated acts adopted pursuant to Article 4 applicable to those products.

2. Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products that comply with the performance requirements set out in delegated acts adopted pursuant to Article 4 for reasons of non-compliance with national performance requirements relating to product parameters referred to in Annex I covered by performance requirements included in such delegated acts.

   Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products that comply with the information requirements set out in delegated acts adopted pursuant to Article 4 for reasons of non-compliance with national information requirements relating to product parameters referred to in Annex I covered by information requirements included such delegated act.

3. Paragraph 2 shall not prevent Member States from setting minimum energy performance requirements in accordance with Article 4(1) and system requirements in accordance with Article 8 of Directive 2010/31/EU of the European Parliament and of the Council[85].

4. Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products on grounds of non-compliance with national requirements relating to product parameters referred to in Annex I, for which a delegated act adopted pursuant to Article 4 provides that no performance, no information or neither performance nor information requirements are necessary.

5. At trade fair, exhibitions and similar events, Member States shall not prevent the showing of products that do not comply with delegated acts adopted pursuant to Article 4, provided that a visible sign clearly indicates that such products do not comply and that they are not for sale until they have been brought into conformity.

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84 Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

85 Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).

CHAPTER II - ECODESIGN REQUIREMENTS

Article 4
Empowerments to adopt delegated acts

The Commission is empowered to adopt delegated acts in accordance with Article 66 to supplement this Regulation by establishing ecodesign requirements for, or in relation to, products to improve their environmental sustainability. Those requirements shall include the elements listed in Annex VI and shall be established in accordance with Articles 5, 6 and 7 and Chapter III. The empowerment to adopt ecodesign requirements includes the power to establish that no performance requirements, no information requirements or neither performance nor information requirements are necessary for certain specified product parameters referred to in Annex I.

When establishing ecodesign requirements in delegated acts referred to in the first subparagraph, the Commission shall also supplement this Regulation by specifying the applicable conformity assessment procedures from among the modules set out in Annex IV to this Regulation and Annex II to Decision No 768/2008/EC, with the adaptations necessary in view of the product or ecodesign requirements concerned, in accordance with Article 36.

Delegated acts referred to in the first subparagraph may also supplement this Regulation by:

(a) requiring manufacturers, their authorised representatives or importers to make parts of the technical documentation related to the relevant product digitally available to the Commission or market surveillance authorities without request, in accordance with Article 30(3);

(b) requiring manufacturers, their authorised representatives or importers to make available to the Commission information on the quantities of a product covered by those delegated acts placed on the market or put into service, in accordance with Article 31(1);

(c) requiring products placed on the market to be able to measure the energy they consume or their performance in relation to other relevant product parameters referred to in Annex I while in use, in accordance with Article 31(2);

(d) requiring manufacturers, their authorised representatives or importers to collect, anonymise, or report to the Commission the in-use data referred to in point (c), in accordance with Article 31(3);

(e) requiring the use of online tools to calculate the performance of a product in relation to a product parameter referred to in Annex I, in accordance with Article 32(2);

(f) specifying alternative rules on the declaration of conformity or markings indicating conformity with ecodesign requirements by way of derogation from Articles 37 and 39, in accordance with Article 40;

(g) specifying rules to direct Member States incentives in accordance with Article 57;

(h) establishing requirements applicable to public contracts, including implementation, monitoring and reporting of those requirements by Member States. Those

requirements shall be based on the product parameters referred to in Annex I and established in accordance with Article 58.

Article 5
Ecodesign requirements

1. The Commission shall, as appropriate to the relevant product groups and with due consideration for all stages of their life cycle, establish ecodesign requirements to improve the following product aspects:

   (a) durability;

   (b) reliability;

   (c) reusability;

   (d) upgradability;

   (e) reparability;

   (f) possibility of maintenance and refurbishment;

   (g) presence of substances of concern;

   (h) energy use or energy efficiency;

   (i) resource use or resource efficiency;

   (j) recycled content;

   (k) possibility of remanufacturing and recycling;

   (l) possibility of recovery of materials;

   (m) environmental impacts, including carbon and environmental footprint;

   (n) expected generation of waste materials.

2. Ecodesign requirements shall be established for a specific product group.

   However, where two or more product groups display technical similarities allowing a product aspect referred to in paragraph 1 to be improved based on a common requirement, ecodesign requirements may be established horizontally for those product groups.

   A horizontal ecodesign requirement established pursuant to the second subparagraph may cover products falling in the scope of a self-regulation measure established as a valid alternative pursuant to Article 18(3), where the Commission considers that that self-regulation measure does not address the product aspect covered by that horizontal ecodesign requirement.

3. Ecodesign requirements shall, as appropriate, include:

(a) performance requirements as set out in Article 6;

(b) information requirements as set out in Article 7.

4. When preparing ecodesign requirements, the Commission shall:

(a) take into account the following elements:

(i) Union climate, environmental and energy efficiency priorities and other related Union priorities;

(ii) relevant Union legislation, including the extent to which it addresses the relevant product aspects listed in paragraph 1;

(iii) self-regulation measures, as provided for in Article 18;

(iv) relevant national environmental legislation;

(v) relevant European and international standards;

(b) carry out an impact assessment based on best available evidence and analyses, and as appropriate on additional studies and research results produced under European funding programmes. In doing so, the Commission shall ensure that the depth of analysis of the product aspects listed in paragraph 1 is proportionate to their significance. The establishment of ecodesign requirements on the most significant aspects of a product among those listed in paragraph 1 shall not be unduly delayed by uncertainties regarding the possibility to establish ecodesign requirements to improve other aspects of that product;

(c) take into consideration relevant technical information used as a basis for or derived from Union legislation or instruments, including Regulation (EC) No 66/2010, Directive 2010/75/EU, technical screening criteria adopted pursuant to Regulation (EU) 2020/852 and green public procurement criteria;

(d) take into account the views expressed by the Ecodesign Forum referred to in Article 17.

5. Ecodesign requirements shall meet the following criteria:

(a) there shall be no significant negative impact on the functionality of the product, from the perspective of the user;

(b) there shall be no adverse effect on the health and safety of persons;

(c) there shall be no significant negative impact on consumers in terms of the affordability of relevant products, also taking into account access to second-hand products, durability and the life cycle cost of products;

(d) there shall be no disproportionate negative impact on the competitiveness of economic actors, at least of SMEs;

(e) there shall be no proprietary technology imposed on manufacturers or other economic actors;

(f) there shall be no disproportionate administrative burden on manufacturers or other economic actors.

6. The Commission shall, where appropriate, require supply chain actors to:

(a) provide, upon request, manufacturers, notified bodies and competent national authorities with available information related to their supplies or services that is relevant in order to verify compliance with ecodesign requirements;

(b) allow, in the absence of information referred to in point (a), manufacturers to assess their supplies or services in order to verify compliance with ecodesign requirements and give access to relevant documents or facilities to those manufacturers;

(c) enable notified bodies and competent national authorities to verify the correctness of information related to their activities and relevant for verifying compliance with ecodesign requirements.

7. The Commission shall, where appropriate, identify appropriate means of verification for specific ecodesign requirements, including directly on the product or on the basis of the technical documentation.

8. The Commission shall publish relevant studies and analyses used in the establishment of ecodesign requirements in accordance with this Regulation.

Article 6
Performance requirements

1. Products shall comply with performance requirements related to the product aspects listed in Article 5(1), as laid down in the delegated acts adopted pursuant to Article 4.

2. Performance requirements referred to in paragraph 1 shall be based on the product parameters referred to in Annex I and shall, as appropriate, include:

(a) minimum or maximum levels in relation to a specific product parameter referred to in Annex I or a combination thereof;

(b) non-quantitative requirements that aim to improve performance in relation to one or more product parameters referred to in Annex I;

(c) requirements related to the functional performance of a product.

3. Performance requirements based on the product parameter set out in Annex I, point (f), shall not restrict the presence of substances in products for reasons relating primarily to chemical safety.

4. When establishing performance requirements, the Commission shall follow the procedure set out in Annex II.

Article 7
Information requirements

1. Products shall comply with information requirements related to the product aspects listed in Article 5(1), as laid down in the delegated acts adopted pursuant to Article 4.

2. The information requirements referred to in paragraph 1 shall:

   (a) include, as a minimum, requirements related to the product passport referred to in Chapter III and requirements related to substances of concern referred to in paragraph 5; and

   (b) as appropriate, require products to be accompanied by:

      (i) information on the performance of the product in relation to the product parameters referred to in Annex I;

      (ii) information for consumers and other end-users on how to install, use, maintain and repair the product in order to minimise its impact on the environment and to ensure optimum durability, as well as on how to return or dispose of the product at end-of-life;

      (iii) information for treatment facilities on disassembly, recycling, or disposal at end-of-life;

      (iv) other information that may influence the way the product is handled by parties other than the manufacturer in order to improve performance in relation to product parameters referred to in Annex I.

   Where a delegated acts contains horizontal ecodesign requirements for two or more product groups as referred to in Article 5(2), second subparagraph, point (a) of this paragraph shall not apply.

3. Information requirements based on the product parameter set out in Annex I, point (f), shall not provide obligations on the labelling of substances or mixtures for reasons relating primarily to their hazards to health or the environment.

4. When establishing the information requirements referred to in paragraph 2, point (b), point (i), the Commission shall, as appropriate, determine classes of performance.

   Those classes of performance shall correspond to statistically significant improvements in performance levels.

5. The information requirements referred to in paragraph 1 shall enable the tracking of all substances of concern throughout the life cycle of products, unless such tracking is already enabled by another delegated act adopted pursuant to Article 4 covering the products concerned, and shall include at least the following:

   (a) the name of the substances of concern present in the product;

   (b) the location of the substances of concern within the product;

(c) the concentration, maximum concentration or concentration range of the substances of concern, at the level of the product, its main components, or spare parts;

(d) relevant instructions for the safe use of the product;

(e) information relevant for disassembly.

Where the Commission sets out information requirements in a delegated act adopted pursuant to Article 4, it shall:

(a) establish which substances fall under the definition in Article 2(28), point (c), for the purposes of the product groups covered;

(b) lay down deadlines for the entry into application of the information requirements referred to in the first subparagraph, with possible differentiation between substances; and

(c) provide exemptions for substances of concern or information elements from the information requirements referred to in the first subparagraph.

Exemptions referred to in the second subparagraph, point (c), may be provided based on the technical feasibility or relevance of tracking substances of concern, the need to protect confidential business information and in other duly justified cases.

Substances of concern falling under the definition in Article 2(28), point (a), shall not be exempted from the information requirement referred to in the first subparagraph if they are present in the relevant products, their main components or spare parts in a concentration above 0,1 % weight by weight.

6. Information requirements shall indicate the manner in which the required information shall be made available.

The required information shall, as appropriate, be provided in at least one of the following manners:

(a) on the product itself;

(b) on the product's packaging;

(c) in the product passport referred to in Article 8;

(d) on a label referred to in Article 14;

(e) in a user manual;

(f) on a free access website or application.

Information ensuring the traceability of substances pursuant to paragraph 5 shall be given either on the product or be accessible through a data carrier included on the product.

7. The information to be supplied pursuant to information requirements shall be provided in a language which can be easily understood by consumers and other end-users, as determined by the Member State in which the product is to be made available on the market or put into service.

CHAPTER III - DIGITAL PRODUCT PASSPORT

Article 8
Product passport

1. The information requirements referred to in Article 7(1) shall provide that products can only be placed on the market or put into service if a product passport is available in accordance with the applicable delegated act adopted pursuant to Article 4 and Articles 9 and 10.

2. The requirements related to the product passport laid down in the delegated acts adopted pursuant to Article 4 shall, as appropriate for the product groups covered, specify the following:

   (a) the information to be included in the product passport pursuant to Annex III;

   (b) the types of data carrier to be used;

   (c) the layout in which the data carrier shall be presented and its positioning;

   (d) whether the product passport is to correspond to the model, batch, or item level;

   (e) the manner in which the product passport shall be made accessible to customers before they are bound by a sales contract, including in case of distance selling;

   (f) the actors that shall have access to information in the product passport and to what information they shall have access, including customers, end-users, manufacturers, importers and distributors, dealers, repairers, remanufacturers, recyclers, competent national authorities, public interest organisations and the Commission, or any organisation acting on their behalf;

   (g) the actors that may introduce or update the information in the product passport, including where needed the creation of a new product passport, and what information they may introduce or update, including manufacturers, repairers, maintenance professionals, remanufacturers, recyclers, competent national authorities, and the Commission, or any organisation acting on their behalf;

   (h) the period for which the product passport shall remain available.

3. The requirements referred to in paragraph 2 shall:

   (a) ensure that actors along the value chain, in particular consumers, economic operators and competent national authorities, can access product information relevant to them;

(b) facilitate the verification of product compliance by competent national authorities; and

(c) improve traceability of products along the value chain.

4. When establishing the requirements related to the product passport, the Commission may exempt product groups from the requirement set out in paragraph 1 of this Article where:

(a) technical specifications are not available in relation to the essential requirements included in Article 10; or

(b) other Union law includes a system for the digital provision of information related to a product group for which the Commission considers that it achieves the objectives referred to in paragraph 3, points (a) and (b).

Article 9
General requirements for the product passport

1. A product passport shall meet the following conditions:

(a) it shall be connected through a data carrier to a unique product identifier;

(b) the data carrier shall be physically present on the product, its packaging or on documentation accompanying the product, as specified in the applicable delegated act adopted pursuant to Article 4;

(c) the data carrier and the unique product identifier shall comply with standard ('ISO/IEC') 15459:2015;

(d) all information included in the product passport shall be based on open, standards, developed with an inter-operable format and shall be machine-readable, structured, and searchable, in accordance with the essential requirements set out in Article 10;

(e) the information included in the product passport shall refer to the product model, batch, or item as specified in the delegated act adopted pursuant to Article 4;

(f) the access to information included in the product passport shall be regulated in accordance with the essential requirements set out in Article 10 and the specific access rights at product group level shall be identified in the applicable delegated act adopted pursuant to Article 4.

The Commission is empowered to adopt delegated acts in accordance with Article 66 to amend the first subparagraph, point (c), of this Article in light of technical and scientific progress by replacing the standard referred to in that point or adding other European or international standards with which the data carrier and the unique identifiers shall comply for the purposes of meeting the conditions set out in this Article.

2. Where other Union legislation requires or allows the inclusion of specific information in the product passport, that information may be added to the information to be included in the product passport pursuant to the applicable delegated act adopted pursuant to Article 4.

3. The economic operator placing the product on the market shall provide dealers with a digital copy of the data carrier to allow the dealer to make it accessible to customers where they cannot physically access the product. The economic operator shall provide that digital copy free of charge and within 5 working days of the dealer's request.

