



Brussels, **XXX**  
[...] (2022) **XXX** draft

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on ecodesign for sustainable products, amending Regulation (EU) 2019/1020 and  
repealing Directive 2009/125/EC**

(Text with EEA relevance)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • **Reasons for and objectives of the proposal**

The main objective of this regulation, is to reduce the negative life cycle environmental impacts of products and improve the functioning of the internal market, while benefitting from efficient digital solutions. This objective seeks to resolve the problems and their causes analysed in the impact assessment. It reflects 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 demand for sustainable goods, deliver on sustainable production, and ensure a level-playing field. Industry needs harmonised requirements applicable across the board, efficient means to comply with them, proper enforcement, reinforced market surveillance and customs controls.

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 construction products that built our homes, to the appliances that help to run them 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.

This regulation therefore lays down a framework for setting ecodesign requirements based on the sustainability and circularity aspects listed in the Circular Economy Action Plan<sup>1</sup>, 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.

#### • **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 sustainability aspects. The general principles of case law (*lex specialis / lex generalis*) 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

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<sup>1</sup> COM(2020) 98 final.

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, the revision of Regulation (EU) No 305/2011<sup>2</sup> (the Construction Products Regulation) should primarily address the sustainability aspects. Construction products are in the scope of this Regulation for it to be able to function as a safety net. Coherence should be ensured in particular in relation to intermediate products that might also be inputs to construction products. As an exception to this rule, energy-related products that fall within the definition of construction products, will be primarily dealt under this Regulation to address sustainability aspects.

**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** 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 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**<sup>3</sup>, 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.

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<sup>2</sup> 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).

<sup>3</sup> COM(2019) 640 final.

The **European Commission's 2020 industrial strategy for Europe**<sup>4</sup> 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**<sup>5</sup>, 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.

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 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.

## 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

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<sup>4</sup> COM(2020) 102 final.

<sup>5</sup> COM(2021) 350 final.

approaches at national level adopted (leading to internal market fragmentation) and the enforcement of current Ecodesign rules is insufficient and uneven.

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 borders to comply with a range of different national obligations.

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 business. 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 borders.

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 characteristics 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 business. 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*<sup>6</sup>. 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<sup>7</sup> 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 that the energy efficiency aspects of the SCP/SIP action plan<sup>8</sup> and of EU resource efficiency policy can be served by the Ecodesign Directive and the implementing measures, is also

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<sup>6</sup> SWD(2019) 92 final.

<sup>7</sup> [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.

<sup>8</sup> [Communication on the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan](#)

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'<sup>9</sup>. 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<sup>10</sup>. 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 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.

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<sup>9</sup> [CSES 2012](#), p.19.

<sup>10</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative_en)

- **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.

- **Regulatory fitness and simplification**

This regulation is expected to create a level playing field for companies operating within the EU market and across EU borders. 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.

The proposal also includes creating 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.

- **Fundamental rights**

The proposal does not have consequences for the protection of fundamental rights.

#### 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 coming six years 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 42 662 million in Heading 3 (Natural Resources and the Environment) and EUR 37 308 million in Heading 7 (Administrative Expenditure).

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 Ecodesign;
- 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 up to two implementing acts and carry out horizontal tasks related to the digital product passport, support for market surveillance and customs control, and the circular business hub.

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.

#### 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 an EU digital product passport, and prohibiting the destruction of unsold consumer products. It further sets the objectives of the Regulation and its scope – 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.

*Articles 3 and 4* set out the general principle related to the free movement of products that comply with delegated acts adopted pursuant to this Regulation.

*Article 5* lays down the general framework for the adoption of ecodesign requirements by delegated acts. It specifies that ecodesign requirements include performance requirements and

information requirements (including the product passport). It also explains that those delegated acts may apply to product groups or to a range of various product groups, where it is possible to set common ecodesign requirements. Finally, it lays down a number of conditions to be met by the Commission when preparing delegated acts laying down ecodesign requirements, as well as a number of criteria that those delegated acts would need to meet.

It also presents the approach for setting ecodesign requirements, in particular the possibility to set ecodesign requirements against the objectives of the Circular Economy Action Plan, and provides for criteria that the delegated acts must respect.

*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 parameter(s) (the list of which is in Annex I).

*Article 7* focuses on information requirements. The logic for establishing information requirements is similar to the one described in Article 6 for performance requirements. The Article further details the 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 general requirements for the establishment of the product passport. *Articles 9 to 11* lay down the necessary provision to implement the product passport. *Article 9* lays down the general conditions that the product passport must meet. *Article 10* provides for the Commission to adopt an implementing act establishing the detailed technical rules for the design and operation of the product passport. *Article 11* lays down the rules related to unique operator and facility identifiers.

*Article 12* 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. However, if the product is already covered by a label as provided for in the Energy Labelling Regulation (EU) 2017/1369, it must not also bear a label on classes of performance provided for under this Regulation, to avoid causing confusion.

*Article 13* specifies that economic operators cannot display labels mimicking the labels provided for under this Regulation.

*Article 14* lays down the obligation on the language of the information requirements and of the product passport, namely that this information must be provided in a language which can be easily understood by consumers in a given Member State.

*Article 15* provides for the Commission to adopt a working plan which must cover at least 3 years. The working plan includes an indicative list of product groups that the Commission intends to tackle in the coming years.

*Article 16* establishes an Ecodesign Forum (expert group). It is based on the existing Consultation Forum established under Directive 2009/125/EC.

*Article 17* 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 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 18* 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 19* 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 an exemption to the general prohibition for instance (i) for reasons of health and safety, (ii) in case the product has been refused for donation, preparing for re-use or remanufacturing, or (iii) for SMEs. 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 also prohibits the intentional damaging of unsold consumer products with a view to discarding them.

*Articles 20, 21, 22 and 23* lay down obligations of manufacturers, authorised representatives, importers and distributors. They are based on standard provisions from Decision 768/2008/EC.

*Article 24* 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 25* 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 26* 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 27* 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 28* 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 29* 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 assess market penetration of products for which ecodesign requirements have been set, the Article requires economic operators to provide information about products supplied.

*Article 30* specifies that products should be able, where appropriate, to measure the energy they consume while in use, and to make this data available to the end user. 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 31*);
- harmonised standards providing a presumption of conformity (*Article 33*);

- the possibility for the Commission to adopt common specifications where harmonised standards are not available (*Article 34*);
- the conformity assessment procedures (*Article 35*);
- the EU declaration of conformity (*Article 36*); and
- the CE marking (*Articles 37 and 38*).

Noteworthy in this standard Chapter are the presumption of conformity with ecodesign requirements for products bearing the Union Ecolabel (*Article 33*) and the possibility to amend the relevant conformity assessment module depending on the product at stake (*Article 35*).

*Article 32* 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 39 to 54)* 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 55* 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.

*Article 56* 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 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 57* 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 58* empowers the Commission to adopt delegated acts setting out a minimum number of checks to be performed on specific products.

*Article 59* 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 60* 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 62* 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 61. 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 63* 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 64*), on implementing acts (*Article 65*) and on the expert group (*Article 66*).

*Chapter XIV* consists of *Article 67*, which amends Annex I of Regulation (EU) 2019/1020 to include this Regulation.

