



## POSITION PAPER

# Commission proposal for a Regulation on eco-design requirements for sustainable products

September 2022

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### Key points

- SBS welcomed the choice of a Regulation to ensure a harmonised approach. To ensure the functioning of the Single Market and fair competition among all economic operators it is **essential that requirements are harmonised** at the European level.
- The implementation of the Digital Product Passport (DPP) should be as simple as possible not to create a heavy burden on smaller companies. The information to be included should be limited to what is necessary to achieve the objectives of the Regulation. Moreover, to facilitate the uptake of the DPP, the Commission should **provide SMEs with special guidance**, support their skills development, and provide access to assisting tools for the management and processing of data to generate DPPs.
- **Interoperability** between the product passport registry and other existing databases under other pieces of EU legislation should be ensured to avoid double reporting and limit administrative burden. Companies should not be required to report twice the same information and should be able to upload information provided through the DPP on other databases.
- **SMEs need to be involved in the development of the DPP** and the standards that will support its implementation. Any pilot projects to further develop DPP prototypes should include the participation of SMEs.

It is important to **ensure the coherence between the future Eco-design Regulation and its implementing acts and other pieces of legislation** affecting a specific product to **avoid duplication** and unclear requirements and putting an excessive burden, especially on SMEs. The Regulation could be more explicit about avoiding duplication of sustainability requirements and

information requirements already covered by other pieces of Union product legislation.

- When developing delegated acts, it is important to **carefully assess the practical application, relevance and feasibility of the requirements and criteria per product category** since not all criteria and requirements will be equally relevant to all products. In this context, it is important to carefully consider the trade-offs between different objectives of EU legislation (e.g. health and safety and sustainability) but also the trade-offs between different sustainability objectives (e.g. durability and recyclability).
- European harmonised standards will be essential to the implementation of the new Eco-design Regulation. There are already a series of relevant horizontal standards and ongoing standardisation work at the European and International levels. From the point of view of SMEs, it is important to **avoid the proliferation of standards** and to **build on what already exist** whenever possible.
- While SBS opposes in principle to the empowerment of the Commission to adopt implementing acts establishing common specifications, it acknowledges the need to have a backstop measure to do so as a last resort in case standards are not available. It is important though **to involve and consult stakeholders, including SMEs, through the Ecodesign Forum in the adoption of common specifications by the Commission.**
- The **introduction of several measures dedicated to SMEs is welcomed.** Nevertheless, the implementation of the Commission proposal will heavily rely on delegated acts and European standards, and it is important to also **provide support** (including financial support) for the further involvement of SMEs in the Ecodesign Forum and the development of relevant European standards.

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## General comments

SBS welcomes the Commission's proposal for a new Regulation on eco-design requirements for sustainable products and its aim to support the uptake of circular and resource efficient products in the EU market.

We particularly welcome the choice of a Regulation as the legal instrument to ensure the highest level of harmonisation at the European level and the consideration of SMEs in several provisions of the Regulation.

**SMEs** represent most businesses in the EU and **will be key to the successful implementation of the Commission proposal.** On the one hand, many SMEs traditionally operate at local level and in areas such as repairing, refurbishing and maintenance and will benefit from additional business opportunities in these areas. On the other, SMEs will also need to adapt and cope with new requirements and additional costs related to these requirements.

It is therefore essential to **consider the impact** on SMEs and **provide a well-balanced approach** that ensures implementation is **workable, proportionate** and that there are **proven environmental benefits** that **exceed the costs**. This should be accompanied by market instruments that support the uptake of sustainable products and incentives to facilitate the implementation of the Regulation among SMEs.

In this context, SBS welcomes the introduction of several measures aimed at SMEs in the Commission proposal. Nevertheless, the implementation of the Commission proposal will heavily rely on delegated acts and European standards, and it is important to also **provide support for the further involvement of SMEs in the development of these standards and implementing regulations**.

## Digital Product Passport

One of the main novelties of the proposal is the creation of a Digital Product Passport to register, process and share product-related information amongst actors within the supply chain, authorities and consumers. The DPP aims at enabling access to and sharing of product-related information between the different actors in the value chain, which is essential to achieve a circular economy. But its implementation also brings several challenges, especially for SMEs.

The implementation of the DPP should be as simple as possible not to create a heavy burden on smaller companies. Collecting, administering, and making available large amounts of information is challenging especially for SMEs due to their limited resources. **The information to be included in the DPP should therefore be limited to the information strictly necessary to ensure the objectives of the Regulation.** Moreover, to facilitate the uptake of the DPP among SMEs, the Commission should provide them with special guidance, support their skills development and provide access to tools to help them with the management and processing of data to generate DPPs.

SBS welcomes the possibility provided in the Regulation to use the DPP to provide information on other sustainability aspects applicable to the relevant product group related to other EU legislation. In this respect, it is important to avoid duplication of data.

**Article 12** of the Regulation foresees the establishment of a product passport registry. It is **unclear what will be the exact information to be stored in the registry** and what will be the relation with other existing databases under other pieces of EU legislation (e.g. European Product Registry for Energy Labelling ([EPREL](#)), Substances of Concern In Products ([SCIP](#))). To **avoid double reporting** and **limit administrative burden**, interoperability with existing databases should be ensured. Companies should not be required to report twice the same information and should be able to upload information provided through the DPP on other databases.