Article 10
Technical design and operation of the product passport

The technical design and operation of the product passport shall comply with the following essential requirements:

(a) product passports shall be fully interoperable with other product passports required by delegated acts adopted pursuant to Article 4 in relation to the technical, semantic and organisational aspects of end-to-end communication and data transfer;

(b) consumers, economic operators and other relevant actors shall have free access to the product passport based on their respective access rights set out in the applicable delegated act adopted pursuant to Article 4;

(c) the data included in the product passport shall be stored the economic operator responsible for its creation or by operators authorised to act on their behalf;

(d) if the data included in the product passport is stored or otherwise processed by operators authorised to act on their behalf, those operators shall not be allowed to sell, re-use or process such data, in whole or in part, beyond what is necessary for the provision of the relevant storing or processing services;

(e) the product passport shall remain available for the period specified in delegated acts adopted pursuant to Article 4, including after an insolvency, a liquidation or a cessation of activity in the Union of the economic operator that created the product passport;

(f) the rights to access and to introduce, modify or update information in product passport shall be restricted based on the access rights specified in delegated acts adopted pursuant to Article 4;

(g) data authentication, reliability and integrity shall be ensured;

(h) product passports shall be designed and operated so that a high level of security and privacy is ensured and fraud is avoided.

Article 11
Unique operator identifier and unique facility identifier

1. The unique operator identifiers referred to in Annex III, points (g) and (h), and the unique facility identifiers referred to in Annex III, point (i), shall comply with the ISO/IEC standard 15459:2015.

2. Where a unique operator identifier referred to in Annex III, point (h), is not yet available, the economic operator creating the product passport shall request a unique operator identifier on behalf of the relevant actor.

   Before issuing a request as referred to in the first subparagraph, the economic operator creating the product passport shall seek confirmation from the actor concerned that no unique operator identifier exists and shall provide the supply chain actor concerned with full details of the released unique operator identifier.

3. Where a unique facility identifier referred to in Annex III, point (i), is not yet available, the economic operator creating the product passport shall request a unique facility identifier on behalf of the actor responsible for the relevant location or building.

   Before issuing a request as referred to in the first subparagraph, the economic operator creating the product passport shall seek confirmation from the responsible actor that no unique facility identifier exists and provide the responsible actor with the full details of the released unique facility identifier.

4. The Commission is empowered to adopt delegated acts in accordance with Article 66 to amend paragraph 1 of this Article in light of technical and scientific progress by replacing the standard referred to in that paragraph or adding European or international standards with which unique operator identifiers referred to in Annex III, points (g) and (h), and unique facility identifiers referred to in Annex III, point (i), may comply for the purposes of meeting the conditions set out in this Article.

Article 12
Product passport registry

1. The Commission shall set up and maintain a registry storing information included in the product passports required by delegated acts adopted pursuant to Article 4.

   The registry referred to in the first subparagraph shall at least include a list of the data carriers and unique product identifiers referred to in Article 9(1).

   The Commission shall ensure that the information stored in the registry referred to in the first subparagraph is processed securely and in compliance with Union law, including applicable rules on the protection of personal data.

2. The Commission shall, in the delegated acts adopted pursuant to Article 4, specify the information which, in addition to being included in the product passport, shall be stored in the registry referred to in paragraph 1, taking into account at least the following criteria:

(a) the need to allow for the verification of the authenticity of the product passport;

(b) the relevance of information for improving the efficiency and effectiveness of market surveillance checks and customs controls in relation to products covered by delegated acts adopted pursuant to Article 4;

(c) the need to avoid disproportionate administrative burden for economic operators.

3. In relation to its responsibility to establish and manage the registry referred to in paragraph 1 and the processing of any personal data that might result from that activity, the Commission shall be regarded as controller as defined in Article 3, point (8), of Regulation (EU) 2018/1725.

4. The economic operator placing the product on the market or putting it into service shall upload, in the registry referred to in paragraph 1, the information referred to in paragraph 2.

5. The Commission, competent national authorities and customs authorities shall have access to the registry referred to in this Article for carrying out their duties pursuant to Union legislation.

Article 13
Customs controls relating to the product passport

1. The Commission shall interconnect the registry referred to in Article 12(1) with the EU Customs Single Window Certificates Exchange (EU CSW-CERTEX), thus enabling the automated exchange of information with the national customs systems through the EU Single Window Environment for Customs established by Regulation (EU)…/…..

The Commission shall adopt an implementing act specifying the details of the implementation arrangements of the interconnection referred to in the first subparagraph.

This implementing act shall be adopted in accordance with the examination procedure referred to in Article 67(3).

The interconnection referred to in the first subparagraph shall be in place within four years from the date of adoption of the implementing act referred to in the second subparagraph.

Paragraphs 3 to 6 of this Article shall apply as from the moment the interconnection is in place.

2. Declarants as defined in Article 5, point (15), of Regulation (EU) 952/2013 shall include the unique product identifier referred to in Article 9(1), point (a), in the customs declaration for release for free circulation of any product covered by a delegated act adopted pursuant to Article 4.

This paragraph shall apply from the moment the registry referred to in Article 12(1) is in place.

3. Before allowing the release for free circulation, customs authorities shall verify whether the unique product identifier indicated by the declarant in accordance with paragraph 2 matches a unique product identifier included in the registry referred to in Article 12(1).

4. Where information included in the product passport is also stored in the registry referred to in Article 12(1), the Commission may specify, in the delegated acts adopted pursuant to Article 4, that customs authorities shall, in addition to the verification referred to in paragraph 3 of this Article, verify the consistency between the information stored in the registry and the customs declaration before allowing the release for free circulation. In such case, the Commission shall take into account at least the following criteria:

   (a) the need to improve compliance of products placed on the Union market with ecodesign requirements;

   (b) the need to avoid disproportionate burden for customs authorities.

   Where customs authorities establish further to the verification laid down in this paragraph that there are discrepancies between the information stored in the registry and the customs declaration, customs authorities shall refuse the release of that product for free circulation. Customs authorities may take any other actions they deem appropriate in accordance with customs legislation, and also registering the refusal in the registry referred to in Article 12(1) and notifying competent national authorities of the refusal.

   The release for free circulation shall not be deemed to be proof of conformity with Union law.

5. The verification referred to in paragraphs 3 and 4 shall take place electronically and automatically via the EU Single Window Environment for Customs.

6. Customs authorities may retrieve and use the information included in the product passport and the registry referred to in Article 12(1) for carrying out their duties pursuant to Union legislation, including for risk management in accordance with Articles 46 and 47 of Regulation (EU) No 952/2013.

CHAPTER IV - LABELS

Article 14
Labels

1. Where the information requirements referred in Article 7(1) specify that information shall be included in a label pursuant to Article 7(6), point (d), the delegated acts adopted pursuant to Article 4 shall specify:

   (a) the content of the label;

(b) the layout of the label taking account visibility and legibility;

(c) the manner in which the label shall be displayed to customers including in case of distance selling, taking into account the requirements set out in Article 26 and the implications for the relevant economic operators;

(d) where appropriate, electronic means for generating labels.

2. Where an information requirement entails the inclusion in a label of the class of performance of a product as referred to in Article 7(4), the layout of the label referred to in paragraph 1, point (b), shall enable customers to easily compare product performance in relation to the relevant product parameter and to choose better performing products.

3. For energy-related products, where information on a relevant product parameter, including on classes of performance referred to in Article 7(4), cannot be incorporated in the energy label established pursuant to Regulation (EU) 2017/1369, the Commission, after assessing the best way to communicate about this particular information, may, if appropriate, require the establishment of a label in accordance with this Regulation.

4. When establishing the information requirements referred to in paragraph 1, the Commission shall, where appropriate, require the label to include data carriers or other means to allow customers to access additional information on the product, including means allowing access to the product passport referred to in Article 8.

5. The Commission may adopt implementing acts establishing common requirements for the layout of the labels required pursuant to Article 7(6), point (d).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(3).

Article 15
Mimicking labels

Where delegated acts adopted pursuant to Article 4 do not require products to have a label, those products may not be placed on the market or put into service if they supply or display labels which are likely to mislead or confuse customers with respect to the labels provided for in Article 14.

CHAPTER V - PRIORITISATION, PLANNING AND CONSULTATION

Article 16
Prioritisation and planning

1. When prioritising products to be covered by ecodesign requirements in accordance with this Regulation, the Commission shall take into account their potential contribution to achieving Union climate, environmental and energy efficiency objectives, as well as the following criteria:

(a) the potential for improving the product aspects listed in Article 5(1) without entailing disproportionate costs, taking into account in particular:

(i) the absence or insufficiency of Union law or failure of market forces or self-regulation measures adopted in accordance with Article 18 to address the objective properly; and

(ii) the disparity in the performance of products available on the market with equivalent functionality in relation to the product aspects listed in Article 5(1);

(b) the volume of sales and trade of the product within the Union;

(c) the distribution of the environmental impacts, energy use and waste generation across the value chain, in particular whether they take place within the Union;

(d) the need to regularly review and adapt delegated acts adopted pursuant to Article 4 in light of technological and market developments.

2. The Commission shall adopt and regularly update a working plan, covering a period of at least 3 years, setting out a list of product groups for which it intends to establish ecodesign requirements in accordance with this Regulation. That list shall include products aspects referred to in Article 5(1) for which the Commission intends to adopt horizontal ecodesign requirements established pursuant to Article 5(2), second subparagraph.

When adopting or updating the working plan referred to in the first subparagraph, the Commission shall take into account the criteria set out in paragraph 1 of this Article and shall consult the Ecodesign Forum referred to in Article 17.

Article 17
Ecodesign Forum

The Commission shall ensure that when it conducts its activities, it observes a balanced participation of Member States' representatives and all interested parties involved with the product or product group in question, such as industry, including SMEs and craft industry, trade unions, traders, retailers, importers, environmental protection groups and consumer organisations. These parties shall contribute in particular to preparing ecodesign requirements, examining the effectiveness of the established market surveillance mechanisms and assessing self-regulation measures.

To that end, the Commission shall establish an expert group, in which those parties shall meet, referred to as the 'Ecodesign Forum'.

Article 18
Self-regulation measures

1. Two or more economic operators may submit a self-regulation measure establishing ecodesign requirements for products to the Commission as an alternative to a delegated act adopted pursuant to Article 4. Those operators shall provide evidence that the criteria referred to in paragraph 3, points (a) to (e), are fulfilled. With respect

to paragraph 3, point (a), that evidence shall consist of a structured technical, environmental and economic analysis, justifying the ecodesign requirements and objectives of the self-regulation measure, and assessing the impacts of the ecodesign requirements set in that self-regulation measure.

2. The self-regulation measure shall contain the following information:

(a) a list of the economic operators that are signatories to the self-regulation measure;

(b) the ecodesign requirements applicable to products covered by the self-regulation measure;

(c) a detailed, transparent and objective monitoring plan, with clearly identified responsibilities for industry and independent inspectors, including the criteria set out in point 6 of Annex VII;

(d) rules on information to be reported by signatories and on testing and inspections.

The information referred to in this paragraph shall be kept up-to-date and be available on a publicly accessible website.

3. The Commission shall assess the proposed self-regulation measure, and, where necessary, shall seek scientific advice from Union decentralised agencies. On the basis of that assessment, it shall establish whether it is a valid alternative to a delegated act adopted pursuant to Article 4 where the following criteria are fulfilled:

(a) the self-regulation measure contributes to improving the environmental sustainability of products and ensuring the free movement in the internal market quickly or at a lesser expense than a delegated act adopted pursuant to Article 4;

(b) the market share in terms of volume of the signatories to the self-regulation measure in relation to the products covered by that measure is at least 80 % of units placed on the market or put into service;

(c) the self-regulation measure complies with the criteria set out in Annex VII;

(d) the product covered by the self-regulation measure does not fall within the scope of a delegated act adopted pursuant to Article 4;

(e) the self-regulation measure is in line with Union legislation and international trade commitments of the Union.

The Commission shall adopt an implementing act containing a list of self-regulation measures established as valid alternatives to a delegated act adopted pursuant to Article 4. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 67(2).

4. The Commission may at any point in time request the signatories of a self-regulation measure to submit a revised and updated version of that measure in view of relevant

market or technological developments within the product group concerned or where it has reason to believe that the criteria set out in paragraph 3 are no longer fulfilled.

5. Once a self-regulation measure has been listed in an implementing act adopted pursuant to paragraph 3, second subparagraph, the signatories of that measure shall report to the Commission, at regular intervals set out in that implementing act, on the progress towards achieving the objectives of the self-regulation measures and to demonstrate that the criteria set in paragraph 3, points (a) to (e), remain fulfilled. Those reports shall also be made available on a publicly accessible website.

6. Where the Commission considers, based on information received pursuant to paragraphs 4 or 5, that a self-regulation measure no longer fulfils the criteria set out in paragraph 3, it shall delete it from the list referred to in that paragraph. In such cases, the Commission may decide to adopt ecodesign requirements applicable to the product covered by that self-regulation measure.

Article 19
Micro, small and medium-sized enterprises

1. In the context of programmes from which SMEs can benefit, the Commission shall take into account initiatives which help SMEs to integrate environmental sustainability aspects including energy efficiency in their value chain.

2. When adopting delegated acts pursuant to Article 4 the Commission shall, where appropriate, accompany those acts with guidelines covering specificities of SMEs active in the product or product group sector affected for facilitating the application of this Regulation by SMEs.

3. Member States shall take appropriate measures to help SMEs apply ecodesign requirements set out in delegated acts adopted pursuant to Article 4..

   Those measures shall at least include ensuring the availability of one-stop shops or similar mechanisms to raise awareness and create networking opportunities for SMEs to adapt to requirements.

   In addition, without prejudice to applicable State aid rules, such measures may include:

   (a) financial support, including by giving fiscal advantages and providing physical and digital infrastructure investments;

   (b) access to finance;

   (c) specialised management and staff training;

   (d) organisational and technical assistance.

CHAPTER VI - DESTRUCTION OF UNSOLD CONSUMER PRODUCTS

Article 20
Destruction of unsold consumer products

1. An economic operator that discards unsold consumer products directly, or on behalf of another economic operator, shall disclose:

   (a) the number of unsold consumer products discarded per year, differentiated per type or category of products;

   (b) the reasons for the discarding of products;

   (c) the delivery of discarded products to preparing for re-use, remanufacturing, recycling, energy recovery and disposal operations in accordance with the waste hierarchy as defined by Article 4 of Directive 2008/98/EC.

   The economic operator shall disclose that information on a freely accessible website or otherwise make it publicly available, until a delegated act adopted pursuant to paragraph 3 starts applying to the category of unsold consumer products discarded by the operator in question.

2. The Commission may adopt implementing acts setting out the format for the disclosure of the information referred to in paragraph 1, including the type or category and how the information is to be verified.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(3).

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 66 to supplement this Regulation by prohibiting economic operators to destroy unsold consumer products in the Union, where the destruction of unsold consumer products falling within a certain product group has significant environmental impact.

   In the delegated acts adopted pursuant to the first subparagraph, the Commission shall set out certain exemptions to those prohibitions where it is appropriate in view of:

   (a) health and safety concerns;

   (b) damage to products as a result of their handling or detected after a product has been returned by a consumer;

   (c) fitness of the product for the purpose for which it is intended, taking into account, where applicable, Union and national law and technical standards;

   (d) refusal of products for donation, preparing for re-use or remanufacturing.

4. When preparing a delegated act adopted pursuant to paragraph 3, the Commission shall:

   (a) assess the prevalence and environmental impact of the destruction of specific consumer products;

   (b) take into account the information disclosed by economic operators pursuant to paragraph 1;

(c) carry out an impact assessment based on best available evidence and analyses, and on additional studies as necessary.

The Commission shall consult the Ecodesign Forum referred to in Article 17, and take account of its views on possible prohibitions of destruction of unsold consumer products referred to in paragraph 3, prior to the preparation of the delegated acts setting out those prohibitions.