*Chapter XV* 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 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 codesign requirements to be adopted pursuant to this Regulation.

*Annex VII* lays down general principles applicable to self-regulation measures (Article 17).

*Annexes VIII* and *IX* are standard annexes.

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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<sup>11</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The European Green Deal<sup>12</sup> 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 into 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 competitive Europe<sup>13</sup>, 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 EU 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

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<sup>11</sup> OJ C [...], p. [...].

<sup>12</sup> 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.

<sup>13</sup> 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.

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) In the absence of legislation at Union level, national efforts to achieve these aims will likely be based on divergent approaches, leading to the 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.
- (4) Widening of the scope of the Ecodesign Directive so as to make it applicable to the broadest possible range of products and make it deliver on circularity 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. New eco-design requirement should improve product durability, reusability, upgradability and reparability, address the presence of hazardous chemicals in products, increase their energy and resource efficiency, and increase recycled content in products, while ensuring their performance and safety, enabling remanufacturing and high-quality recycling and reducing carbon and environmental footprints.
- (5) The European Industrial Strategy<sup>14</sup> 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 EU Industrial Strategy reinforces the main messages of the 2020 Strategy and focuses on the lessons from the COVID-19 crisis, including the need to foster resilience. .
- (6) The European Parliament, in its Resolution of 25 November 2020 'Towards a more sustainable single market for business and consumers'<sup>15</sup>, 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<sup>16</sup>, 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<sup>17</sup>, 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,

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<sup>14</sup> 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.

<sup>15</sup> P9\_TA(2020)0318.

<sup>16</sup> [P9\\_TA\(2021\)0040](#)

<sup>17</sup> 13852/20

energy and resource efficiency and a non-toxic circular economy, protects public health and biodiversity, and empowers and protects consumers and public buyers.

- (7) Parties to the Paris Agreement, ratified by the Union in 2016<sup>18</sup>, have agreed to hold the increase in the global average temperature well below 2°C above preindustrial levels and to pursue efforts to keep it to 1.5 °C. In line with the agreement, Regulation (EU) 2021/1119 of the European Parliament and of the Council, the ‘European Climate Law’<sup>19</sup>, establishes a binding Union domestic reduction commitment of net greenhouse gas emissions of at least 55 % below 1990 levels by 2030 and enshrines in legislation the target of economy-wide climate neutrality by 2050. In response to this, in 2021 the Commission adopted the Fit for 55 Package<sup>20</sup>, to make the Union’s climate, energy, land use, transport and taxation policies fit for achieving these emission . The Paris Agreement also recognises that sustainable patterns of consumption and production play an important role in addressing climate change, with developed country parties taking the lead.
- (8) In December 2018, a 2030 Union headline energy efficiency target of at least 32.5% was adopted as part of the ‘Clean Energy for All Europeans package’<sup>21</sup>. To achieve the climate and energy targets and in line with the energy efficiency first principle for climate and energy policy, efficiency improvements will need to be significantly stepped up, to around 36% in terms of final energy consumption by 2030, i.e. in less than a decade<sup>22</sup>. Product requirements should play a significant role towards this target. In line with the Fit for 55 Package, this Regulation should substantially decrease products’ energy footprint.
- (9) The 8<sup>th</sup> Environmental Action Programme<sup>23</sup> also enshrines in a legal framework the Union’s environment and climate objectives, guided by a long-term vision to 2050 of wellbeing for all, while staying within the planetary boundaries. The 8<sup>th</sup> Environmental Action Programme aims to accelerate the green transition to a climate-neutral, sustainable, non-toxic, resource-efficient, renewable energy-based, resilient and competitive circular economy, and at protecting, restoring and improving the state of the environment. It does so, *inter alia*, by identifying enabling conditions to achieve six interlinked priority objectives, which include the transition to a non-toxic circular economy and promoting environmental aspects of sustainability. The full implementation of this Regulation and the delegated acts adopted pursuant to it constitute key enabling conditions for achieving those objectives.
- (10) The European Green Deal also calls for the Union to better monitor, report, prevent and remedy air, water, soil and consumer products pollution. This is translated into

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<sup>18</sup> 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).

<sup>19</sup> 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 ).

<sup>20</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_21\\_3541](https://ec.europa.eu/commission/presscorner/detail/en/IP_21_3541)

<sup>21</sup> 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).

<sup>22</sup> 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).

<sup>23</sup> 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].

action by the EU Action Plan *Towards zero pollution for air, water and soil*<sup>24</sup> and the *Chemicals Strategy for Sustainability*<sup>25</sup>, which calls for embracing the zero pollution goals in production and consumption. 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.

- (11) At the same time, both the European Green Deal and the CEAP recognise that the Union internal market provides a critical mass that can influence global standards in product sustainability and product design in value chains worldwide. This Regulation should therefore also play a significant role towards achieving a number of targets established under the United Nations' Sustainable Development Goals (SDGs) 8 and 12 of the UN's 2030 Agenda for Sustainable Development 'Responsible consumption and production', both in the Union and worldwide. Of particular relevance are target 12.4 (environmentally sound management of chemicals and all wastes throughout their life cycle); target 12.5 (reduction of waste generation through prevention, reduction, recycling and re-use); target 12.6 (encourage companies to adopt sustainable practices and to integrate sustainability information into their reporting cycle); target 12.7 (promote public procurement practices that are sustainable); and target 12.8 (ensure that people everywhere have the relevant information and awareness for sustainable development and lifestyles in harmony with nature).
- (12) 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<sup>26</sup>, 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<sup>27</sup> or the EU green public procurement criteria<sup>28</sup> are broader in scope but have reduced impact due to the limitations of voluntary approaches.
- (13) 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 market, this Regulation will 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.

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<sup>24</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Pathway to a Healthy Planet for All EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil'" (COM(2021)400 final).

<sup>25</sup> 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).

<sup>26</sup> 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).

<sup>27</sup> 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).

<sup>28</sup> [https://ec.europa.eu/environment/gpp/eu\\_gpp\\_criteria\\_en.htm](https://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm)

- (14) To avoid duplication of efforts and regulatory burden, consistency should be ensured between this Regulation and other Union legislation, especially products, chemicals and waste legislation<sup>29</sup>. 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, beyond the rules included in it.
- (15) The proposal for a recast of Directive of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings<sup>30</sup> 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 installations of energy-related products which comply with this Regulation and its delegated acts, provided that such requirements do not constitute an unjustifiable market barrier.
- (16) In order to supplement this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission so that it can adopt ecodesign requirements. These ecodesign requirements should be applicable to specific or several product groups, such as washing machines or washing machines and washer dryers. In addition, such delegated acts should, where relevant, be able to apply to a range of product groups, such as electronic appliances or textiles, to allow for the formulation of ecodesign requirements on common characteristics of those product groups. Those delegated acts and the requirements included in them 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. Once a delegated act is adopted by the Commission, only products that comply with the ecodesign requirements laid down in that delegated act should be placed on the market or put into service.
- (17) Ecodesign requirements should include performance or information requirements in relation to product aspects relevant for sustainability, such as energy efficiency, durability, carbon and environmental footprints.
- (18) When setting ecodesign requirements on specific product groups, the Commission will take due consideration of all aspects of the life cycle of the product and base itself on the best available evidence through impact assessments.
- (19) In order to take into account the diversity of products within the scope of this Regulation, the methods to assess the setting of the ecodesign requirements should be selected and, as appropriate, further developed, based on the nature of the product, its most relevant aspects and its impacts over its life cycle. The choice of methods should take account of the Commission's experience 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)

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<sup>29</sup> 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).