The implementation of the DPP will heavily rely on European standards for its implementation. SBS welcomes **article 10 d)** of the proposed Regulation stating that the product passport shall be based on open

standards and developed with an interoperable format. Standards should ensure interoperability, common data formats and interfaces that ensure access to data. Nevertheless, it is also important to ensure that these standards are **developed with the participation of SMEs** so that they **incorporate their needs** and peculiarities and **do not create disproportionate burdens** and costs on them. The need to involve and consider SMEs in the development of the DPP and the standards that will support its implementation (both regarding its format but also the information to be included in the passport) should be stressed in the Regulation and in any future Standardisation Requests to be issued by the European Commission for the developments of standards in this area. Moreover, **any pilot projects to further develop DPP prototypes should include the participation of SMEs.**

## Delegated acts and interrelation with other pieces of legislation

SBS supports the intention of the Commission to **only apply the Regulation to products not covered by existing legislation or when legislation does not sufficiently address the sustainability of those products.** For SMEs, it is important to **ensure the coherence** between the future Eco-design Regulation and its implementing acts and other pieces of legislation affecting a specific product. This is important to avoid duplication or unclear requirements and putting an excessive burden on economic actors.

This principle could be further specified in the text of the Regulation, as is the case of other Commission proposals such as the Machinery Regulation<sup>1</sup>, to highlight delegated acts for product categories under the Regulation shall not cover sustainability requirements and information requirements already covered by specific Union product legislation.

When developing delegated acts, it is important to carefully assess the practical application, relevance and feasibility of the requirements and criteria per product category since not all criteria and requirements will be equally relevant to all products. In this context, it is also important to **consider the trade-offs between different policy objectives of different pieces of EU legislation** such as safety and sustainability. SBS welcomes the fact that **article 5.5. a and b** establish that ecodesign requirements should not have a significant negative impact on the **functionality of the product** and an adverse effect on the health and safety of persons. For example, textiles for Personal Protective Equipment (PPE) and medical devices need to comply with the safety requirements of the PPE and Medical Devices Regulations. This is important to ensure their protective functions.

It is also important to consider that there may also be **trade-offs** between different sustainability objectives such as **durability** or **recyclability**. Sometimes higher durability can only be achieved by using mixt materials or materials derived from fossil fuels, which may be more difficult to recycle. For example, synthetic and mixed fibers may add durability to clothing that cannot be attained with purely natural fibers. This should

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<sup>1</sup> See Article 8 in [COM\(2021\) 202 - Proposal for a Regulation of the European Parliament and of the Council on machinery products](#).

also be carefully considered when carrying out **the impact assessment** and setting eco-design requirements for the different product groups.

## Ecodesign Forum

**Article 17** of the proposal establishes an Ecodesign Forum similar to the current Consultation Forum under the Ecodesign Directive. The Forum will play a consultative role and provide advice to the Commission regarding the ecodesign working plan setting priority product groups and in the preparation of eco-design requirements.

SBS welcomes the **inclusion of SMEs and crafts** as part of the stakeholders to be included in the group. As mentioned earlier SMEs play a critical role in the successful implementation of the proposals and therefore it is important to ensure their effective participation in the process. This does not only require favouring their participation in theory but facilitating it by **providing financial resources for SMEs and their representatives** to participate in the meetings and discussions of the Forum. The increased participation of SMEs in the forum should support the development of criteria that are feasible to be implemented by SMEs.

## Harmonised standards and common specifications

**European harmonised** standards will be **essential** to the implementation of the new Eco-design Regulation. Standards will be necessary to support the deployment of the Digital Product passport and to provide the methods to measure and **assess whether products comply** with eco-design requirements.

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There are already a series of relevant horizontal standards and ongoing standardisation work at the European and International levels (e.g., CEN-CLC TC 10 on material efficiency, ISO/TC 323/WG 5 on product circularity datasheet, ISO/IEC JTC 1/SC 31 on automatic identification) that can support the future Regulation. From the point of view of SMEs, it is important to avoid the proliferation of standards and to build on what already exist whenever possible.

**Article 35** of the proposed Regulation empowers the Commission to adopt implementing acts establishing common specifications to meet the essential requirements of the future Regulation. Similar clauses have been included in recent proposals put forward by the Commission such as the new proposed Machinery Regulation. While SBS opposes in principle to the empowerment of the Commission to adopt technical specifications, it acknowledges the need to have a **backstop measure** to do so **in case standards are not available**. However, it is important that this provision stresses the need to **involve and consult stakeholders**, including SMEs, through the Ecodesign Forum in the adoption of common specifications by the Commission.

Moreover, the EU Standardisation Strategy<sup>2</sup> published in February includes among its actions the development by the Commission of a **horizontal approach** regarding the criteria and processes for the development of common specifications via implementing acts. Although this horizontal approach is not available yet, a **reference to this approach should at least be included in the recitals of the Regulation**.

## Measures in support of SMEs

**Article 19** includes a series of measures that the Member States and the Commission are required to take to help SMEs with the implementation of the future Regulation and its delegated acts. The measures include the development of guidelines, financial assistance and training. Although SBS welcomes this article, it also believes there is a need to provide support for both the **effective participation of SMEs in the Ecodesign Forum** and the development of standards in support of the future Regulation. SMEs and especially micro-enterprises cannot always play a leading role in developing standards and may find it difficult to get involved in standardisation processes. This is due to many factors such as **lack of awareness** but also due to **lack of time and financial resources**. The Commission should therefore **include in this article the provision of financial support for SMEs and SME representatives** to participate in the Ecodesign Forum and relevant standardisation work.

Small Business Standards (SBS) is the European association representing and supporting small and medium-sized companies (SMEs) in the standardisation process, both at the European and international levels.

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Small Business Standards is co-financed by the European Union and EFTA



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<sup>2</sup> See page 6 of [COM\(2022\) 31](#) An EU Strategy on Standardisation - Setting global standards in support of a resilient, green and digital EU single market