5. Where unsold consumer products are destroyed under an exemption referred to in paragraph 3, second subparagraph, the responsible economic operator shall disclose on a freely accessible website or otherwise make publicly available:

(a) the number of unsold consumer products destroyed;

(b) the reasons for their destruction, referring to the applicable exemption;

(c) the delivery of the products destroyed to recycling, energy recovery and disposal operations in accordance with the waste hierarchy as defined by Article 4 of Directive 2008/98/EC.

The details and format for the disclosure of information provided in the implementing act adopted pursuant to paragraph 2 shall apply to the information to be disclosed pursuant to this paragraph, unless the delegated act adopted pursuant to paragraph 3 provides otherwise.

6. This Article shall not apply to SMEs.

However, the Commission may, in the delegated acts adopted pursuant to paragraph 3, provide that the prohibition to destroy unsold consumer products referred to in paragraph 3 or the disclosure obligation referred to in paragraph 4 shall apply to:

(a) medium-sized enterprises, where there is sufficient evidence that they account for a substantial proportion of unsold consumer products being destroyed;

(b) microenterprises, small enterprises or medium-sized enterprises, where there is sufficient evidence that they may be used to circumvent the prohibition to destroy unsold consumer products referred to in paragraph 3 or the disclosure obligation referred to in paragraph 4.

CHAPTER VII - OBLIGATIONS OF ECONOMIC OPERATORS

Article 21
Obligations of manufacturers

1. When placing products covered by a delegated act adopted pursuant to Article 4 on the market or putting them into service, manufacturers shall ensure that:

(a) those products have been designed and manufactured in accordance with the requirements set out in Article 6 and the delegated acts adopted pursuant to Article 4;

(b) those products are accompanied by the information required by the Article 7 and the delegated acts adopted pursuant to Article 4;

(c) a product passport is available in accordance with Article 8 and the delegated acts adopted pursuant to Article 4.

2. Before placing a product covered by a delegated act adopted pursuant to Article 4 on the market or putting it into service, manufacturers shall carry out the conformity assessment procedure specified in the delegated acts adopted pursuant to Article 4 and draw up the required technical documentation, or have it carried out on their behalf.

Where compliance of a product covered by a delegated act adopted pursuant to Article 4with the applicable requirements has been demonstrated by that procedure, manufacturers shall draw up an EU declaration of conformity in accordance with Article 37 and affix the CE marking in accordance with Article 39. However, where the Commission has specified alternative rules pursuant to Article 4, third subparagraph, point (f), the manufacturer shall draw up a conformity declaration and affix conformity marking in accordance with those rules.

3. Manufacturers shall keep the technical documentation and the EU declaration of conformity for 10 years after the product has been placed on the market or put into service. Delegated acts adopted pursuant to Article 4 may specify a period longer or shorter than 10 years in order to take account of the nature of the products or requirements concerned.

4. Manufacturers shall ensure that procedures are in place for series production to remain in conformity with the applicable requirements. Changes in the production process, product design or in characteristics, as well as changes in harmonised standards, common specifications or other technical specifications by reference to which product conformity is declared or by application of which its conformity is verified, shall be adequately taken into account by manufacturers and, in case they found that the product's conformity is affected, manufacturers shall carry out a re-assessment in accordance with the conformity assessment procedure specified in the delegated acts adopted pursuant to Article 4, or have it carried out on their behalf..

5. Manufacturers shall ensure that their products bear a type, batch or serial number or other element allowing their identification, or, where the size or nature of the product does not allow so, that the required information is provided on the packaging or in a document accompanying the product.

6. Manufacturers shall indicate on the product their name, registered trade name or registered trade mark and the postal address and, where available, electronic means of communication, where they can be contacted or, where this is not possible, on its packaging, in a document accompanying the product or, where available, in a product passport. The address shall indicate a single point where the manufacturer can be contacted. The contact details shall be clear, understandable and legible.

7. Manufacturers shall ensure that that a product covered by a delegated act adopted pursuant to Article 4 is accompanied by instructions that enable consumers and other end-users to safely assemble, install, operate, store, maintain, repair and dispose of the product in a language that can be easily understood by consumers and other end-

users, as determined by the Member State concerned. Such instructions shall be clear, understandable and legible and include at least the information specified in the delegated acts adopted pursuant to Article 4 and pursuant to Article 7(2)(b), point (ii).

8. Manufacturers who consider or have reason to believe that a product covered by a delegated act adopted pursuant to Article 4 that they have been placed on the market or put into service is not in conformity with the requirements set out in those delegated acts shall immediately take the necessary corrective measures to bring that product into conformity, to withdraw it or recall it, if appropriate.

   Manufacturer shall immediately inform the market surveillance authorities of the Member States in which they made the product available of the suspected non-compliance and of any corrective measures taken.

9. Manufacturers shall, further to a reasoned request from a competent national authority, provide all the information and documentation necessary to demonstrate the conformity of the product, including the technical documentation in a language that can be easily understood by that authority. That information and documentation shall be provided in either paper or electronic form. The relevant documents shall be made available within 10 days of receipt of a request by a competent national authority.

   Manufacturers shall cooperate with the competent national authority, on any action taken to remedy any case of non-compliance with the requirements set out in a delegated act adopted pursuant to Article 4 by which the product in question is covered.

Article 22
Authorised representatives

1. A manufacturer may, by a written mandate, appoint an authorised representative.

   The obligations laid down in Article 21(1) and the drawing up of technical documentation shall not form part of the authorised representative's mandate.

2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following:

   (a) keep the EU declaration of conformity and technical documentation at the disposal of the national market surveillance authorities for 10 years after a product covered by a delegated act adopted pursuant to Article 4 has been placed on the market or put into service;

   (b) cooperate with the competent national authorities, at their request, on any measures taken with regard to non-compliances of the product covered by the authorised representative's mandate;

   (c) further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate

the conformity of a product in a language that can be easily understood by that authority;

(d) further to a request from a competent national authority, make available relevant documents within 10 days of the receipt of such a request ;

(e) terminate the mandate if the manufacturer acts contrary to its obligations under this Regulation and the delegated act adopted pursuant to Article 4.

Article 23
Obligations of importers

1. Importers shall only place on the market products covered by a delegated act adopted pursuant to Article 4 that comply with the requirements set out in the applicable delegated acts.

2. Before placing a product covered by a delegated act adopted pursuant to Article 4 on the market, importers shall ensure that:

(a) the appropriate conformity assessment procedure has been carried out by the manufacturer and that the manufacturer has drawn up the technical documentation;

(b) products are accompanied by the information required by the Article 7 and the delegated acts adopted pursuant to Article 4;

(c) a product passport is available in accordance with Article 8 and the delegated acts adopted pursuant to Article 4.

The importer shall further ensure that the product bears the required CE marking referred to in Article 38, or the alternative conformity marking as laid down in a delegated act adopted pursuant to Article 4, third subparagraph, point (f), and is accompanied by the required documents, and that the manufacturer has complied with the requirements set out in Article 21(5) and (6).

Where importers consider or have reason to believe that a product is not in conformity with the requirements set out in the applicable delegated acts adopted pursuant to Article 4, they shall not place the product on the market or put it into service until it has been brought into conformity.

3. Importers shall indicate on the product their name, registered trade name or registered trade mark and the postal address and, where available, electronic means of communication, where they can be contacted or, where this is not possible, on the packaging, in a document accompanying the product or, where available, in a product passport. The contact details shall be clear, understandable and legible.

4. Importers shall ensure that the product is accompanied by instructions that enable the consumer to assemble, install, operate, store, maintain, repair and dispose of the product, in a language that can be easily understood by consumers and other end users, as determined by the Member State concerned. Such instructions shall be

clear, understandable and legible and shall include at least the information specified in the delegated acts adopted pursuant to Article 4.

5. Importers shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in a delegated act adopted pursuant to Article 4 by which it is covered.

6. Importers who consider or have reason to believe that a product covered by a delegated act adopted pursuant to Article 4, which they have placed on the market or put into service, is not in conformity with the requirements set out in that act shall immediately take the corrective measures necessary to bring that product into conformity, to withdraw it or recall it, if appropriate.

   Importers shall immediately inform the market surveillance authorities of the Member States in which they made the product available of the suspected non-compliance and of any corrective measures taken.

7. Importers shall, for 10 years or the period specified by a delegated act adopted pursuant to Article 4, keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.

8. Importers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of a product, including technical documentation, in a language that can be easily understood by that authority. That information and documentation shall be provided in either paper or electronic form. The relevant documents shall be made available within 10 days of receipt of a request by the competent authority of a Member State.

   Importers shall cooperate with the competent national authority on any action taken to remedy any case of non-compliance with the requirements set out in a delegated act adopted pursuant to Article 4 by which the product in question is covered.

Article 24
Obligations of distributors

1. When making a product covered by a delegated act adopted pursuant to Article 4 available on the market, distributors shall act with due care in relation to the requirements set out in that act.

2. Before making a product covered by a delegated act adopted pursuant to Article 4 available on the market, distributors shall verify that the following:

   (a) the product bears the CE marking in accordance with Articles 38 and 39 or alternative conformity marking adopted pursuant to Article 4, third subparagraph, point (f), and, where relevant, is labelled or is linked to a product passport in accordance with that delegated acts;

   (b) the product is accompanied by the required documents and by instructions, to enable the consumer to assemble, install, operate, store, maintain, and dispose

of the product, in a language that can be easily understood by consumers and other end-users, as determined by the Member State in which the product is to be made available on the market, and that such instructions are clear, understandable and legible and include at least the information set out in Article 7(2), point (b), point (ii), as laid down in the delegated act adopted pursuant to Article 4;

(c) the manufacturer and the importer have complied with the requirements set out in Article 21(5) and (6) and Article 23(3).

3. Where a distributor considers or has reason to believe that a product, before making it available on the market, or its manufacturer is not complying with the requirements set out in a delegated act adopted pursuant to Article 4, they shall not make the product available on the market until the product has been brought into conformity or the manufacturer complies.

Distributors shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in in the delegated act adopted pursuant to Article 4.

4. Distributors who consider or have reason to believe that a product which they have made available on the market is not in conformity with the requirements set out in a delegated act adopted pursuant to Article 4 shall make sure that the corrective measures necessary to bring that product into conformity, to withdraw it or recall it, if appropriate, are taken.

Distributors shall immediately inform the market surveillance authorities of the Member States in which they made the product available of the suspected non-compliance and of any corrective measures taken.

5. Distributors shall, further to a reasoned request from a competent national authority, provide the authority with all the information and documentation to which they have access and that is relevant for demonstrating the conformity of a product. That information and documentation shall be provided in either paper or electronic form.

Distributors shall cooperate with that authority on any corrective action taken to remedy any case of non-compliance with a delegated act adopted pursuant to Article 4 by which the product in question is covered.

Article 25
Obligations of dealers

1. Dealers shall ensure that their customers have access to any relevant information required by the delegated acts adopted pursuant to Article 4, including in case of distance selling.

2. Dealers shall ensure that the product passport is easily accessible to customers, including in case of distance selling, as specified in Article 8 and delegated acts adopted pursuant to Article 4by which the product is covered.

3. Dealers shall:

(a) display to customers, in a visible manner, including for online distance selling, labels provided in accordance with Article 26(2) or (3);

(b) make reference to the information included in labels provided in accordance with Article 26(2) or (3) in visual advertisements or in technical promotional material for a specific model, in accordance with delegated acts adopted pursuant to Article 4 by which the product is covered;

(c) not provide or display other labels, marks, symbols or inscriptions that are likely to mislead or confuse customers with respect to the information included on the label.

Article 26
Obligations related to labels

1. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 14, the economic operator placing the product on the market or putting it into service shall ensure that products are accompanied, for each individual unit and free of charge, by printed labels in accordance with that delegated act.

2. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 14, the economic operator placing the product on the market or putting it into service shall deliver printed labels or digital copies of the label to the dealer free of charge, promptly and in any event within 5 working days of the dealer's request.

3. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 14, the economic operator placing the product on the market or putting it into service shall ensure that its labels are accurate and shall, as part of the applicable conformity assessment procedure, produce technical documentation sufficient to enable the accuracy to be assessed.

4. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 14, the economic operator placing the product on the market or putting it into service shall:

(a) make reference to the information included in the label, in visual advertisements or in technical promotional material for a specific model in accordance with the relevant delegated act adopted pursuant to Article 4;

(b) not provide or display other labels, marks, symbols or inscriptions that are likely to mislead or confuse customers with respect to the information included on the label.

Article 27
Obligations of fulfilment service providers

Fulfilment service providers shall ensure that, for products that they handle that are covered by a delegated act adopted pursuant to Article 4, the conditions during warehousing,

packaging, addressing or dispatching, do not jeopardise the products' compliance with the requirements set out in that delegated act .

Article 28
Cases in which obligations of manufacturers apply to importers and distributors

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:

(1) place a product covered by a delegated act adopted pursuant to Article 4 on the market under their name or trademark;

(2) 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.

Article 29
Obligations of online marketplaces and online search engines

1. The cooperation referred to in Article 7(2) of Regulation (EU) 2019/1020 shall, with regard to online marketplaces and for the purposes of this Regulation, include in particular:

   (a) cooperating to ensure effective market surveillance measures, including by abstaining from putting in place obstacles to such measures;

   (b) informing the market surveillance authorities of any action taken;

   (c) establishing a regular and structured exchange of information on offers that have been removed on the basis of this Article by online marketplaces;

   (d) allowing online tools operated by market surveillance authorities to access their interfaces in order to identify non-compliant products;

   (e) upon request of the market surveillance authorities, when online marketplaces or online sellers have put in place technical obstacles to the extraction of data from their online interfaces, allowing those authorities to scrape such data for product compliance purposes based on the identification parameters provided by the requesting market surveillance authorities.

2. For the purpose of the requirements of [Article 22(7)] of Regulation (EU) …/… [the Digital Services Act], online marketplaces shall design and organise their online interface in a way that enables dealers to fulfil their obligations set out in Article 25 and allows economic operators to fulfil their obligations under Article 30(1) of this Regulation.

   The information shall be able to be provided for each product offered and displayed or otherwise made easily accessible by customers on the product listing.

In particular, where delegated acts adopted pursuant to Article 4 require online visual advertising for certain products to be accompanied by online electronic information to be displayed on the display mechanism, online marketplaces shall enable dealers to show it. This obligation shall also apply to online search engines and other online platforms that provide online visual advertising for the products concerned.

3. As far as powers conferred by Member States in accordance with Article 14 of Regulation (EU) 2019/1020 are concerned, Member States shall confer on their market surveillance authorities the power, for all products covered by a relevant delegated act adopted pursuant to Article 4, to order an online marketplace to remove specific illegal content referring to a non-compliant product from its online interface, disable access to it or display an explicit warning to end-users when they access it. Such orders shall comply with [Article 8(1)] of Regulation (EU) …/… [the Digital Services Act].

4. Online marketplaces shall take the necessary measures to receive and process the orders referred to in paragraph 2 in accordance with [Article 8] of Regulation (EU) …/… [the Digital Services Act].

5. Online marketplaces shall establish a single contact point allowing for direct communication with Member States' market surveillance authorities in relation to compliance with this Regulation and the delegated acts adopted pursuant to Article 4.