<sup>30</sup> COM (2021) 802 final.

2021/2279<sup>31</sup> as well as the development of standards by the European standardisation organisations, including on the material efficiency of energy-related products. The Commission will develop methods on circularity aspects like upgradability, reusability, ability to be remanufactured, and minimum recycled content and will further develop and reinforce other aspects, like durability, reparability, identification of chemicals hindering re-use and recycling, which are partially already covered by these existing tools and regulations. New approaches are also 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 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 a parameter, non-quantitative requirements that aim to improve performance in relation to a parameter, or requirements related to a product's functional performance to ensure that the selected performance requirements do not negatively impact its functionality from the user's perspective. 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.
- (21) Performance requirements should complement the implementation of Union legislation on waste. While requirements for packaging to be placed on the market and other provisions on packaging and packaging waste are laid down under European Parliament and Council Directive 94/62/EC<sup>32</sup>, performance requirements for products or product groups may complement them in relation to packaging associated with products. This is to contribute in particular to minimising the amount of packaging used, in turn contributing to the prevention of waste generation in the Union.
- (22) In order to protect registered intellectual property rights and trade secrets, there should be no indiscriminate public access to product data. Targeted conditions for access to product data should be set by the relevant delegated acts based on the type of data, their relevance, sensitiveness and the existence of intellectual property rights.
- (23) 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 1907/2006 of the European Parliament and of the Council (REACH)<sup>33</sup>,

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<sup>31</sup> 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.

<sup>32</sup> 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).

<sup>33</sup> 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).

Regulation (EC) No 1223/2009 of the European Parliament and of the Council<sup>34</sup>, Directive 2009/48/EC of the European Parliament and of the Council<sup>35</sup>, Regulation (EC) No 1935/2004 of the European Parliament and of the Council<sup>36</sup> and Regulation (EU) 2017/745 of the European Parliament and of the Council<sup>37</sup>. This Regulation should not enable the restriction of substances based on chemical safety, as done under other Union law. Union law on chemicals, however, does not allow addressing, through restrictions on certain substances impacts on sustainability that are unrelated to chemical safety. To overcome this limitation, this Regulation should allow, under certain conditions, for the restriction of substances present in products or used in their manufacturing processes and which negatively affect products' sustainability primarily for reasons other than chemical safety. 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<sup>38</sup>, 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.

- (24) To improve product sustainability, information requirements should relate to a selected 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 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 parameters. Such information requirements should be set either in addition to, or in place of, performance requirements on the same parameter. The requirement for an EU digital product passport ('product passport') to be available for a product should also be considered an information requirement. Where a delegated act includes information requirements, it should indicate the method of making the required information available, such as its inclusion in a free-access website or in a product label.
- (25) Where delegated acts include information requirements, they may in addition define classes of performance in relation to one or more relevant 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.
- (26) 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

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<sup>34</sup> 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).

<sup>35</sup> 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).

<sup>36</sup> 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).

<sup>37</sup> 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).

<sup>38</sup> 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).

possibilities for their re-use or for recovery once they become waste. The *Chemicals Strategy for Sustainability* calls the presence of substances of concern in products to be minimised, and for availability of information on chemical content and safe use to be ensured, 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<sup>39</sup> 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 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.

- (27) In principle, the information requirements set under this Regulation should include the requirement that a product can only be placed on the market or put into service if a product passport is available. The product passport is an important tool for making information available along the entire value chain and it is expected to be used by all stakeholders, including to provide consumers with access to the information relevant for them. The availability of a product passport can significantly enhance traceability of a product throughout its supply chain, help consumers make informed choices by improving their access to product information, allow other value chain actors such as repairers or recyclers to access relevant information, and enable 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 the label.
- (28) Considering that access to data, quality of data, and traceability of data are all essential to enable circular systems and approaches to value retention and optimisation in product value chains, the product passport should contribute to progressively achieving end-to-end traceability. An efficient traceability system will also facilitate the competent national authorities' task of tracing economic operators who have placed on the market or put into service non-compliant products.
- (29) The product passport should be linked to a unique product identifier. Unique identification of products is a fundamental element to enable traceability across the supply chain. In addition, where appropriate, the passport should allow for the tracing of the actors and manufacturing facilities related to that product.
- (30) The types of permitted data carriers should be specified. This is to ensure that the information contained in the unique identifier can be recorded and transmitted by all

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<sup>39</sup> 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).

economic operators, as well as to guarantee the compatibility of the unique identifier with external components such as scanning devices.

- (31) 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 the products considered. In addition, when preparing product-specific rules the information to be included in the product passport should be carefully examined on a case-by-case basis.
- (32) To optimise access to information while also protecting intellectual property rights, the product passport needs to be designed and implemented allowing differentiated access to information depending on the type of information and the typology of stakeholders.
- (33) 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.
- (34) To ensure the effective roll-out of the product passport, implementing powers should be conferred on the Commission to establish rules for the technical design, data requirements and operation of the product passport, in line with pre-determined principles. Such technical rules should provide a basis for the consistent deployment of the product passport across sectors. To ensure interoperability, technical specifications should be established for the carrying and exchange of data included in the product passport, and these should be based on non-proprietary, global and open standards. The technical design should ensure that the product passport carries data in a secure way, respecting privacy rules.
- (35) Traceability across the value chain should, where possible, be 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.
- (36) 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, in full compliance with the technical rules for the design and operation of the product passport adopted and periodically reviewed by the Commission.
- (37) For enforcement and monitoring purposes, it is 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.
- (38) To drive consumers towards more sustainable choices, labels should, when prescribed 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 discriminate between products based on their performance in relation to a specific parameter or set of 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 relevant delegated act should set out 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. The act could also require the label to be printed on the packaging of the product.

- (39) 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 defined 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.
- (40) It is necessary to prevent the destruction of unsold consumer products, including products that have been returned by a consumer, and products for which the sales contract is terminated as laid down by Directive (EU) 2019/771 of the European Parliament and of the Council<sup>40</sup>. This will reduce the generation of waste, dis-incentivise overproduction and extend the lifetime of products. 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.
- (41) 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, requiring them to disclose information on the number of unsold consumer products destroyed per year, indicating the product type or category, the reasons for their destruction and their subsequent treatment. While economic operators are free to determine how to disclose this information in a manner appropriate to their business environment, it is considered a best practice to include this 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<sup>41</sup> where applicable. To avoid any undue administrative burden on SMEs, they will be exempted from this disclosure obligation. However, in order to tailor the requirements to the product category, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to extend the disclosure obligation to SMEs.
- (42) In order to supplement this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to prohibit the destruction of unsold consumer products, where the destruction of such products is prevalent. Such a prohibition 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 this prohibition 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.

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<sup>40</sup> Directive (EU) 2019/771 of the European Parliament and of the Council of 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. 28).

<sup>41</sup> 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).

- (43) Directive 2009/125/EC provided for the possibility to present voluntary agreements or other self-regulation measures as alternatives to implementing measures under that Directive. However, the possibility to conclude voluntary agreements and have them recognised under Directive 2009/125/EC has been seldom used by industry, with few examples to account for, such as the voluntary agreement on imaging equipment, the voluntary agreement on game consoles and the voluntary agreement on complex set-top boxes (now discontinued). In order to continue encouraging self-regulation as a valid alternative to regulatory approaches, this Regulation should maintain the possibility for industry to develop self-regulation measures. For a self-regulation measure to be recognised as a valid alternative to a delegated act adopted pursuant to this Regulation, the Commission should assess the self-regulation measures along with the information submitted by the signatories and publish a report to the European Parliament and to the Council where it considers the self-regulation valid. It is also appropriate that the Commission be able to request a revised version of the self-regulation measure whenever considered necessary.
- (44) Small and medium-sized enterprises 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 in particular cover footprint calculation methods and the technical implementation of the product passport.
- (45) To deliver in the most efficient way on the European Green Deal's objectives, the Commission should carry out a prioritisation of products to be regulated under this Regulation and requirements that will apply to them. To do so, and 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 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, energy or environmental objectives, but also to the absence of disproportionate costs to the public and companies. Considering their importance to 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 Consultation 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.
- (46) 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. All 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.
- (47) 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.

- (48) It is necessary to ensure that products from third countries entering the Union market comply with the requirements of 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 make sure that the products they place on the market or put into service for their own purposes comply with those requirements and that the CE marking and documentation drawn up by manufacturers are available for inspection by the national authorities. Provision should also be made for importers to make sure, where relevant, that a product passport is available for those products.
- (49) When placing a product on the market or putting it into service for their own purposes, every importer should indicate on the product the importer's name, registered trade name or registered trade mark as well as the postal address and an email address. Exceptions should be provided for in cases where the size of the product does not allow for this. 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.
- (50) As the distributor makes a product available on the market after it has been placed there by the manufacturer or importer, the distributor should act with due care in relation to the applicable ecodesign requirements. It 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.
- (51) Distributors and importers, being close to the market place, should be involved in market surveillance tasks carried out by the national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the product concerned.
- (52) As the dealer offers a product for sale, hire or hire purchase, or displays products to customers or installers, provision should be made 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.
- (53) 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 the label is accessible to customers when considering a purchase, both the dealer and the responsible economic operator should refer to the information in the label whenever advertising the product and ensure that the relevant information is available to customers also in cases of distance selling, including online.
- (54) 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 may be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.

- (55) 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<sup>42</sup> 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<sup>43</sup> 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.
- (56) 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<sup>44</sup> 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 put this cooperation into practice. 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.
- (57) 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 the related 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 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].
- (58) To speed up and facilitate the verification of compliance of products placed on the market, responsible economic operators should, where necessary, be required 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

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<sup>42</sup> 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).

<sup>43</sup> [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)].

<sup>44</sup> 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).

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.

- (59) Ensuring a product's traceability throughout the whole supply chain helps to make market surveillance simpler and more efficient. An efficient traceability system 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.
- (60) To facilitate the collection of adequate and reliable data on the sales of products, this Regulation should allow for the collection of sales data directly from manufacturers or retailers. This should allow for a better estimation of relevant products' market penetration, better inform studies feeding into the drafting or updating of working plans, and help identify the market share of specific product groups in order to speed up the formulation or review of ecodesign requirements.
- (61) To improve future ecodesign requirements, the Commission should have access to products' actual energy consumption while in use. To that end, individual products should, similarly to road vehicles, determine their in-use energy consumption and display it to the end-user. For products connected to the internet, where appropriate, economic operators should 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 geographical conditions, geographical information should also be collected, anonymised and reported.
- (62) Ecodesign requirements set under this Regulation, including on aspects such as energy use or efficiency, durability and reliability, and recycled content, 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, such acts should be able to require the use of online tools reflecting applicable calculation requirements, in order to ensure their harmonised application.
- (63) Several implementing measures adopted under Directive 2009/125/EC currently include a provision aimed at preventing circumvention of the relevant requirements. This Regulation should include a more comprehensive and overarching prohibition of circumvention, applicable to all products covered by ecodesign requirements. This Regulation should prohibit 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.
- (64) Where needed, 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<sup>45</sup> 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 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 standards.

- (65) In the absence of relevant 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 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 such specifications should also give rise to the presumption of conformity.
- (66) In order to enable economic operators to demonstrate, and the competent authorities to verify, that products made available on the market comply with the ecodesign requirements adopted pursuant to this Regulation, it is necessary that the delegated acts adopted pursuant to this Regulation lay down conformity assessment procedures appropriate to the nature of the product and its requirements. Decision No 768/2008/EC of the European Parliament and of the Council<sup>46</sup> establishes modules for conformity assessment procedures, ranging from the least stringent to the most stringent depending on the level of risk involved and the level of safety required. Under Article 4 of that Decision, where conformity assessment is required, the procedures to be used for that assessment are to be chosen from among those modules.
- (67) 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.

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<sup>45</sup> 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).

<sup>46</sup> 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).

- (68) Regulation (EC) No 765/2008 of the European Parliament and of the Council<sup>47</sup> 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 indicates 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, it should allow the delegated acts setting those requirements to include alternative or more specific rules on the declaration of conformity or conformity marking in order to take account of requirements in other legislation applicable to the products covered.
- (69) 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.
- (70) 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.
- (71) 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 relevant differentiated according to the number of bodies notified.

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<sup>47</sup> 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).

- (72) It is essential that all notified bodies perform their functions to the same level and under conditions of fair 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.
- (73) 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.
- (74) 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.
- (75) 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.
- (76) 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.
- (77) 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 authority take corrective action if a notified body does not meet, or no longer meets, the requirements of this Regulation.
- (78) 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.
- (79) 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 resembled 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.

- (80) 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.
- (81) It is essential to ensure efficient exchange of information between notified bodies and market surveillance authorities, including from other Member States. To that end, provision should be made for notifying authorities and notified bodies to ensure follow-up to requests for information from market surveillance authorities.
- (82) 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.
- (83) More sustainable decisions in relation to products are not always the first choice for European market operators and the public due to market, regulatory and behavioural failures. The shift in consumer behaviour towards more sustainability could be limited if the more sustainable products on the market are not affordable enough. The use of incentives can therefore modify consumers' choices. Depending on the product group, incentives may include mechanisms such as eco-vouchers and green taxation. Whenever 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 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.
- (84) Public procurement amounts to 14% of the Union's GDP. Contracting authorities and entities should therefore be required 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, thereby leveraging the weight of public spending to boost the demand for better performing products. 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.
- (85) Robust enforcement of ecodesign requirements is essential to ensure fair 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.
- (86) Regulation (EU) 2019/1020 sets out a horizontal framework for market surveillance and control of products entering the Union market. That Regulation should apply to products for which ecodesign requirements are set pursuant to this Regulation. However, in accordance with Article 2(1) of Regulation (EU) 2019/1020 and the principle of *lex specialis*, its provisions should apply only in so far as there are no specific provisions with the same objective, nature or effect in this Regulation.
- (87) To lower the problematic levels of non-compliance observed for implementing measures adopted under Directive 2009/125/EC, to better prevent non-compliance

with future ecodesign requirements, and taking account of the widened scope and ambition of this Regulation compared to Directive 2009/125/EC, this Regulation should contain targeted enhancements of the framework created by Regulation (EU) 2019/1020. Those targeted enhancements should further strengthen the planning, coordination and support of Member State efforts and provide additional tools to ensure sufficient action is taken to prevent non-compliance with ecodesign requirements.