   This contact point may be the same contact point as the one referred to in [Article 20(1)] of Regulation (EU) …/… [the General Product Safety Regulation] or [Article 10(1)] of Regulation (EU) …/… [the Digital Services Act].

Article 30
Information obligations of economic operators

1. Where products are made available on the market online or through other means of distance sales by the relevant economic operators, the relevant product offer shall clearly and visibly provide at least the following information:

   (a) the name, registered trade name or registered trade mark of the manufacturer, as well as the postal or electronic address where they can be contacted;

   (b) in case the manufacturer is not established in the Union, the name, address, telephone number and email address of the economic operator established in the Union within the meaning of Article 4 of Regulation (EU) 2019/1020;

   (c) information to identify the product, including its type and, where available, batch or serial number and any other product identifier.

2. Economic operators shall, upon request, provide the market surveillance authorities with:

   (a) the name of any economic operator who has supplied them with a product falling within the scope of a delegated act adopted pursuant to Article 4;

(b) any economic operator to whom they have supplied such products, as well as the quantities and exact models.

Economic operators shall be able to provide this information for 10 years after they have been supplied with the relevant products and for 10 years after they have supplied such products. When adopting delegated acts pursuant to Article 4, the Commission may specify a period of more or less than 10 years to take account of the nature of the relevant products or requirements.

3. When requiring manufacturers, their authorised representatives or importers to make parts of the technical documentation related to the relevant product digitally available pursuant to Article 4, third subparagraph, point (a), the Commission shall take into account the following criteria:

(a) the need to facilitate the verification of compliance with the applicable requirements by market surveillance authorities;

(b) the need to avoid disproportionate administrative burden for economic operators.

The Commission shall specify the manner in which the relevant parts of the technical documentation shall be made available. Where available, technical documentation shall be made available through the product passport.

Article 31
Monitoring and reporting obligations of economic operators

1. When requiring manufacturers, their authorised representatives or importers to make available to the Commission, information on the quantities of a product covered by delegated acts adopted pursuant to Article 4, third subparagraph, point (b), the Commission shall take into account the following criteria:

(a) the availability of evidence on the market penetrations of the relevant product in order to facilitate the review of delegated acts adopted pursuant to Article 4 applicable to that product;

(b) the need to avoid disproportionate administrative burden for economic operators.

The Commission shall specify the period of time to which the information referred to in the first subparagraph shall relate. That information shall be differentiated per product model.

The Commission shall ensure that the resulting data is processed securely and in compliance with Union law.

The Commission shall specify in those delegated acts the means through which the relevant information shall be made available and its periodicity.

2. When requiring a product to be able to measure the energy it consumes or its performance in relation to other relevant product parameters referred to in Annex I

while in use, pursuant to Article 4, third subparagraph, point (c), the Commission shall take into account the following criteria:

(a) the usefulness of in-use data for end-users to understand and manage the energy use or performance of the product;

(b) the technical feasibility of recording in-use data;

(c) the need to avoid disproportionate administrative burden for economic operators.

Products covered by a requirement set pursuant to Article 4, third subparagraph, point (c), shall record the resulting in-use data and make it visible to the end-user.

3. When requiring manufacturers, their authorised representatives or importers to collect, anonymise or report to the Commission in-use data referred to in paragraph 2, pursuant to Article 4, third subparagraph, point (d), the Commission shall take into account the following criteria:

(a) the usefulness of in-use data for the Commission when reviewing ecodesign requirements or assisting market surveillance authorities with statistical information for their risk-based analysis;

(b) the need to avoid disproportionate administrative burden for economic operators.

Such requirements referred to in the first subparagraph may in particular consist of:

(a) collecting the in-use data if it can be accessed remotely via the internet, unless the end-user expressly refuses to make that data available;

(b) anonymising the data collected under point (a) and report it to the Commission at least once a year. The economic operator shall include the product database identification number of the model as referred to in Article 12(5) of Regulation (EU) No 2017/1369 and, if relevant to their performance, geographical information on the products.

The Commission shall specify the details and format for reporting the in-use data as referred to in the second subparagraph, point (b).

4. The Commission shall periodically assess the in-use data received pursuant to paragraph 3 and shall, where appropriate, publish aggregated datasets.

CHAPTER VIII - CONFORMITY OF PRODUCTS

Article 32
Test, measurement and calculation methods

1. For the purposes of compliance and verification of compliance with ecodesign requirements, tests, measurements and calculations shall be made using reliable, accurate and reproducible methods that take into account the generally recognised

state-of-the art methods. Such methods shall fulfil the test, measurement and calculation requirements set out in the relevant delegated acts adopted pursuant to Article 4.

2. Where necessary to ensure compliance with ecodesign requirements set out in delegated acts adopted pursuant to Article 4, third subparagraph, point (e), the Commission may require the use of online tools for the calculation of the performance of products in relation to the relevant product parameter referred to in Annex I reflecting the applicable calculation requirements.

Where setting such requirements for the use of online tools, the Commission shall take into account the following criteria:

(a) the need to ensure the harmonised application of calculation requirements;

(b) the need to minimise administrative burden imposed on economic operators complying with the relevant requirements.

Online tools shall be freely accessible for economic operators complying with the relevant requirements.

Article 33
Circumvention

1. Products falling within the scope of a delegated act adopted pursuant to Article 4 shall not be placed on the market or put into service if they are designed to alter their behaviour or properties when they are tested in order to reach a more favourable result for any of the product parameters regulated in delegated acts adopted pursuant to Article 4 by which the products are covered.

For the purposes of this paragraph, products designed to be able to detect they are being tested and automatically alter their performance in response and products pre-set to alter their performance at the time of testing shall constitute products designed to alter their behaviour or properties when they are tested.

2. Economic operators placing a product covered by a delegated act adopted pursuant to Article 4 shall not prescribe instructions specific to testing that alter the behaviour or the properties of products in order to reach a more favourable result for any of the product parameters regulated in delegated acts adopted pursuant to Article 4 by which the products are covered.

For the purposes of this paragraph, instructions leading to a manual alteration of the product before a test that alters the performance of the product shall constitute instructions specific to testing that alter the behaviour or the properties of products.

3. Products falling within the scope of a delegated act adopted pursuant to Article 4 shall not be placed on the market or put into service if they are designed to alter their behaviour or properties within a short period after putting the product into service leading to a worsening of their performance in relation to any of the product parameters regulated in delegated acts adopted pursuant to Article 4 by which the

products are covered or their functional performance from the perspective of the user.

4. Software or firmware updates shall not worsen product performance in relation to any of the product parameters regulated in delegated acts adopted pursuant to Article 4 by which the products are covered or the functional performance from the perspective of the user when measured with the test method used for the conformity assessment, except with explicit consent of the end-user prior to the update. No performance change shall occur as a result of rejecting the update.

   Software or firmware updates shall not worsen performance referred to in the first subparagraph to the extent that the product becomes non-compliant with the requirements set out in delegated acts adopted pursuant to Article 4 applicable at the time of the placing on the market or putting into service of the product.

Article 34
Presumption of conformity

1. Tests, measurement or calculation methods referred to in Article 32 which are in conformity with harmonised standards or parts thereof, the references of which have been published in *the Official Journal of the European Union*, shall be presumed to be in conformity with the requirements set out in that Article and with test, measurement and calculation requirements set out in delegated acts adopted pursuant to Article 4 to the extent that those requirements are covered by such harmonised standards or parts thereof.

2. Products which are in conformity with harmonised standards or parts thereof, the references of which have been published in the *Official Journal of the European Union* shall be presumed to be in conformity with ecodesign requirements set out in delegated acts adopted pursuant to Article 4 to the extent that those requirements are covered by such harmonised standards or parts thereof.

3. Products covered by a delegated act adopted pursuant to Article 4, which have been awarded the EU Ecolabel pursuant to Regulation (EC) No 66/2010 shall be presumed to comply with the ecodesign requirements set out in that delegated act in so far as those requirements are covered by the EU Ecolabel criteria established according to Article 16(2) of Regulation (EC) No 66/2010.

Article 35
Common specifications

1. The Commission may adopt implementing acts laying down common specifications for ecodesign requirements, the essential requirements for product passports referred to in Article10 or for test, measurement or calculation methods referred to in Article 32, in the following situations:

   (a) it has requested one or more European standardisation organisations to draft a harmonised standard in relation to an ecodesign requirement or method that is not covered by a harmonised standard or part thereof, the references of which have been published in the *Official Journal of the European Union*, and there

are either undue delays in the standardisation procedure or the request has not been accepted by any of the European standardisation organisations;

(b) the Commission has decided in accordance with the procedure referred to in Article 11(5) of Regulation (EU) No 1025/2012 to maintain with restriction or to withdraw the references to the harmonised standards or parts thereof by which an ecodesign requirements or method is covered.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(3).

2. Test, measurement and calculation methods referred to in Article 32which are in conformity with common specification or parts thereof shall be presumed to be in conformity with the requirements set out in that Article and with test, measurement and calculation requirements set out in delegated acts adopted pursuant to Article 4 to the extent that those requirements are covered by such common specification or parts thereof.

3. Products which are in conformity with common specifications or parts thereof shall be presumed to be in conformity with ecodesign requirements set out in the delegated act adopted pursuant to Article 4 by which those products are covered to the extent that those requirements are covered those common specifications or parts thereof.

Article 36
Conformity assessment

1. When specifying the applicable conformity assessment procedure pursuant to Article 4, second subparagraph, the Commission shall consider the following criteria:

(a) whether the module concerned is appropriate to the type of product and proportionate to the public interest pursued;

(b) the nature of the product parameters referred to in Annex I on which the relevant ecodesign requirements are based, in particular whether performance in relation to those product parameters can be verified on the product itself;

(c) where third party involvement is mandatory, the need for the manufacturer to have a choice between quality assurance and product certification modules set out in Annex II of Decision No 768/2008/EC.

2. Where relevant, records and correspondence relating to the conformity assessment shall be drawn up in an official language of the Member State where a notified body involved in a conformity assessment procedure referred to in paragraph 1 is established, or in a language accepted by that body.

Article 37
EU declaration of conformity

1. The EU declaration of conformity shall state that the fulfilment of ecodesign requirements specified in the applicable delegated acts adopted pursuant to Article 4 has been demonstrated.

2. The EU declaration of conformity shall have the model structure set out in Annex V, shall contain the elements specified in the applicable conformity assessment procedure and a reference to the applicable delegated acts adopted pursuant to Article 4. It shall be continuously updated. It shall be translated into the language or languages required by the Member State in which the product is placed or made available.

3. Where a product covered by a delegated act adopted pursuant to Article 4 is subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall be drawn up in respect of all such Union acts. That declaration shall state the Union acts concerned and their publication references. It may be a dossier made up of relevant individual EU declarations of conformity.

4. By drawing up the EU declaration of conformity, the manufacturer shall assume responsibility for the compliance of the product.

Article 38
General principles of the CE marking

The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.

Article 39
Rules and conditions for affixing the CE marking

1. The CE marking shall be affixed visibly, legibly and indelibly to the product. Where that is not possible or not warranted on account of the nature of the product, it shall be affixed to the packaging and to the accompanying documents.

2. The CE marking shall be affixed before the product is placed on the market.

3. For a product in the conformity assessment of which a notified body participates, the CE marking shall be followed by the identification number of that notified body.

   The identification number of the notified body shall be affixed by the body itself or, under its instructions, by the manufacturer or its authorised representative.

4. The CE marking and, where applicable, the identification number of the notified body may be followed by a pictogram or other marking indicating a special risk or use.

5. Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and take appropriate action in the event of improper use of the marking.

Article 40
Alternative conformity declarations and markings

When specifying alternative rules on the declaration of conformity or markings indicating conformity with the applicable requirements under Union law pursuant to Article 4, third subparagraph, point (f), the Commission shall take into account the following criteria:

(a) the need to minimise administrative burden for economic operators;

(b) the need to ensure coherence with other conformity declarations and markings applicable to a specific product;

(c) the need to prevent confusion about the meaning of conformity declarations and markings under other Union law.

CHAPTER IX - NOTIFICATION OF CONFORMITY ASSESSMENT BODIES

Article 41
Notification

Member States shall notify the Commission and the other Member States of bodies authorised to carry out the third-party conformity assessment tasks provided for under the delegated acts adopted pursuant to Article 4.

Article 42
Notifying authorities

1. Member States shall designate a notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, including compliance with the provisions of Article 47.

2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by a national accreditation body within the meaning of and in accordance with Regulation (EC) No 765/2008.

3. Where the notifying authority delegates or entrusts the assessment, notification or monitoring referred to in paragraph 1 to a body which is not a governmental entity, that body shall be a legal entity and shall comply *mutatis mutandis* with the requirements laid down in Article 43. In addition, it shall have arrangements to cover liabilities arising out of its activities.

4. The notifying authority shall take full responsibility for the tasks performed by the body referred to in paragraph 3.

Article 43
Requirements relating to notifying authorities

1. A notifying authority shall be established in such a way that no conflict of interest with conformity assessment bodies or notified bodies occurs.

2. A notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.

3. A notifying authority shall be organised in such a way that each decision relating to notification of a conformity assessment body is taken by competent persons different from those who carried out the assessment.

4. A notifying authority shall not offer or provide any activities that conformity assessment bodies perform, or consultancy services on a commercial or competitive basis.

5. A notifying authority shall safeguard the confidentiality of the information it obtains. However, it shall, upon request, exchange information on notified bodies with the Commission, with notifying authorities of other Member States and with other relevant national authorities.

6. A notifying authority shall take as a basis for notification only the specific conformity assessment body applying for notification and not take account of the capacities or personnel of parent or sister companies. The authority shall assess that body against all relevant requirements and conformity assessment tasks.

7. A notifying authority shall have a sufficient number of competent personnel and sufficient funding at its disposal for the proper performance of its tasks.

   The Commission may adopt implementing acts laying down a minimum number of full-time equivalents considered sufficient for the proper monitoring of notified bodies, where appropriate in relation to specific conformity assessment tasks. Where monitoring is carried out by a national accreditation body or a body referred to in Article 42(3), this minimum number shall apply to that body.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(3).

Article 44
Information obligation on notifying authorities

Member States shall inform the Commission of their procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, and of any changes thereto.

The Commission shall make that information publicly available.

Article 45
Requirements relating to notified bodies

1. For the purposes of notification, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 11.

2. A conformity assessment body shall be established under the national law of a Member State and have legal personality.

3. A conformity assessment body shall be a third-party body independent of the organisation or the product it assesses. It shall not have any business ties with organisations that have an interest in the products it assesses, in particular manufacturers, their trade partners and their shareholding investors. This shall not preclude the conformity assessment body from carrying out conformity assessment activities for competing manufacturers.

4. A conformity assessment body, its top-level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, importer, distributor, installer, purchaser, owner, user or maintainer of the products which they assess, nor the representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the conformity assessment body or the use of such products for personal purposes.

   A conformity assessment body, its top-level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of those products, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall apply in particular to consultancy services.

   Conformity assessment bodies shall ensure that the activities of its parent or sister companies, subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

   The establishment and the supervision of internal procedures, general policies, codes of conduct or other internal rules, the assignment of personnel to specific tasks and the conformity assessment decisions may not be delegated to a subcontractor or a subsidiary.

5. Conformity assessment bodies and their personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field. They shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.