- (88) 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 for those products or requirements. Where relevant, this action plan may be part of their national market surveillance strategy adopted pursuant to Article 13 of Regulation (EU) 2019/1020.
- (89) 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 at least consider as priorities for market surveillance in the context of their action plans.
- (90) Where problematic levels of non-compliance 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 of the Treaty on the Functioning of the European Union 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.
- (91) Based on data entered into the information and communication system for market surveillance (ICSMS), the Commission should draw up a report containing information on the 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.
- (92) To further strengthen coordination market surveillance authorities, the administrative cooperation group ('ADCO') set up pursuant to Regulation (EU) 2019/1020 will, for the purposes of this Regulation, meet at regular intervals and identify, together with the Commission, 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.
- (93) 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 empowerments included in Regulation (EU) 2019/1020. It should also 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.

- (94) Products should be placed on the market only if they do not present a risk. Considering the specific nature of ecodesign 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, has the potential to 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.
- (95) 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 to adopt acts should be conferred on the Commission to determine whether national measures in respect of non-compliant products are justified or not.
- (96) 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.
- (97) 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<sup>48</sup>. 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.
- (98) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards: (a) establishing the horizontal rules for the technical design and operation of the product passport; (b) establishing horizontal rules for the layout of labels; (c) specifying the details and format for the disclosure of information on unsold consumer products that have been destroyed; (d) laying down, amending or repealing common specifications for ecodesign requirements or for methods for tests, measurement or calculation for the purposes of compliance and verification of compliance with ecodesign requirements; (e) laying down a minimum number of full-time equivalents considered sufficient for the proper monitoring of notified bodies; (cf) requiring a Member State to take corrective action, including withdrawal of the notification, for non-compliant

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<sup>48</sup>

OJ L123, 12.5. 2016, p. 1.

notified bodies; (g) listing the products or requirements that Member States must at least consider as priorities for market surveillance; (h) deciding, pursuant to the Union safeguard procedure, whether a national measure is justified or contrary to Union legislation; and (i) laying down the nature and structure of the exchange of information between the Commission and Member States. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>49</sup>.

- (99) It is necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation.
- (100) 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.
- (101) This Regulation aims to amend and expand the provisions of Directive 2009/125/EC. Since the amendments to be made are of substantial number and nature, that Directive should, in the interests of clarity, be repealed in its entirety. To ensure legal certainty for products that have been placed on the market or put into service before the date of application of this Regulation, in conformity with the applicable measures adopted pursuant to Directive 2009/125/EC, it is important that those implementing measures continue to apply until they are repealed by a delegated act adopted pursuant to this Regulation.
- (102) Since the objectives of this Regulation, namely to improve product sustainability 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 for the setting of ecodesign requirements that products shall fulfil to be placed on the market or put into service.
2. The objectives of this Regulation are to improve product sustainability and to ensure the free movement in the internal market of products for which ecodesign requirements are set.

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<sup>49</sup> 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](#)).

3. 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 an EU 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.
4. This Regulation shall apply to products as defined in Article 2. 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 and veterinary medicinal products as defined in Article 4(1) of Regulation (EU) 2019/6;
  - (d) living plants and animals, products of human origin or 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, including components and intermediate products;
- (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 design of a product and the processes taking place along its supply chain, with the aim of improving the environmental sustainability of the product throughout its entire life cycle;
- (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 parameter listed in Annex I;
- (9) 'information requirement' means a requirement for a product to be accompanied by specified information or that a product passport is available for a product;
- (10) 'supply chain' means all upstream activities and processes of the value chain, up until the final delivery of the product to 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 refurbishment or remanufacturing;
- (12) ‘life cycle’ means the consecutive and interlinked stages of a product’s life including raw material acquisition or generation from natural resources, pre-processing; manufacturing; distribution, including storage; use, including installation, maintenance, repair, 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 parameters referred to in Annex I, ordered into successive steps, for example A to G, to allow for product differentiation;
- (16) ‘Product Environmental Footprint method’ means a life cycle assessment method to quantify the environmental impacts of products, as established by Recommendation (EU) 2021/2279;
- (17) ‘remanufacturing’ means an industrial process in which a product is produced from objects that are waste, products or components where at least one change is made that affects the safety, performance, purpose or type of the product typically placed on the market with a commercial guarantee;
- (18) ‘upgrading’ means enhancing the functionality, performance, capacity or aesthetics of a product;
- (19) ‘refurbishment’ means modifying an object that is waste or a product to increase or restore its performance or functionality or to meet applicable technical standards or regulatory requirements, with the result of making a fully functional product to be used for a purpose that is at least the one that was originally intended, typically tested before placing it on the market or putting it into service;
- (20) ‘maintenance’ means an action carried out to keep a product in a condition where it is able to function as required;
- (21) ‘repair’ means returning a faulty product to a condition where it can fulfil its intended use;
- (22) ‘durability’ means the ability to function as required, under defined conditions of use, maintenance and repair, until a limiting state is reached;
- (23) ‘reliability’ means the probability that a product functions as required under given conditions, including maintenance, for a given duration without a limiting event;
- (24) ‘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 a Product Environmental Footprint study in line with 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<sub>2</sub> 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(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, Bioaccumulative, 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 referred to in Article 5(1) and that is accessible via electronic means through a data carrier;
- (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) ‘facility’ means any location or building involved in the supply chain of a product or used by supply chain actors, or where the product is stored, re-manufactured, recycled or subject to any other physical or chemical transformation during its life cycle;
- (32) ‘supply chain actor’ means any actor that provides supplies intended to be incorporated into a product or services involved in the supply chain of a product;
- (33) ‘unique product identifier’ means a unique string of characters for the identification of products that also enables a web link to the product passport;
- (34) ‘unique operator identifier’ means a unique string of characters for the identification of the manufacturer or of supply chain actors;
- (35) ‘unique facility identifier’ means a unique string of characters for the identification of facilities involved in the manufacturing of products;
- (36) ‘destruction’ means the discarding of a product as waste with the exception of delivering a product for preparing for re-use or remanufacturing operations;

- (37) 'consumer product' means any product, excluding components and intermediate products, primarily intended for consumers as defined by Directive (EU) 2019/771;
- (38) 'unsold consumer product' means any consumer product that has not been sold, and includes consumer products that have been returned by a consumer and for which the sales contract has been terminated as defined in Directive (EU) 2019/771;
- (39) 'self-regulation measure' means a voluntary agreement or other type of self-regulation such as codes of conduct, concluded by industry sectors on their own initiative, which they are responsible for enforcing;
- (40) 'small and medium-sized enterprises' ('SMEs') means small and medium-sized enterprises as defined in Recommendation 2003/361/EC;
- (41) '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;
- (42) 'placing on the market' means the first making available of a product on the Union market;
- (43) 'putting into service' means the first use, for its intended purpose, in the Union, of a product;
- (44) '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 puts it into service for its own purposes;
- (45) '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;
- (46) 'importer' means any natural or legal person established in the Union who places a product from a third country on the Union market;
- (47) '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;
- (48) 'economic operator' means the manufacturer, the authorised representative, the importer, the distributor, the dealer and the fulfilment service provider;
- (49) 'technical specification' means a document that prescribes technical requirements to be fulfilled by a product, process or service;
- (50) 'harmonised standard' means a standard as defined in Article 2(1)(c) of Regulation (EU) No 1025/2012;
- (51) '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;
- (52) 'accreditation' means accreditation as defined in Article 2(10) of Regulation (EC) No 765/2008;
- (53) 'national accreditation body' means a national accreditation body as defined in Article 2(11) of Regulation (EC) No 765/2008;
- (54) 'conformity assessment' means the process demonstrating whether the requirements set out in the relevant delegated acts referred to in Article 5(1) have been fulfilled;

- (55) ‘conformity assessment body’ means a body that performs conformity assessment activities including calibration, testing, certification and inspection;
- (56) ‘notified body’ means a conformity assessment body notified in accordance with Chapter VI of this Regulation;
- (57) ‘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 referred to in Article 5(1);
- (58) ‘dealer’ means a retailer or 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;
- (59) ‘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;
- (60) ‘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 63(1), has the potential to adversely affect the environment or other public interests protected by that requirement;
- (61) ‘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.

For the purposes of this Regulation, the definitions of ‘waste’, ‘hazardous waste’, ‘re-use’, ‘recovery’, ‘preparing for re-use’ and ‘recycling’ laid down in Article 3 of Directive 2008/98/EC shall apply.

For the purposes of this Regulation, the definitions of ‘end-user’, ‘market surveillance’, ‘market surveillance authority’, ‘fulfilment service provider’, ‘online interface’, ‘corrective action’, ‘recall’ and ‘withdrawal’ laid down in Article 3 of Regulation (EU) 2019/1020 shall apply.

### *Article 3* *Free movement*

1. Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products that comply with the ecodesign requirements set out in delegated acts referred to in Article 5(1) on grounds covered by such delegated acts.

The first subparagraph shall not prevent Member States from setting minimum energy performance requirements in accordance with Article 5(1) and system requirements in accordance with Article 11 of [recast of Directive 2010/31/EU].

2. 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 ecodesign requirements relating to the parameters referred to in Annex I, for which a delegated act referred to in Article 5(1) provides that no ecodesign requirement is necessary.
3. Member States shall not prevent the display, for example at trade fairs, exhibitions and demonstrations, of products that do not conform with delegated acts referred to

in Article 5(1), unless there is a visible indication that they may not be placed on the market or put into service until brought into conformity.

#### *Article 4*

##### *Placing on the market or putting into service*

A product covered by a delegated act referred to in Article 5(1) shall only be placed on the market or put into service if it complies with all applicable ecodesign requirements.

## **CHAPTER II - ECODESIGN REQUIREMENTS**

#### *Article 5*

##### *Ecodesign requirements*

1. The Commission is empowered to adopt delegated acts in accordance with Article 64 to supplement this Regulation by establishing ecodesign requirements for or in relation to products. Those delegated acts shall include the elements listed in Annex VI.

The ecodesign requirements established pursuant to the first subparagraph may include:

- (a) performance requirements as set out in Article 6; and
  - (b) information requirements as set out in Article 7. They shall as a minimum include the requirements referred to in Article 7(5) and Chapter III.
2. The delegated acts referred to in paragraph 1 shall establish ecodesign requirements for specific product groups or contain ecodesign requirements that apply to a range of product groups, where those product groups present similarities that allow common ecodesign requirements to be set.
  3. The delegated acts referred to in paragraph 1 may provide that for the product group(s) covered, it is not necessary to establish ecodesign requirements for one or more of the parameters referred to in Annex I.
  4. Where appropriate, delegated acts referred to in paragraph 1 may lay down requirements applicable to public contracts as set out in Article 56.
  5. In preparing a delegated act referred to in paragraph 1, the Commission shall:
    - (a) with due consideration of all stages of a product's lifecycle, assess the possibility to set ecodesign requirements on the following aspects:
      - (i) product durability and reliability;
      - (ii) product reusability;
      - (iii) product upgradability;
      - (iv) product reparability;
      - (v) ease of maintenance and refurbishment of products,
      - (vi) the presence of substances of concern in products;
      - (vii) energy use or energy efficiency of products;
      - (viii) resource efficiency of products;
      - (ix) recycled content in products;

- (xii) ease of remanufacturing and recycling of products, including high-quality recycling;
  - (xiii) ease of recovery of materials or energy from products;
  - (xiii) environmental impacts of products, including their carbon and environmental footprints;
  - (xiv) expected generation of waste materials of products, including packaging and its ease of re-use.
- (b) carry out an impact assessment based on best available evidence and analyses, and on additional studies as necessary;
  - (c) take into account the following elements:
    - (i) Union climate, environmental and energy priorities and other relevant Union priorities;
    - (ii) relevant Union legislation, including the extent to which it addresses the relevant product aspects;
    - (iii) self-regulation measures, as provided in Article 17;
    - (iv) relevant national environmental legislation.
  - (d) ensure that the depth of analysis of product aspects is proportionate to their significance. The adoption of ecodesign requirements on the significant environmental aspects of a product shall not be unduly delayed by uncertainties regarding the other aspects;
  - (e) make use of any 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;
  - (f) take into account the views expressed by the Ecodesign Forum and by the Member State expert group established pursuant to Article 66.
6. Delegated acts referred to in Article 5(1) 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) the health and safety of persons shall not be adversely affected;
  - (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, including SMEs;
  - (e) in principle, the setting of an ecodesign requirement shall not lead to proprietary technology being imposed on manufacturers or other economic actors; and
  - (f) no disproportionate administrative burden shall be imposed on manufacturers.
7. The delegated acts referred to in paragraph 1 may require supply chain actors to:

- (a) provide, upon request, manufacturers, notified bodies and competent national authorities with all available information related to their supplies or services that is relevant for compliance with ecodesign requirements;
  - (b) allow, in the absence of such information, manufacturers to assess the supplies or services in light of such compliance and support that assessment by giving access to relevant documents or facilities;
  - (c) enable notified bodies and competent national authorities to verify the correctness of information related to their activities relevant for compliance with ecodesign requirements and support that verification.
8. Ecodesign requirements shall be formulated in a way that allows market surveillance authorities to verify the conformity of a product with these requirements. The delegated acts referred to in Article 5(1) may identify appropriate means of verification for specific ecodesign requirements, including directly on the product or on the basis of the technical documentation.
9. The Commission shall publish relevant studies and analyses used in preparing delegated acts referred to in Article 5(1), taking into account in particular easy access and use by interested SMEs.