6. A conformity assessment body shall be capable of carrying out all the conformity assessment tasks assigned to it underthe relevant delegated act adopted pursuant to Article 4 and in relation to which it has been notified, whether those tasks are carried

out by the conformity assessment body itself or on its behalf and under its responsibility.

At all times and for each conformity assessment procedure, and for each kind or category of products in relation to which it has been notified, a conformity assessment body shall have at its disposal the necessary:

(a) personnel with technical knowledge, and sufficient and appropriate experience to perform the conformity assessment tasks. Personnel responsible for taking assessment decisions shall be employed by the conformity assessment body under the national law of the notifying Member State, shall not have any other potential conflict of interest, shall be competent to verify the assessments made by other staff, external experts or subcontractors. The number of such personnel shall be sufficient to ensure business continuity and a consistent approach to conformity assessments;

(b) descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the of these procedures and the ability to reproduce them. This shall include a qualification matrix that matches relevant personnel, their respective status and tasks within the conformity assessment body with the conformity assessment tasks in relation to which the body intends to be notified;

(c) appropriate policies and procedures to distinguish the tasks it carries out as a notified body from other activities;

(d) procedures for the performance of activities, which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

It shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.

7. The personnel responsible for carrying out conformity assessment activities shall have the following:

(a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;

(b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments, including appropriate knowledge and understanding of the relevant legislation, test, measurement and calculation requirements, of the applicable harmonised standards or common specifications and of the relevant provisions of this Regulation, and of the delegated acts adopted pursuant to Article 4;

(c) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

8. The impartiality of the conformity assessment bodies and their top-level management and of the assessment personnel shall be guaranteed.

The remuneration of the top-level management and assessment personnel of a conformity assessment body shall not depend on the number of assessments carried out or their results.

9. Conformity assessment bodies shall take out liability insurance unless liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.

10. The personnel of a conformity assessment body shall observe professional secrecy regarding all information obtained in carrying out the conformity assessment tasks under the relevant delegated acts adopted pursuant to Article 4, except in relation to the notifying authorities and other national authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.

11. Conformity assessment bodies shall participate in, or ensure that their assessment personnel are informed about, the relevant standardisation activities and apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

Article 46
Presumption of conformity of conformity assessment bodies

Where a conformity assessment body demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* it shall be presumed to comply with the requirements set out in Article 45 in so far as the applicable harmonised standards cover those requirements.

Article 47
Subsidiaries of and subcontracting by notified bodies

1. Where a notified body subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 45 and shall inform the notifying authority accordingly.

2. Notified bodies shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established. The relevant notified bodies shall establish procedures for the on-going monitoring of the competence, activities and performance of its subcontractors or subsidiaries, taking into account the qualification matrix referred to in Article 45(6).

3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.

4. Notified bodies shall keep at the disposal of the notifying authority the relevant documents concerning the assessment and monitoring of the qualifications of the

subcontractor or the subsidiary and the work carried out by them under the relevant delegated acts adopted pursuant to Article 4.

Article 48
Application for notification

1. A conformity assessment body shall submit an application for notification to the notifying authority of the Member State in which it is established.

2. That application shall be accompanied by a description of the conformity assessment activities, the conformity assessment module or modules and the product or products for which that body claims to be competent, the qualification matrix referred to in Article 45(6), as well as by an accreditation certificate, where one exists, issued by a national accreditation body attesting that the conformity assessment body fulfils the requirements laid down in Article 45. The accreditation certificate shall relate only to the precise legal body applying for notification and shall be based, in addition to relevant harmonised standards, on the specific requirements and conformity assessment tasks set out in the relevant delegated act adopted pursuant to Article 4.

3. Where the conformity assessment body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all the documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 45.

Article 49
Notification procedure

1. Notifying authorities only notify conformity assessment bodies which have satisfied the requirements laid down in Article 45.

2. They shall notify the Commission and the other Member States using the electronic notification tool developed and managed by the Commission.

3. The notification shall include full details of the conformity assessment activities, the conformity assessment module or modules and product or products concerned and the relevant attestation of competence.

4. Where a notification is not based on an accreditation certificate as referred to in Article 48(2), the notifying authority shall provide the Commission and the other Member States with documentary evidence which attests to the conformity assessment body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 45.

5. The body concerned may perform the activities of a notified body if the Commission or the other Member States do not raise any objections within 2 weeks of a notification where an accreditation certificate is used, or within 2 months of a notification where accreditation is not used.

Only such a body shall be considered a notified body for the purposes of this Regulation.

6. The notification shall become valid the day after the body is included in the list of notified bodies referred to in Article 50(2) by the Commission. The body concerned may perform the activities of a notified body only after the notification has become valid.

The Commission shall not publish a notification if it is aware or becomes aware that the relevant notified body does not meet the requirements laid down in Article 45.

7. The Commission and the other Member States shall be notified of any subsequent relevant changes to the notification.

Article 50
Identification numbers and lists of notified bodies

1. The Commission shall assign an identification number to a notified body.

It shall assign a single such number even where the body is notified under several Union acts.

2. The Commission shall make the list of the bodies notified under this Regulation publicly available, including the identification numbers that have been allocated to them and the activities for which they have been notified.

The Commission shall ensure that that list is kept up to date.

Article 51
Changes to notifications

1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 45, or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw notification as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. It shall immediately inform the Commission and the other Member States accordingly.

2. In the event of restriction, suspension or withdrawal of notification, or where the notified body has ceased its activity, the notifying Member State shall take appropriate steps to ensure that this body's files are either processed by another notified body or kept available for the responsible notifying and market surveillance authorities at their request.

Article 52
Challenge of the competence of notified bodies

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding, the competence of a notified body or the continued fulfilment by a notified body of the requirements and responsibilities to which it is subject.

2. The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the body concerned.

3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.

4. Where the Commission ascertains that a notified body does not meet or no longer meets the requirements for its notification, it shall adopt an implementing act requiring the notifying Member State to take the necessary corrective action, including withdrawal of the notification if necessary. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 67(2).

   The Commission shall update the list of notified bodies referred to in Article 50(2) within 2 weeks of the implementing act being adopted.

Article 53
Operational obligations of notified bodies

1. Notified bodies shall carry out conformity assessments in accordance with the conformity assessment procedures provided for in the delegated acts adopted pursuant to Article 4.

2. Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators. Conformity assessment bodies shall perform their activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

   In so doing they shall nevertheless respect the degree of rigour and the level of protection required for the compliance of the product with the relevant requirements.

3. Where a notified body finds that a manufacturer does not meet the relevant requirements or corresponding harmonised standards, common specifications or other technical specifications, it shall require that manufacturer to take appropriate corrective measures in view of a second and final conformity assessment, unless the deficiencies cannot be remedied, in which case it shall not issue a certificate or approval decision.

4. Where, in the course of the monitoring of conformity following the issue of a certificate or approval decision, a notified body finds that a product or the manufacturer does not comply or no longer complies, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate or approval decision if necessary.

5. Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates or approval decisions, as appropriate.

6. When taking conformity assessment decisions, including when deciding on the need to suspend or withdraw a certificate or approval decisions in light of possible non-compliance, notified bodies shall apply clear and pre-determined criteria.

7. Notified bodies shall ensure rotation among the personnel carrying out different conformity assessment tasks.

Article 54
Information obligation on notified bodies

1. Notified bodies shall inform the notifying authority of the following:

   (a) any refusal, restriction, suspension or withdrawal of a certificate;

   (b) any circumstances affecting the scope of and conditions for notification;

   (c) any request for information which they have received from market surveillance authorities regarding conformity assessment activities;

   (d) on request, conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.

2. Notified bodies shall provide the other bodies notified under this Regulation which carry out similar conformity assessment activities that cover the same products with relevant information on issues relating to negative and, on request, positive conformity assessment results.

3. Where the Commission or a Member State's market surveillance authority submits a request to a notified body established on the territory of another Member State relating to a conformity assessment carried out by that notified body, it shall send a copy of that request to the notifying authority of that other Member State. The notified body concerned shall respond without delay and within 15 days at the latest to the request. The notifying authority shall ensure that such requests are resolved by the notified body unless there is a legitimate reason for not doing so.

4. Where notified bodies have or receive evidence that:

   (a) another notified body does not comply with the requirements laid down in Article 45 or its obligations; or

   (b) a product placed on the market does not comply with ecodesign requirements set out in delegated acts adopted pursuant to Article 4 by which that product is covered; or

   (c) a product placed on the market, due to its physical condition, is likely to cause a serious risk;

   they shall alert and share such evidence with the relevant market surveillance or notifying authority, as appropriate.

Article 55
Exchange of experience

The Commission shall provide for the organisation of exchange of experience between the Member States' authorities responsible for notification policy.

Article 56
Coordination of notified bodies

1. The Commission shall ensure that appropriate coordination and cooperation between bodies notified under this Regulation are put in place and properly operated in the form of a group or groups of notified bodies, where appropriate including groups of bodies notified under the same delegated act adopted pursuant to Article 4 or in relation to similar conformity assessment tasks.

   Notified bodies shall participate in the work of any relevant group, directly or by means of designated representatives.

2. Notified bodies shall apply as general guidance any relevant documents produced as a result of the work of the groups referred to in paragraph 1.

3. Coordination and cooperation in the groups referred to in paragraph 1 shall aim at ensuring the harmonised application of this Regulation and of the delegated acts adopted pursuant to Article 4. In doing so, the groups shall follow as general guidance any relevant documents produced by the administrative cooperation group set up pursuant to Article 30(2) of Regulation (EU) 2019/1020.

CHAPTER X - INCENTIVES

Article 57
Member State incentives

1. Member States incentives relating to products covered by a delegated act adopted pursuant to Article 4 that determines classes of performance in accordance with Article 7(4), in relation to a product parameter referred to in Annex I, shall concern the highest two classes of performance that are populated at Union level or, where relevant, products with an EU Ecolabel, unless otherwise specified in that delegated act.

2. Where a delegated act adopted pursuant to Article 4 determines classes of performance pursuant to Article 7(4), in relation to more than one product parameter referred to in Annex I or where classes of performance are established both under Regulation (EU) 2017/1369 and under this Regulation , the Commission may further specify in the delegated acts adopted pursuant to Article 4, third subparagraph, point (g), which product parameters the Member States incentives shall concern.

   When doing so, the Commission shall take into account the following criteria:

   (a) the number of products in each class of performance;

(b) the relative affordability of the products in each class of performance;

(c) the need to ensure sufficient demand for more environmentally sustainable products.

3. Where a delegated act adopted pursuant to Article 4 does not determine classes of performance, the Commission may specify in the delegated acts adopted pursuant to Article 4, third subparagraph, point (g), requirements related to product parameters that products concerned by Member State incentives shall meet.

When doing so, the Commission shall take into account the following criteria:

(a) the relative affordability of the products meeting those requirements;

(b) the need to ensure sufficient demand for more environmentally sustainable products.

Article 58
Green public procurement

1. Requirements pursuant to Article 4, third subparagraph, point (h) for public contracts awarded by contracting authorities, as defined in Article 2(1) of Directive 2014/24/EU or Article 3(1) of Directive 2014/25/EU, or contracting entities, as defined in Article 4(1) of Directive 2014/25/EU, may take the form of mandatory technical specifications, selection criteria, award criteria, contract performance clauses, or targets, as appropriate.

2. When establishing requirements pursuant to Article 4, third subparagraph, point (h), for public contracts, the Commission shall take into account the following criteria:

(a) the value and volume of public contracts awarded for that given product group or for the services or works using the given product group;

(b) the need to ensure sufficient demand for more environmentally sustainable products;

(c) the economic feasibility for contracting authorities or contracting entities to buy more environmentally sustainable products, without entailing disproportionate costs.

CHAPTER XI - MARKET SURVEILLANCE

Article 59
Market surveillance action plans

1. Without prejudice to Article 13 of Regulation (EU) 2019/1020, each Member State shall, at least every 2 years, draw up an action plan outlining the market surveillance activities planned to ensure that appropriate checks are performed on an adequate scale in relation to this Regulation and the delegated acts adopted pursuant to Article 4. Each Member State shall draw up the first such action plan by [16 July 2024].

The action plan referred to in paragraph 1 shall at least include:

(a) the products or requirements identified as priorities for market surveillance, taking into account the common priorities identified by the administrative cooperation group pursuant to Article 62(1), point (a), and in accordance with the implementing acts referred to in paragraph 5;

(b) the market surveillance activities planned in order to reduce non-compliance for those products or requirements identified as priorities, including the nature and minimum number of checks to be performed during the period covered by the action plan.

2. The priorities for market surveillance referred to in paragraph 1, point (a), shall be identified on the basis of objective criteria, including:

(a) the levels of non-compliance observed in the market;

(b) the environmental impacts of non-compliance;

(c) the number of relevant products made available on national markets; and

(d) the number of relevant economic operators active on those markets.

3. The nature and number of checks planned pursuant to paragraph 1, point (b), shall be proportionate to the objective criteria used to identify the priorities in line with paragraph 2.

4. Member States shall communicate their action plans to the Commission and other Member States through the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020.

5. The Commission may adopt implementing acts listing the products or requirements that Member States shall at least consider as priorities for market surveillance pursuant to paragraph 1, point (a).

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 67(2).

Article 60
Minimum number of checks

1. The Commission is empowered to adopt delegated acts in accordance with Article 66 to supplement this Regulation by laying down the minimum number of checks to be performed by the market surveillance authorities of each Member State on specific products covered by delegated acts adopted pursuant to Article 4 or in relation to specific requirements set out in such delegated acts. The delegated act may, where relevant, specify the nature of the checks required and methods to be used.

The minimum number of checks shall be established on the basis of the following criteria:

(a) the criteria listed in Article 59(2);

(b) the activities planned in Member States' action plans;

(c) the common priorities identified by the administrative cooperation group pursuant to Article 62(1), point (a);

(d) where relevant, the priorities included in the implementing acts referred to in Article 59(5).

2. Market surveillance authorities shall have the right to recover from the responsible economic operator the costs of document inspection and physical product testing in case of non-compliance with delegated acts adopted pursuant to Article 4.

Article 61
Reporting and benchmarking

1. Market surveillance authorities shall enter into the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 information on the nature and severity of any penalty imposed in relation to non-compliance with this Regulation.

2. The Commission shall, every 2 years, draw up a report by 30 June based on the information entered by market surveillance authorities into the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020. The first of these reports shall be published by [*OP: Please add date: two years after date of application of this Regulation*].

The report shall include:

(a) information on the nature and number of checks performed by market surveillance authorities during the two previous calendar years pursuant to Article 34(4) and (5) of Regulation (EU) 2019/1020;

(b) information on the levels of non-compliance identified and on the nature and severity of penalties imposed for the two previous calendar years in relation to products covered by delegated acts adopted pursuant to Article 4 of this Regulation;

(c) a comparison of this information with the activities planned in the context of the action plans drawn up pursuant to Article 59(1);

(d) indicative benchmarks for market surveillance authorities in relation to the frequency of checks and the nature and severity of penalties imposed.

3. The Commission shall publish the report referred to in paragraph 2 of this Article in the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 and shall make public a summary of the report.