#### *Article 6*

##### *Performance requirements*

1. Performance requirements shall be laid down with respect to the product aspects listed in point (a) of Article 5(5) as appropriate for the product groups concerned. To that end, the Commission shall select parameters referred to in Annex I and set the related performance requirements in accordance with the procedure set out in Annex II.
2. Performance requirements may include:
- (a) minimum or maximum levels in relation to a specific parameter listed in Annex I or a combination thereof;
  - (b) non-quantitative requirements that aim to improve performance in relation to parameters referred to in Annex I;
  - (c) requirements related to the functional performance of a product to ensure that performance requirements related to the parameters referred to in Annex I, do not negatively impact the ability of the product to perform the function for which it was designed and marketed.
3. Performance requirements in relation to Annex I, point (f), shall not restrict the presence of substances in products for reasons relating primarily to chemical safety.

#### *Article 7*

##### *Information requirements and classes of performance*

1. Information requirements shall be laid down with respect to the product aspects listed in point (a) of Article 5(5) as appropriate for the product groups.
2. Information requirements may require products to be accompanied by:
- (a) information on the performance of the product in relation to parameters referred to in Annex I, as appropriate to the relevant products;

- (b) 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 parameters referred to in Annex I, such as:
  - (i) 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 the product at end-of-life; and
  - (ii) information for treatment facilities on disassembly, recycling, or disposal at end-of-life.
- 3. Information requirements in relation to 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. Where information is required on the performance of the product in relation to one or more parameters referred to in Annex I, delegated acts referred to in Article 5(1) may define classes of performance.

Classes of performance shall facilitate the comparison between products on the basis of their performance in relation to one or more relevant parameters. The classification steps shall correspond to statistically significant improvements in performance levels.

This shall be without prejudice to energy labelling requirements and energy classes defined in delegated acts adopted pursuant to Regulation (EU) 2017/1369.

- 5. Delegated acts referred to in Article 5(1) shall include information requirements to enable the tracking of all substances of concern throughout the lifecycle of the products covered therein, unless this is already regulated in another delegated act covering the products concerned. Such requirements shall include information on, but not limited to:
  - (a) the name of the substances of concern present in the product;
  - (b) their location within the product;
  - (c) their concentration, maximum concentration or concentration range, 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.

To this end, the relevant delegated act shall:

- (a) define which substances fall under point (c) of Article 2(29) for the purposes of the product groups covered;
- (b) lay down deadlines for the entry into application of these requirements, with possible differentiation between substances; and
- (c) in duly justified cases related to, for instance, the technical feasibility, technical relevance of tracking or confidential business information, list substances of concern or information elements that are exempted. Substances that fall under point (a) of Article 2(29) shall not be exempted 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 modalities for making the required information available. These may include information:
- (a) on the product itself;
  - (b) on the product's packaging;
  - (c) in the product passport in line with Article 8;
  - (d) on a label in line with Article 12;
  - (e) in a user manual;
  - (f) on a free access website or application.

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

### CHAPTER III - EU DIGITAL PRODUCT PASSPORT

#### *Article 8*

#### *EU digital product passport*

1. Delegated acts referred to in Article 5(1) shall provide that the products covered can only be placed on the market or put into service if a product passport is available in accordance with Articles 9 and 10.

Requirements related to the product passport shall be designed to:

- (a) to ensure that actors along the value chain, including consumers, economic operators and competent national authorities, can access product information relevant to them;
  - (b) improve traceability of products along the value chain; and
  - (c) facilitate the verification of product compliance by competent national authorities.
2. The delegated act referred to in Article 5(1) shall, as appropriate for the product groups covered, specify:
- (a) the information to be included in the product passport pursuant to Annex III, including for consumers, economic operators and competent national authorities;
  - (b) the type or 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 should 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 modify the information in the product passport, including where needed the creation of a new product passport, and what information they may introduce or modify, 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. Delegated acts referred to in Article 5(1) may exempt product groups from the requirement set out in paragraph 1 of this Article where technical specifications are not available in relation to the essential requirements included in Article 10 or they are not adequate in light of the specificities of the value chain of a product group.

Delegated acts referred to in Article 5(1) may provide that compliance with Union law related to the digital provision of product information is considered to fulfil the conditions laid down in paragraph 1.

### *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 referred to in Article 5(1);
  - (c) the data carrier and the unique product identifier shall be released in accordance with International Organization for Standardisation/International Electrotechnical Commission standard ('ISO/IEC') 15459:2015 or equivalent, including harmonised standards or parts thereof, the references of which have been published in *the Official Journal of the European Union* for this purpose, or common specifications referred to in Article 34 which meet the essential requirements of Article 10;
  - (d) all information included in the product passport shall be written in an open, standard, inter-operable format and shall be machine-readable, structured, and searchable, in accordance with the essential requirements included in Article 10;
  - (e) the information included in the product passport shall refer to the product model, batch, or item as specified in the applicable delegated act referred to in Article 5(1);
  - (f) the access to information included in the passport shall be regulated in accordance with the essential requirements included in Article 10. The specific access rights at product group level will be identified in the applicable delegated act referred to in Article 5(1).
2. 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 in case they cannot physically access the product. The economic operator shall do so free of charge, promptly and in any event within 5 working days of the dealer's request.

3. The Commission may set up and maintain a central registry storing the list of all data carriers and unique identifiers created in line with one of the delegated acts referred to in Article 5(1).

#### *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 referred to in Article 5(1), across all product groups, including in relation to the technical, semantic and organisational aspects of inter-operability, 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;
- (c) the data included in the product passport shall be stored or processed by the economic operator responsible for its introduction or by intermediary operators on their behalf;
- (d) if the data included in the product passport is stored or processed by intermediary operators, these operators shall not be allowed to sell, re-use, arrange, compile, combine, copy, reproduce or grant access to, in whole or in part such data, 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 the applicable delegated act referred in Article 5(1), including after the bankruptcy, the liquidation or the cessation of activity in the Union of the economic operator that created it;
- (f) the rights to access and to introduce or modify information in product passport shall be restricted based on the access rights specified in the applicable delegated act referred in Article 5(1);
- (g) data authentication, reliability, integrity shall be assured;
- (h) product passports shall be designed and operated to ensure a high level of security and privacy, and to avoid fraud.

#### *Article 11*

##### *Unique operator or facility identifiers*

1. Where a delegated act referred to in Article 5(1) requires the inclusion in the product passport of a unique operator or facility identifier, it shall be released in accordance with the ISO/IEC standard 15459:2015 or equivalent, including harmonised standards or parts thereof, the references of which have been published in *the Official Journal of the European Union* for that purpose, or common specifications referred to in Article 34, which meet the essential requirements of Article 10.
2. Where a delegated act referred to in Article 5(1) requires the inclusion in the product passport of information referred to in Annex III, point (h), and no unique operator identifiers have been released for the relevant supply chain actors, they may be requested on their behalf.

Before the registration the consent of the supply chain actors concerned shall be sought to ensure there is not an existing identifier. The supply chain actors concerned shall be informed about the full details of the registration, including the allocated unique operator identifiers.