Article 62
Market surveillance coordination and support

1. For the purposes of this Regulation, the administrative cooperation group ('ADCO') set up pursuant to Article 30(2) of Regulation (EU) 2019/1020 shall meet at regular intervals and, where necessary, at the reasoned request of the Commission or of two or more participating market surveillance authorities.

   In the context of performing its tasks set out in Article 32 of Regulation (EU) 2019/1020, the ADCO shall support the implementation of the action plans drawn up pursuant to Article 59(1) and shall identify:

   (a) common priorities for market surveillance as referred to in Article 59(1), point (a), based on objective criteria as referred to in Article 59(2);

   (b) priorities for Union support pursuant to paragraph 2;

   (c) requirements set out in delegated acts adopted pursuant to Article 4 that are applied or interpreted differently that should be priorities for the organisation of common trainings or adoption of guidelines pursuant to paragraph 2 of this Article.

2. Based on priorities identified by the ADCO, the Commission shall:

   (a) organise joint market surveillance and testing projects in areas of common interest;

   (b) organise joint investment in market surveillance capacities, including equipment and IT tools;

   (c) organise common trainings for the staff of market surveillance authorities, notifying authorities and notified bodies, including on the correct interpretation and application of requirements set out in delegated acts adopted pursuant to Article 4 and on methods and techniques relevant for applying or verifying compliance with such;

   (d) elaborate guidelines for the application and enforcement of requirements set out in delegated acts adopted pursuant to Article 4, including common practices and methodologies for effective market surveillance.

   The Union shall, where appropriate, finance the actions referred to in points (a), (b) and (c).

3. The Commission shall provide technical and logistic support to ensure the ADCO fulfils its tasks set out in Article 32 of Regulation (EU) 2019/1020 and this Article.

CHAPTER XII - SAFEGUARD PROCEDURES

Article 63
Procedure for dealing with products presenting a risk at national level

1. Where the market surveillance authorities of one Member State have sufficient reason to believe that a product covered by a delegated act adopted pursuant to Article 4presents a risk, they shall carry out an evaluation covering all requirements relevant to the risk and laid down in this Regulation or in the relevant delegated act. The relevant economic operators shall cooperate as necessary with the market surveillance authorities.

   Where, in the course of that evaluation, the market surveillance authorities find that the product does not comply with the requirements laid down in the applicable delegated acts adopted pursuant to Article 4, they shall without delay require the relevant economic operator to take appropriate and proportionate corrective action, within a reasonable period prescribed by the market surveillance authorities and commensurate with the nature and where relevant the degree of the non-compliance, to bring the non-compliance to an end. The corrective action required to be taken by the economic operator may include the actions listed in Article 16(3) of Regulation (EU) 2019/1020.

   The market surveillance authorities shall inform the relevant notified body accordingly.

2. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the economic operator to take.

3. The economic operator shall ensure that all appropriate corrective action is taken in respect of all the products concerned that it has made available on the market throughout the Union.

4. Where the relevant economic operator does not take corrective action within the period referred to in the second subparagraph of paragraph 1 or the non-compliance persists, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the making available of the product concerned on their national market, to withdraw the product from that market or to recall it.

   They shall inform the Commission and the other Member States, without delay, of those measures.

5. The information to the Commission and the other Member States referred to in paragraph 4 shall be communicated through the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 and shall include all available details, in particular the data necessary for the identification of the non-compliant product, the origin of the product, the nature of the non-compliance alleged and the non-compliance involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator.

The market surveillance authorities shall also indicate whether the non-compliance is due to either:

(a) failure of the product to meet requirements set out in the relevant delegated act adopted pursuant to Article 4; or

(b) shortcomings in the harmonised standards or common specification referred to in Articles 34 and 35 conferring a presumption of conformity.

6. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the product concerned, and, in the event of disagreement with the notified national measure, of their objections.

7. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified. Measures may specify a period longer or shorter than three months in order to take account of the specificities of the products or requirements concerned.

8. Member States shall ensure that appropriate restrictive measures are taken in respect of the product or manufacturer concerned, such as withdrawal of the product from their market, without delay.

Article 64
Union safeguard procedure

1. Where, on completion of the procedure set out in Article 63(3) and (4), objections are raised against a measure taken by a Member State, or where the Commission considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall decide by means of an implementing act whether the national measure is justified or not.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 67(3).

2. The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators.

If the national measure is considered justified, all Member States shall take the measures necessary to ensure that the non-compliant product is withdrawn from their market, and shall inform the Commission accordingly.

If the national measure is considered unjustified, the Member State concerned shall withdraw the measure.

3. Where the national measure is considered justified and the non-compliance of the product is attributed to shortcomings in the harmonised standards referred to in Article 34 of this Regulation, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.

4. Where the national measure is considered justified and the non-compliance of the product is attributed to shortcomings in the common specifications referred to in Article 35, the Commission shall, without delay, adopt implementing acts amending or repealing the common specifications concerned.

The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 67(3).

Article 65
Formal non-compliance

1. Where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned:

(a) the CE marking has been affixed in violation of Article 30 of Regulation (EC) No 765/2008 or of Article 39 of this Regulation;

(b) the CE marking has not been affixed;

(c) the identification number of the notified body has been affixed in violation of Article 39 or has not been affixed where required;

(d) the EU declaration of conformity has not been drawn up;

(e) the EU declaration of conformity has not been drawn up correctly;

(f) the technical documentation is not available, not complete or contains errors;

(g) the information referred to in Article 21(6) or Article 23(3) is absent, false or incomplete;

(h) any other administrative requirement provided for in Article 21 or Article 23 or in the applicable delegated act adopted pursuant to Article 4, is not fulfilled.

2. Where the non-compliance referred to in paragraph 1 persists, the Member State concerned shall take all appropriate measures to restrict or prohibit the product being made available on the market or ensure that it is recalled or withdrawn from the market.

CHAPTER XIII - DELEGATED POWERS AND COMMITTEE PROCEDURE

Article 66
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 4, Article 9(1), second subparagraph, Article 11(4), Article 20(3), and Article 61(1) shall be conferred on the Commission for a period of six years from *[one month after the entry into force of this act*]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the six-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 4, Article 9(1), second subparagraph, Article 11(4), Article 20(3), and Article 61(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State acting in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 4, Article 9(1), second subparagraph, Article 11(4), Article 20(3), and Article 61(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 67
Committee procedure

1. The Commission shall be assisted by a Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER XIV - FINAL PROVISIONS

Article 68
Penalties

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive, taking into account the extent of non-compliance and the number of units of non-complying products placed on the Union market. Member States shall notify the Commission of those provisions by [*one year after the date of application of this Regulation*] at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 69
Evaluation

No sooner than [*8 years after the date of application of this Regulation*], the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of products. The Commission shall present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the Commission with the information necessary for the preparation of that report.

Where the Commission finds it appropriate, the report shall be accompanied by a legislative proposal for amendment of the relevant provisions of this Regulation.

Article 70
Repeal and transitional provisions

1. Directive 2009/125/EC is repealed.

2. References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex VIII.

3. Article 1(3), Article 2, Article 3(1), Articles 4, 5 and 8, Article 9(3), Article 10 and Annexes IV, V and VI of Directive 2009/125/EC, as applicable on [OP: *please insert the day before the date of application of this Regulation*] shall continue to apply to implementing measures adopted pursuant to Article 15 of that Directive.

4. Articles 3, 33 and Articles 59 to 65 of this Regulation shall apply to implementing measures adopted pursuant to Article 15 of Directive 2009/125/EC.

5. For products placed on the market or put into service in accordance with Directive 2009/125/EC before the date of application of a delegated act adopted pursuant to Article 4 of this Regulation covering the same products, the manufacturer shall, for a period of 10 years as from the date when the last of that product was manufactured,

make an electronic version of documentation relating to the conformity assessment and the declaration of conformity available for inspection within 10 days of a request received from market surveillance authorities or the Commission.

Article 71
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

1.2. Policy area(s) concerned

1.3. The proposal/initiative relates to:

1.4. Objective(s)

1.4.1. General objective(s)

1.4.2. Specific objective(s)

1.4.3. Expected result(s) and impact

1.4.4. Indicators of performance

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

1.5.3. Lessons learned from similar experiences in the past

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

1.5.5. Assessment of the different available financing options, including scope for redeployment

1.6. Duration and financial impact of the proposal/initiative

1.7. Management mode(s) planned

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

3.2.2. Estimated output funded with operational appropriations

3.2.3. Summary of estimated impact on administrative appropriations

3.2.4. Compatibility with the current multiannual financial framework

3.2.5. Third-party contributions

3.3. Estimated impact on revenue

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC

1.2. Policy area(s) concerned

03 - Single Market

09 - Environment and Climate Action

1.3. The proposal/initiative relates to:

☐ **a new action**

☐ **a new action following a pilot project/preparatory action**[86]

☑ **the extension of an existing action**

☑ **a merger or redirection of one or more actions towards another/a new action**

1.4. Objective(s)

1.4.1. General objective(s)

The objectives of this Regulation are to improve the environmental sustainability of products and to ensure the free movement in the internal market of products for which sustainability requirements are set.

It does so by providing for the adoption of delegated acts containing requirements related to product durability, reusability, upgradability and reparability, the presence of substances of concern in products, product energy and resource efficiency, recycled content in products, product remanufacturing and high-quality recycling, and for reducing products' carbon and environmental footprints. It also provides for the creation of a digital product passport ('product passport'), for the setting of mandatory green public procurement criteria and creates a framework to prevent unsold consumer products from being destroyed.

1.4.2. Specific objective(s)

Following from the general objective, the specific objectives are to:

- Improve products environmental sustainability and access to sustainability information along the supply chain

[86] As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

- Incentivise more sustainable products and business models to improve value retention
- Improve application of sustainable product legislative framework

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The expected results and impacts of implementation of this Regulation are the following:

<u>In terms of improved products environmental sustainability and access to sustainability information along the supply chain</u>

- Increased number of (non-food) products covered
- Product requirements covering better the value chain of products, circularity aspects and access to sustainability information
- Lower environmental impacts, better energy and resource efficiency in the life cycle of products, including through addressing product lifetime and materials used.

<u>In terms of incentives to more sustainable products and business models</u>

- Increased investment in the design, production & after-sales services of more sustainable products leading to a higher market share for them.
- Increased economic value of the recycling and repair and re-use sectors

<u>In terms of improved application of sustainable product legislative framework</u>

- Increased number of products covered by sustainability requirements
- Product requirements covering better the value chain of products, circularity aspects and access to sustainability information
- Reduced level of non-compliance on sustainability requirements for products placed on the EU market

For businesses operating across EU borders, harmonised requirements at EU level are likely to reduce overall compliance costs, given that they will replace various existing or planned requirements at national level. There will also be direct benefits to the competitiveness of businesses, including from a shift of activity from the processing of primary towards secondary raw materials and from production of products to maintenance, re-use, refurbishment, repair and second-hand sales, which is expected to benefit SMEs significantly because they are more active in these sectors.

It is also expected that this Regulation will change consumer behaviour. It will respond to the identified problem that it is still too difficult for economic operators

and citizens to make sustainable purchasing choices given that relevant information and affordable options to do so are lacking. It will lead consumers towards more environmentally friendly purchases by excluding the least sustainable products from the market (therefore simplifying consumers' choices) and by providing clearer and more accessible information, including for some products their classes of performance and possibly related labels. The Digital Product Passport will further increase the information available and facilitating access. It will allow private providers to develop apps and services that improve the ability of consumers to assess products and compare them.

The Digital Product Passport will also make relevant product information digitally available to market surveillance authorities (MSAs) and possibly Customs authorities, facilitating the verification of compliance and improving the efficiency of enforcement activities by Member States. However, the extended scope of the Ecodesign framework with higher sustainability ambitions can only be successful if resources of both the European Commission and Member States are strengthened to a level commensurate with the ambitions.

1.4.4. Indicators of performance

Specify the indicators for monitoring progress and achievements.

The following core set of indicators will be used to monitor the implementation of this Regulation and impacts:

<u>In terms of improved products environmental sustainability and access to sustainability information along the supply chain</u>

- Number of product groups covered by delegated acts pursuant to Article 5
- Estimated change in Pollutants and Greenhouse Gas (GHG) emissions (including via removals) from the manufacturing value chains supplying regulated products to the EU Internal Market
- Estimated change in energy use and efficiency and water use and efficiency of relevant regulated products placed or put in service in the EU Internal market; resource productivity (material efficiency)
- Average life duration of relevant regulated products as a consequence of (1) its intrinsic durability, (2) the maintenance, repair and upgrade operations it was subject to, and (3) the number of its successive users
- Contribution of post-consumer recycled materials to raw materials demand of the Internal Market - for non-precious metals, Critical Raw Materials, and plastics.
- Circular material use rate - Share of material demand satisfied by secondary raw materials (% of total material use)

<u>In terms of incentives to more sustainable products and business models</u>

- Value added and its components by activity

- Green public procurement - the share of public procurement procedures above the EU thresholds (in number and value) that include environmental elements
- Impact on consumers due to change in cost of products and change in value from their use
- "Gross investment in tangible goods", "Number of persons employed" and "Value added at factor costs" in the recycling sector and repair and re-use sector.

<u>In terms of improved application of sustainable product legislative framework</u>

- types of requirements set including digital product passport established
- Rate of non-compliance with requirements set for products covered by delegated acts

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

The proposal builds on a pre-existing Directive and structure that has been used to regulate energy related products through secondary legislation for over 15 years. In the same way, most measures introduced in this Regulation are not immediately applicable but should follow the adoption of the legal act through adoption of delegated and implementing acts. Only measures on circumvention and on disclosure of the destruction of unsold consumer products are immediately applicable.

After adoption of the legal act, the Commission shall adopt a working plan setting out an indicative list of product groups for which it intends to adopt delegated acts pursuant to Article4. This will take over the continuing work under the existing Directive that will be brought under the new Regulation.

These delegated acts shall establish ecodesign requirements applicable to specific product groups or to a range of product groups where those product groups present similarities allowing for the setting of common ecodesign requirements. These delegated acts may include requirements applicable to public contracts and the creation of digital product passports.

Delegated acts may also be adopted on the prohibition of the discarding of unsold consumer products and on the number of checks to be performed by Market Surveillance authorities.

Implementing acts may be adopted to specify the format for the disclosure of the information on the destruction of unsold consumer products and to listing the products or requirements that Member States shall at least consider as priorities for market surveillance activities.

Delegated acts and, where appropriate, implementing acts will be adopted after thorough assessment of impacts and consultation of stakeholders, in line with Better Regulation guidelines.

Delegated acts on ecodesign requirements and on the prohibition of the discarding of unsold consumer products will be implemented by economic actors, in particular manufacturers, importers and distributors. Industry will be supported by the provision of guidelines on Circular Business Models (CBM) supported by an EU-wide hub supporting the uptake of circular business models, channelling information and services including awareness raising, cooperation, provision of training, exchange of best practices, etc.

1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Reasons for action at European level (ex-ante)

Comparable to the rationale for the existing Ecodesign legislation, Member States alone would not have the possibility to enact appropriate measures without creating divergences in the requirements for economic operators, and obstacles to the free movement of products, regulatory burden and excessive costs for economic operators. In addition, Member States alone would inevitably develop tools that would diverge and render consumer's choices more complicated. If Member States would act individually there would be therefore a high risk to end up with different competing systems, based on different methods and approaches, especially products traded across the internal market, creating market fragmentation, and likely leading to uneven awareness and information levels on the environmental performance of products across the EU and additional costs for companies trading cross border.

Expected generated Union added value (ex-post)

Action at Union level is more effective than action at national level because only EU action can set harmonised common product requirements and information requirements on sustainability characteristics ensuring the free movement of goods and allowing consumers to dispose of pertinent and reliable information about sustainable characteristics and circular features of products in whatever Member State they are purchased. There is clear added value in setting common requirements at EU level, as this will ensure a harmonised and well-functioning internal market across all Member States and, therefore, a level playing field for businesses operating on the internal market. With harmonised minimum and information requirements set at EU level, sustainable products and circular practices will be promoted in all Member States, creating a larger and more efficient market and hence greater incentives for the industry to develop them. Finally, the size of the internal market provides a critical mass enabling the EU to promote product sustainability and to influence product design and value chain management worldwide.

1.5.3. Lessons learned from similar experiences in the past

There is a long experience of regulating first energy-using and then energy related products at EU level. The current Directive 2009/125, the Ecodesign Directive provides the basis for product specific measures that have been adopted. The benefits

have been documented in annual Ecodesign impact accounting reports showing the mainly energy benefits accompanied by other emission and resource benefits.

While a number of evaluations of the Ecodesign Directive have confirmed its clear relevance and effectiveness as a regulatory tool, they point to potential to improve its implementation and enforcement. A 2012 evaluation, for example, noted that "while it is broadly recognised that the energy efficiency aspects of the SCP/SIP Action Plan and of EU resource efficiency policy can be served by the Ecodesign Directive and the implementing measures, it is also suggested by some Member State representatives and by environmental NGOs that there have been missed opportunities as a result of the limited coverage in implementing measures of other environmental aspects". The untapped potential of the Directive to address aspects beyond energy efficiency has also been highlighted, with the same evaluation concluding that "there may have been non-energy improvements that have not been addressed as a result of the product scope, policy choices or the underlying technical analysis". While there are undoubtedly opportunities for further action, this always needs to be seen in the context of the available resources and focusing on the largest benefits.

In March 2019, the Commission published a Staff Working Document entitled 'Sustainable Products in a Circular Economy - Towards an EU Product Policy Framework contributing to the Circular Economy'. This examined the extent to which EU policies affecting products contribute to the transition to a circular economy, and where there is potential for a stronger contribution – for example through more consistent implementation, better synergies between policy interventions or better coverage of products by policy instruments – and looked in particular depth at a number of specific product groups. It found that no overarching, integrated EU policy instrument exists that covers the sustainable production and consumption of all products and/or the availability and reliability of information on these products to consumers. Instead, it identified a patchwork of tools that, although capable of addressing certain aspects related to product circularity, nevertheless offers space for additional work to be done. The document also noted that in certain highly relevant sectors (such as textiles and furniture), no tools to systematically target circularity were in place, and that the success of Ecodesign polices in stimulating circularity for energy-related products had yet to be applied in other relevant sectors.

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

The European Union has approved a major recovery plan based on a reinforced long term budget for the next Multiannual Financial Framework and a new recovery instrument, Next Generation EU.

The initiative falls under the umbrella of the **European Green Deal**, which guides the EU's recovery strategy. The Green Deal recognises the advantages of investing in our competitive sustainability by building a fairer, greener and more digital Europe. This also entails engaging third countries and trading partners to ensure the sustainability of global value chains and ensuring that European emission reductions contribute to a global emissions decline, instead of pushing carbon-intensive production outside Europe. This will benefit citizens, providing them with high-

quality products that are efficient and affordable, last longer and are better for the environment.

The initiative falls under Heading 1 (Single Market, Innovation and Digital), Title 3 (Single Market) and Heading 3 (Natural Resources and the Environment), Title 9 (Environment and Climate Action) of the Multiannual Financial Framework. As detailed below, the implementation of this piece of legislation will require additional human resources and also some supporting expenditure.

Other policy areas will provide support, in particular EU funding provided on innovation and investments to businesses. The **European Regional Development Fund**, through smart specialisation, **LIFE** and **Horizon Europe** complements private innovation funding and support the whole innovation cycle with the aim to bring solutions to the market. The **Digital Europe Programme** is expected to launch by end 2022 an 18-month long Concerted Action to propose and agree with relevant stakeholders the design and prototypes of the digital product passport in three sectors, including requirements for cross-sectoral interoperability. The **Innovation Fund** is one of the world's largest funding programmes for the demonstration of innovative low-carbon technologies and solutions. It will provide around EUR 10 billion of support over 2020-2030, aiming to bring to the market industrial solutions to decarbonise Europe and support its transition to climate neutrality.

1.5.5. Assessment of the different available financing options, including scope for redeployment

The budget implications come mainly from the following factors:

– The review, between 2022 and 2026, of 33 Commission Regulations and adoption of 5 new Regulations in 2022-2023 under the current Ecodesign Directive, which cannot be addressed only by staff currently allocated to the implementation of Ecodesign; the 14 Commission Regulations reviewed in 2021 continue also to have staff implications for tasks such as standardisation and guidance of stakeholders;

– The preparation and adoption of up to 18 new Delegated Acts between 2024 and 2027; The multiannual Working Plan exercise is a key step to define and prioritise product groups; we work on the assumption of a phasing in of 4 products in 2024, 6 in 2025 and 4 each year as from 2026 in order to reach SPI objectives while smoothing the need for resources over time. 12 Delegated acts should also be adopted between 2028 and 2030, with staff and budget implications in 2025-2027.

– prepare implementing acts (on average one per year as from 2024) when this is needed to ensure uniform conditions for the implementation of this Regulation, for example in relation to market surveillance, disclosure of information on the destruction of unsold consumer goods or the acknowledgement of self-regulatory measures; and

– carry out horizontal tasks related to the digital product passport, to market surveillance and customs control, and a European circular business hub to support the exchange of experience between economic actors in integrating circularity in product design and manufacturing.

For the review of existing regulations, a reasonable estimate based on experience is that around 0,5 FTE (+ assistants support) are needed on average to cover one product, including work on standardisation but excluding the technical assessment associated with the review, which is outsourced. The 11,5 Full-Time Equivalents (FTE) currently allocated to Ecodesign in the 3 DGs are not sufficient to meet legal obligations. Additional resources of 13 FTEs in 2022, 24 FTEs in 2023 then decreasing progressively to 19 FTEs in 2027 are requested in addition to redeployment and outsourcing of studies.

As regards new product groups under SPI, the analysis of new requirements and assessment tasks lead to the estimate of around 0.9 FTE (+ assistants support) per new product. The IA analysis lead to an estimate of around 30 new product groups or horizontal measures to be covered under SPI. This leads to an estimated need of 16 FTEs in 2023 and increasing progressively up to 28,5 FTEs in 2027, in addition to the redeployment of 8,5 FTEs currently allocated to the preparation of SPI or other tasks in the 3 lead DGs. The following table gives the estimates for additional needs year per year.

	2022	2023	2024	2025	2026	2027 and follow.
Ecodesign existing products, incl.	13	24	23	21	20	19
DG GROW	4,5	7	6,5	5,5	4,5	3,5
DG ENV	4	5	4,5	3,5	3,5	3,5
DG ENER	4,5	12	12	12	12	12
SPI new products, incl.	0	16	21,5	23,5	25,5	28,5
DG GROW	0	7	10	11	12	13,5
DG ENV	0	7	10	11	12	13,5
DG ENER	0	2	1,5	1,5	1,5	1,5
Digital product passport, incl.	0,5	2	2	2	2	2
DG GROW	0	0,5	0,5	0,5	0,5	0,5
DG ENV	0,5	1	1	1	1	1

DG ENER	0	0,5	0,5	0,5	0,5	0,5
Support to market surveillance, incl.	0,5	0,5	2	2	2	2
DG GROW	0	0	0,5	0,5	0,5	0,5
DG ENV	0	0	0,5	0,5	0,5	0,5
DG ENER	0,5	0,5	1	1	1	1
Support to customs control (DG TAXUD)	0	1,5	2	2	2	2
Circular business models hub (DG GROW)	0	0	0,5	0,5	0,5	0,5
Total	14	44	51	51	52	54

In the Impact Assessment report, different administrative setups have been envisaged to implement the new legislative framework.

An option would be to create a "sustainable product centre" within the European Commission. The difference would be that staff allocated to the sustainable product policy will function under a virtual "Sustainable Products Centre" inside the European Commission. While European Commission staff would remain under their DG of origin, they would also be part of a permanent centre/task force, with an overall coordination ensuring knowledge sharing and with responsibility for horizontal tasks. This option could also build on and fully integrate the technical know-how of JRC which already contributes to ecodesign preparatory studies and horizontal/methodological work on consumption footprint, circular economy strategies and carbon and environmental footprint. This experience and expertise can be exploited by the JRC as part of the "Sustainable Product Centre". The JRC would contribute to the scientific-technical dimension of methodology and data coherence, piloting new types of product requirements, and product prioritisation. In the context of this financial statement, this option was not considered substantially different to the current situation in terms of resources needed.

The estimates of this financial statement built upon the current situation, with competences spread among 3 DGs, and mobilising additional staff and financial resources in line with the increase of product groups and additional requirements. In terms of possible outsourcing, the current situation includes already a significant use of external support for the preparation of regulatory measures (preparatory and review studies) and for the support to impact assessments. Additional external support is envisaged for the Circular Business Hub and for the support to market surveillance authorities, but this does not change the need for additional (internal) staff resources for the core implementation tasks of the legislation, which cannot be outsourced.

Additional resources are also needed to support the customs system in enforcing new requirements applicable to imported products. This includes the analysis of SPI impact on TAXUD IT ecosystem, in particular Single Window; entailing business case, Business Process Modelling, coordination with MS customs authorities, preparation for design and implementation, support to conformance testing and roll-out, maintenance, running Customs Business Groups, contributing to MASP-C and to the ECCG meetings.

When estimating the additional resources detailed in this financial statement, careful assessment was made of possible staff redeployment within each DG, beyond the reallocation of staff already working on Ecodesign implementation and on the preparation of the legislative proposal. The rare possibilities or redeployment were integrated in the estimates. As for the type of HR needed, an important part is requested as CAs, especially in the first years of the period, and 3 additional END are requested as from 2023, both to facilitate the phasing-in in permanent staff, from 26,5 FTEs in 2023 to 45 in 2027. Permanent staff is nevertheless needed to coordinate decision procedures, represent the institution and ensure contractual management. It is shared in 87% AD and 13% AST.

As regards administrative expenditure other than staff, the basis of calculation are the following, mirroring the doubling of the number of products covered:

– the costs of missions have been estimated on the basis of current budgets (without effect of the sanitary crisis) and a doubling between 2024 and 2027, corresponding to the extension in scope and need to present and explain the new framework to stakeholders.

– the costs for meetings of the Ecodesign Forum are based on current costs in DG ENER, with an increase in the frequency of meetings from 6 to 9 per year on average because of the increase in the number of products covered.

– the costs for expert groups are based on the current costs associated with the Ecodesign committee, with the same increase of meetings frequency and the costs of committee meetings, in relation to implementing acts, were estimated on the basis of equivalent costs in DG ENV, for the period 2024 to 2026 when implementing acts should be prepared.

As regards operational expenditure, the following hypotheses have been retained:

– for each review, a supporting study with a cost of €300 000, based on current cost under Ecodesign; for each new product, a supporting study of €400 000, expected to be more complex than current preparatory studies under Ecodesign, and an additional cost of €800 000 for the preparation of Product Environmental Footprint Category Rules when needed, which is expected for half of new products – the timing for reviews and preparatory studies follows the same hypotheses as for staff, but the corresponding budget is committed two years before the planned date of adoption.

– Horizontal studies, for example on methodology, working plan, market surveillance, are estimated to cost around 1 M€ per year between 2022 and 2024, shared between DG GROW and DG ENV;

– Studies specific for the preparation of the digital product passport will be needed, under DG GROW coordination: 3 support studies and IT development on data carriers, access rights and security, data management and registry: 1 M€ from 2022 to 2024; maintenance of the product passport registry is estimated at 0,1 M€ from 2025 to 2026; preparation of the digital product passport may also require IT developments for the SCIP database of substances of very high concern but the precise evaluation of this is not achieved at the time of drafting this financial statement; IT development and procurement choices will be subject to pre-approval by the European Commission Information Technology and Cybersecurity Board.

– The administrative and technical support to the Circular Business Models Hub is estimated at 0,5 M€ from 2024 to 2027, on DG GROW budget line;

– The support to market surveillance and customs will take the form of guidance and implementing acts (counted under horizontal studies) but also of projects, e.g. to provide training, technical support to cooperation, support joint compliance testing; a budget increasing from 3 M€ in 2024 to 9 M€ in 2027, distributed between the 3 lead DGs, should be allocated to 3 to 10 projects each year between 2024 and 2027.

– The new requirements on products may also require IT developments on the EU Customs Single Window-CERTEX activities for DG TAXUD, for which 1,25 M€ in total would be needed from 2023 to 2027, and from entry into operations an annual maintenance fee of 160 k€. IT development and procurement choices will be subject to pre-approval by the European Commission Information Technology and Cybersecurity Board.

For some of these areas of action, the JRC expertise will be mobilised through service agreements, within the estimates and envelopes indicated in this financial statement.

1.6. Duration and financial impact of the proposal/initiative

☐ **limited duration**

– in effect from [DD/MM]YYYY to [DD/MM]YYYY

– Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

☑ **unlimited duration**

– Implementation with a start-up period from 2022 to 2027,

– followed by full-scale operation.

1.7. Management mode(s) planned[87]

☑ **Direct management** by the Commission

☑ by its departments, including by its staff in the Union delegations;

☐ by the executive agencies

☐ **Shared management** with the Member States

☐ **Indirect management** by entrusting budget implementation tasks to:

☐ third countries or the bodies they have designated;

☐ international organisations and their agencies (to be specified);

☐ the EIB and the European Investment Fund;

☐ bodies referred to in Articles 70 and 71 of the Financial Regulation;

☐ public law bodies;

☐ bodies governed by private law with a public service mission to the extent that they are provided with adequate financial guarantees;

☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees;

☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

If more than one management mode is indicated, please provide details in the 'Comments' section.

[87] Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx

Comments

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

This Legislative Financial Statement includes staff expenditure, procurement and possibly administrative arrangements. Standard rules for this type of expenditure apply.

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

The management mode for the initiative is direct management by the Commission. The Commission will be assisted by an Expert Group with member states representatives and stakeholders: the Ecodesign Forum. The Commission will also be assisted by a Committee. Overall, the initiative requires staff expenditure, procurement and possibly administrative arrangements. Standard rules for this type of expenditure apply.

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

Overall, the initiative requires staff expenditure, procurement and possibly administrative arrangements. Standard rules for this type of expenditure apply. Most aspects of the initiative follow standard procedures for procuring technical support, involving stakeholders and the adoption of secondary legislation. The main risk, already illustrated in the past, is insufficient human resources to implement working plans. There is also the risk of court challenges to product legislation adopted. New risks may arise due to novel aspects of the SPI framework, including the establishment and operation of the Digital Product Passport and requirements affecting, directly or indirectly, supply chains outside the EU.

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

Overall, the initiative requires staff expenditure, procurement and possibly administrative arrangements. Standard rules for this type of expenditure apply.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

Overall, the initiative requires staff expenditure, procurement and possibly administrative arrangements. Standard rules for this type of expenditure apply.

The main fraud risk relates to deliberate circumvention of the product requirements by economic operators. Preventing this relies on strengthening market surveillance activities and custom controls.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.[88]	from EFTA countries [89]	from candidate countries[90]	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	[XX.YY.YY.YY]	Diff./Non-diff.	YES/NO	YES/NO	YES/NO	YES/NO
1	03.02.01.01 - Operation and development of the internal market of goods and services	Diff.	YES	NO[91]	NO[6]	NO
3	09.02.02 LIFE Circular economy and quality of life	Diff.	YES	YES	YES	NO
3	09.02.04 LIFE Clean energy transition	Diff.	YES	YES	YES	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

88 Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.
89 EFTA: European Free Trade Association.
90 Candidate countries and, where applicable, potential candidates from the Western Balkans.
91 Negotiation of association of candidate and third countries to the Single Market Programme ongoing.

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

- ☐ The proposal/initiative does not require the use of operational appropriations
- ☑ The proposal/initiative requires the use of operational appropriations, as explained below:

EUR million (to three decimal places)

Heading of multiannual financial framework	Number	Heading 1 (Single Market, Innovation and Digital)

DG: GROW			Year **2022**	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	Post 2027	**TOTAL**
• Operational appropriations										
Budget line[92] 03.02.01.01 - Operation and development of the internal market of goods and services	Commitments	(1a)	3,402	4,056	3,770	3,370	4,370	4,370		23,338
	Payments	(2a)	1,021	2,237	3,709	3,764	3,830	3,970	4,807	23,338
Budget line	Commitments	(1b)								
	Payments	(2b)								
Appropriations of an administrative nature financed from the envelope of specific programmes[93]										
Budget line		(3)								
TOTAL appropriations	Commitments	=1a+1b +3	3,402	4,056	3,770	3,370	4,370	4,370		23,338

92 According to the official budget nomenclature.

93 Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

for DG GROW	Payments	=2a+2b +3	1,021	2,237	3,709	3,764	3,830	3,970	4,807	23,338

• TOTAL operational appropriations	Commitments	(4)	3,402	4,056	3,770	3,370	4,370	4,370		23,338
	Payments	(5)	1,021	2,237	3,709	3,764	3,830	3,970	4,807	23,338
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)								
TOTAL appropriations under HEADING 1 of the multiannual financial framework	Commitments	=4+ 6	3,402	4,056	3,770	3,370	4,370	4,370		23,338
	Payments	=5+ 6	1,021	2,237	3,709	3,764	3,830	3,970	4,807	23,338

EUR million (to three decimal places)

Heading of multiannual financial framework	Number	Heading 3 (Natural Resources and the Environment)

DG: ENV			Year **2022**	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	Post 2027	**TOTAL**
• Operational appropriations										
Budget line[94] 09.02.02 LIFE Circular economy and quality of life	Commitments	(1a)	2,276	2,948	2,180	2,680	3,680	3,680		17,444
	Payments	(2a)	0,683	1,567	2,449	2,637	2,780	3,280	4,048	17,444
Budget line 09.02.02 LIFE Circular economy and quality of life[95]	Commitments	(1b)	0	0	0,400	0,350	0,350	0,150		1,250
	Payments	(2b)	0	0	0,280	0,365	0,350	0,210	0,450	1,250

[94] According to the official budget nomenclature.

Appropriations of an administrative nature financed from the envelope of specific programmes[96]										
Budget line		(3)								
TOTAL appropriations for DG ENV	Commitments	=1a+1b +3	2,276	2,948	2,580	3,030	4,030	3,830		18,694
	Payments	=2a+2b +3	0,683	1,567	2,729	3,002	3,130	3,490	4,093	18,694

DG: ENER			Year **2022**	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	Post 2027	**TOTAL**
• Operational appropriations										
Budget line[97] 09.02.04 LIFE Clean energy transition	Commitments	(1a)	1,622	1,596	4,250	5,250	6,250	6,250		25,218
	Payments	(2a)	0,487	0,965	2,403	3,488	5,150	5,850	6,875	25,218
Budget line	Commitments	(1b)								
	Payments	(2b)								
Appropriations of an administrative nature financed from the envelope of specific programmes[98]										

95 The proposal foresees IT developments in the EU Single Window environment for Customs to facilitate enforcement of product requirements on imported products, and ensure interoperability with the digital product passport. Such work will need financial resources to be made available to DG TAXUD. Currently, the level of appropriate resources for such work cannot be determined with certainty, but it is estimated that it could require a maximum estimated budget of 1,250 million EUR for the period 2024-2027, while a maintenance fee of 0.160 million EUR will be needed annually thereafter. IT development and procurement choices will be subject to pre-approval by the European Commission Information Technology and Cybersecurity Board.

96 Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

97 According to the official budget nomenclature.

98 Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

Budget line		(3)								
TOTAL appropriations for DG ENER	Commitments	=1a+1b +3	1,622	1,596	4,250	5,250	6,250	6,250		25,218
	Payments	=2a+2b +3	0,487	0,965	2,403	3,488	5,150	5,850	6,875	25,218

• TOTAL operational appropriations	Commitments	(4)	3,898	4,544	6,830	8,280	10,280	10,080		43,912
	Payments	(5)	1,170	2,532	5,132	6,490	8,280	9,340	10,968	43,912
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)								
TOTAL appropriations under HEADING 3 of the multiannual financial framework	Commitments	=4+ 6	3,898	4,544	6,830	8,280	10,280	10,080		43,912
	Payments	=5+ 6	1,170	2,532	5,132	6,490	8,280	9,340	10,968	43,912

<u>If more than one operational heading is affected by the proposal / initiative, repeat the section above:</u>

• TOTAL operational appropriations (all operational headings)	Commitments	(4)	7,300	8,600	10,600	11,650	14,650	14,450		67,250
	Payments	(5)	2,191	4,769	8,841	10,254	12,110	13,310	15,775	67,250
TOTAL appropriations of an administrative nature financed from the envelope for specific programmes (all operational headings)		(6)								
TOTAL appropriations under HEADINGS 1 to 6 of the multiannual financial framework (Reference amount)	Commitments	=4+ 6	7,300	8,600	10,600	11,650	14,650	14,450		67,250
	Payments	=5+ 6	2,191	4,769	8,841	10,254	12,110	13,310	15,775	67,250

Heading of multiannual financial framework	7	'Administrative expenditure'

This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the Annex to the Legislative Financial Statement (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		Year **2022**	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
DG: GROW								
• Human resources		0,383	1,740	2,325	2,469	2,541	2,656	12,113
• Other administrative expenditure		0,005	0,005	0,096	0,097	0,097	0,090	0,390
TOTAL DG GROW	Appropriations	0,388	1,745	2,421	2,566	2,638	2,746	12,503

		Year **2022**	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
DG: ENV								
• Human resources		0,671	1,756	2,227	2,371	2,528	2,656	12,208
• Other administrative expenditure		0,005	0,005	0,097	0,096	0,097	0,090	0,390
TOTAL DG ENV	Appropriations	0,676	1,761	2,324	2,467	2,625	2,746	12,598

		Year **2022**	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
DG: ENER								

• Human resources		0,713	2,070	2,214	2,214	2,214	2,214	11,639
• Other administrative expenditure		0,005	0,005	0,097	0,097	0,096	0,090	0,390
TOTAL DG ENER	Appropriations	0,718	2,075	2,311	2,311	2,310	2,304	12,029

		Year **2022**	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
DG: TAXUD								
• Human resources		0,000	0,236	0,314	0,314	0,314	0,314	1,492
• Other administrative expenditure		0	0	0	0	0	0	0
TOTAL DG TAXUD	Appropriations	0,000	0,236	0,314	0,314	0,314	0,314	1,492

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)	1,781	5,816	7,370	7,658	7,887	8,109	38,621

EUR million (to three decimal places)

		Year **2022**	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	Post 2027	**TOTAL**
TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework	Commitments	9,081	14,416	17,970	19,308	22,537	22,559		105,871
	Payments	3,972	10,585	16,211	17,912	19,997	21,419	15,775	105,871

3.2.2. *Estimated output funded with operational appropriations*

Specific objectives:
No 1: Improve products environmental sustainability and access to sustainability information along the supply chain
No 2: Incentivise more sustainable products and business models to improve value retention
No 3: Improve application of sustainable product legislative framework

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs			Year **2022**		Year **2023**		Year **2024**		Year **2025**		Year **2026**		Year **2027 and following**		**TOTAL**	
	OUTPUTS															
⇩	Type[99]	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost
SPECIFIC OBJECTIVE No 1[100]	Improve products environmental sustainability and access to sustainability information along the supply chain															
- Output	Delegated acts (reviews)	0,300	-		-		7	2,100	6	1,800	5	1,500	5	1,500	23	6,900
- Output	Delegated acts (new products)	0,800	-		-		4	3,200	6	4,800	4	3,200	12	9,600	26	20,800

99 Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

100 As described in point 1.4.2. 'Specific objective(s)…'

- Output	Implementing acts (market surveillance, unsold goods)	1,000	-		-		1	1,000	1	1,000	1	1,000			3	3,000
Subtotal for specific objective No 1			-		-		12	6,300	13	7,600	10	5,700	17	11,100	52	30,700
SPECIFIC OBJECTIVE No 2			Incentivise more sustainable products and business models to improve value retention													
- Output	Support to Circular Business Hub[101]	0,500 per year	-	-	-	-	1	0,500	1	0,500	1	0,500	1	0,500	4	2,000
Subtotal for specific objective No 2			-	-	-	-	1	0,500	1	0,500	1	0,500	1	0,500	4	2,000
SPECIFIC OBJECTIVE No 3			Improve application of sustainable product legislative framework													
- Output	Projects supporting market surveillance	1,000 per project	-	-	-	-	3	3,000	6	6,000	9	9,000	9	9,000	27	27,000
Subtotal for specific objective No 3			-	-	-	-	3	3,000	6	6,000	9	9,000	9	9,000	27	27,000
TOTALS			-	-	-	-	16	9,800	20	14,100	20	15,200	27	20,600	83	59,700

[101] The European circular business hub should support the exchange of experience between economic actors in integrating circularity in product design and manufacturing.

3.2.3. *Summary of estimated impact on administrative appropriations*

- ☐ The proposal/initiative does not require the use of appropriations of an administrative nature

- ☑ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year **2022**	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
HEADING 7 of the multiannual financial framework							
Human resources	1,766	5,801	7,080	7,368	7,597	7,839	37,451
Other administrative expenditure	0,015	0,015	0,290	0,290	0,290	0,270	1,170
Subtotal HEADING 7 of the multiannual financial framework	1,781	5,816	7,370	7,658	7,887	8,109	38,621
Outside HEADING 7[102] of the multiannual financial framework							
Human resources							
Other expenditure of an administrative nature							
Subtotal outside HEADING 7 of the multiannual financial framework							
TOTAL	1,781	5,816	7,370	7,658	7,887	8,109	38,621

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

102 Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.3.1. Estimated requirements of human resources

- ☐ The proposal/initiative does not require the use of human resources.
- ☑ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

	Year **2022**	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027 and following**
• Establishment plan posts (officials and temporary staff)						
20 01 02 01 (Headquarters and Commission's Representation Offices)	8	28,5	38	42	44	45
incl. DG GROW	0	7	11	13	14	15
DG ENV	4	9	12	14	15	15
DG ENER	4	11	13	13	13	13
DG TAXUD	0	1,5	2	2	2	2
20 01 02 03 (Delegations)						
01 01 01 01 (Indirect research)						
01 01 01 11 (Direct research)						
Other budget lines (specify)						
• External staff (in Full Time Equivalent unit: FTE)[103]						
20 02 01 (AC, END, INT from the 'global envelope')	6	15,5	13,0	9,0	8,0	9,0
incl. DG GROW	4,5	7,5	7	5	4	3,5
DG ENV	0,5	4	4	2	2	3,5
DG ENER	1	4	2	2	2	2
20 02 03 (AC, AL, END, INT and JPD in the delegations)						
XX 01 xx **yy zz** [104] - at Headquarters						
- in Delegations						
01 01 01 02 (AC, END, INT - Indirect research)						
01 01 01 12 (AC, END, INT - Direct research)						
Other budget lines (specify)						
TOTAL	14	44,0	51,0	51,0	52,0	54,0

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocations to be granted to the managing DGs under the annual allocation procedure and in the light of budgetary constraints.

103 AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

104 Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

Description of tasks to be carried out:

Officials and temporary staff	<u>For desk officers:</u> Preparation of external contracts to support preparatory studies, impact assessment, assessment of harmonised standards (terms of reference or AA, evaluation, monitoring) Supervision of preparatory, review studies or other studies in preparation of the working plan, implementing acts, delegated acts consultation of the Ecodesign Forum, consultation of WTO, internal adoption procedure, follow-up to delegated acts including standardisation mandate, monitoring and publication of harmonised standards, guidance to industry in implementation and to market surveillance authorities in surveillance activities contribution to horizontal tasks including evaluation of results, presentation of the legislation to stakeholders, preparation of briefings, correspondence… <u>for assistants:</u> organisation of meetings (agendas, invitations, administrative follow-up, minutes, registry of expert groups) decision procedures (Decide entries, calls for evidence, committees, preparation of documents including legal editing, requests for translation and publication) financial procedures (preparation of management plan, of calls for tender or service orders or AAs, evaluations, requests for commitments and payments, reporting)
External staff	Supervision of preparatory, review studies or other studies in preparation of the working plan, implementing acts, delegated acts consultation of the Ecodesign Forum, consultation of WTO, follow-up to delegated acts including standardisation mandate, monitoring and publication of harmonised standards, guidance to industry in implementation and to market surveillance authorities in surveillance activities contribution to horizontal tasks including evaluation of results, presentation of the legislation to stakeholders, correspondence…

3.2.4. *Compatibility with the current multiannual financial framework*

The proposal/initiative:

- ☑can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

The studies, procurement or projects supporting the implementation of the legislation will be funded by existing programmes and existing budgetary envelopes supporting policy implementation, under Headings 1 and 3 of the MFF. No reprogrammation is needed. Budget needs will be integrated into annual management plans and follow standard procedures. The budget lines concerned are those supporting already the implementation of the Ecodesign Directive in the DGs concerned: 03.02.01.01 - Operation and development of the internal market of goods and services for DG GROW 09.02.02 LIFE Circular economy and quality of life for DG ENV 09.02.04 LIFE Clean energy transition for DG ENER

- ☐ requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

Explain what is required, specifying the headings and budget lines concerned, the corresponding amounts, and the instruments proposed to be used.

- ☐ requires a revision of the MFF.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *Third-party contributions*

The proposal/initiative:

- ☑ does not provide for co-financing by third parties
- ☐ provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year **N**[105]	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

[105] Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

3.3. Estimated impact on revenue

- ☑ The proposal/initiative has no financial impact on revenue.
- ☐ The proposal/initiative has the following financial impact:
  - ☐ on own resources
  - ☐ on other revenue
  - please indicate, if the revenue is assigned to expenditure lines ☐

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[106]						
		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article …….								

For assigned revenue, specify the budget expenditure line(s) affected.

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

[106] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.