3. Where a delegated act referred to in Article 5(1) requires the inclusion in the product passport of information referred to in Annex III, point (i), and no unique facility identifier allowing the identification of the geographical location of the facility is released they may be requested on their behalf.

Before the registration the consent of the supply chain actors responsible for the relevant facilities shall be sought to ensure there is not an existing facility identifier. The supply chain actors concerned shall be informed of the full details of the registration, including the allocated unique facility identifier.

4. In case the economic operator, supply chain actors or facility concerned already has a unique identifier, those identifiers may be used for the purposes of paragraphs 1, 2 and 3 if they are based on the ISO/IEC standard 15459:2015 or equivalent, including harmonised standards or parts thereof, the references of which have been published in *the Official Journal of the European Union* for that purpose, or common specifications referred to in Article 34 which meet the essential requirements of Article 10.

## CHAPTER IV - LABELS

### *Article 12*

#### *Labels*

1. Where a delegated act referred to in Article 5(1) requires specific information to be made available on a label pursuant to point (d) of Article 7(6), it shall provide the appropriate requirements. Those requirements shall include:
  - (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 of Article 25 and the implications for the relevant economic operators, such as:
    - (i) attached to the product, where no damage is caused to it;
    - (ii) on the packaging;
    - (iii) provided in an digital format; or
    - (iv) displayed online;
  - (d) where appropriate, electronic means for generating labels.
2. Where a delegated act referred to in Article 5(1) requires the inclusion in a label of the class of performance of a product defined pursuant to Article 7(4), the layout of the label referred to in point (b) of paragraph 1 shall enable customers to easily compare product performance in relation to the relevant parameter and to choose higher performing products.

Delegated acts referred to in Article 5(1) shall not require the inclusion in a label of the class of performance of a product defined pursuant to Article 7(4) in relation to

energy-related products for which a delegated act has been adopted under Regulation (EU) 2017/1369.

3. Delegated acts referred to in Article 5(1) may require the label to include data carriers or other means to allow customers to access additional information on the product, including those allowing access to the product passport referred to in Article 8(1).
4. The Commission may adopt implementing acts establishing horizontal rules for the layout of the labels referred to in point (b) of paragraph 1.  
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(3).

*Article 13*  
*Mimicking labels*

For products not required to have a label, economic operators shall not supply or display labels which mimic the labels provided for under point (d) of Article 7(6).

*Article 14*  
*Language of product information*

The information to be supplied pursuant to Article 7 and to be included in the product passport referred to in point (a) of Article 8(2) shall be provided in a language which can be easily understood by consumers and other end-users as determined by the Member State on which market the product is to be made available.

**CHAPTER V - PRIORITISATION, PLANNING AND CONSULTATION**

*Article 15*  
*Prioritisation and planning*

1. When prioritising products to be considered for delegated acts referred to in Article 5(1), the Commission shall take into account the following criteria:
  - (a) potential contribution to achieving Union climate, environmental and energy objectives;
  - (b) the potential for improving the product aspects listed in point (a) of Article 5(5) without entailing disproportionate costs, taking into account in particular:
    - (i) the absence or insufficiency of other relevant Union legislation or failure of market forces or self-regulation measures adopted in accordance with Article 17 to address the issue properly; and
    - (ii) the disparity in the performance of products available on the market with equivalent functionality in relation to the criteria set out in points (a) and (b);
  - (c) the volume of sales and trade of the product within the Union;
  - (d) the distribution of the environmental impacts, energy use and waste generation across the value chain;
  - (e) the need to regularly review and adapt delegated acts referred to in Article 5(1) in light of technological and market developments.

2. 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 Article 5(1). This list shall also include products aspects for which the Commission intends to adopt delegated acts pursuant to Article 5(1) covering a range of product groups. The working plan shall cover at least 3 years.

When establishing or updating the working plan, the Commission shall take into account the criteria set out in paragraph 1 and shall consult the Ecodesign Forum referred to in Article 16.

#### *Article 16 Ecodesign Forum*

The Commission shall ensure that when it conducts its activities, it observes, in respect of each delegated act referred to in Article 5(1), a balanced participation of Member States' representatives and all interested parties involved with the product or product group in question, such as industry, including small and medium-sized enterprises and craft industry, trade unions, traders, retailers, importers, environmental protection groups and consumer organisations. These parties shall contribute in particular to defining and reviewing delegated acts referred to in Article 5(1), 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 17 Self-regulation measures*

1. Two or more companies may propose self-regulation measures to the Commission on establishing ecodesign requirements for products as an alternative to delegated acts referred to in Article 5(1).
2. The self-regulation measure shall contain:
  - (a) a list of the companies that are signatories to the measure;
  - (b) ecodesign requirements applicable to products covered by this measure, to achieve the objectives of this Regulation set out in Article 1(2);
  - (c) a detailed, transparent and objective monitoring plan, with clearly identified responsibilities for industry and independent inspectors, including the requirements set out in Annex VII, point 6; and
  - (d) rules on information to be reported by signatories and on testing and inspections, so as to verify that the signatories comply with the measure.

The proposed self-regulation measure shall be accompanied by an explanatory note to demonstrate:

- (a) how the self-regulation measure will achieve the objectives of this Regulation set out in Article 1(2) quickly or at a lesser expense than the delegated act referred to in Article 5(1), as evidenced by a technical, environmental and economic analysis;
- (b) supported by evidence, the market coverage of its signatories, which shall be at least 80 % of units placed on the market or put into service of the type of products covered by the measure;

- (c) supported by evidence where appropriate, compliance with the requirements for self-regulation measures set out in Annex VII.

The information referred to in this paragraph shall be kept up-to-date.

3. For a self-regulation measure to be considered a valid alternative to a delegated act referred to in Article 5(1), the signatories of the self-regulation measure shall send that measure and the information referred to in paragraph 2 to the Commission.
4. The Commission shall assess the self-regulation measure at least based on the criteria set out in Annex VII. Where it considers the self-regulation measure to be a valid alternative to delegated acts referred to in Article 5(1), it shall publish a report and submit it to the European Parliament and to the Council.
5. The Commission may request the signatories of a self-regulation measure to submit a revised version of the measure at any point, for instance in view of relevant market or technological developments within the product group concerned.

In such cases, the signatories shall re-submit the information referred to in paragraph 2, updated where relevant, to the Commission, which shall be subject to the assessment referred to in paragraph 4.

6. Once a self-regulation measure has been considered a valid alternative to delegated acts referred to in Article 5(1), the signatories shall regularly report to the Commission, at an interval set in the report referred to in paragraph 4, on the progress towards achieving the objectives of the self-regulation measures.

#### *Article 18*

##### *Small and medium-sized enterprises*

1. In the context of programmes that small and medium-sized enterprises (SMEs) can benefit from, the Commission shall consider awarding a priority to those SMEs that manufacture or otherwise intervene in the value chains of products covered by delegated acts referred to in Article 5(1) in order to help them comply with relevant requirements or seize the opportunities stemming from those requirements.
2. Delegated acts referred to in Article 5(1) may be accompanied by guidelines covering specificities of SMEs active in the product or product group sector affected. If necessary, the Commission may produce further specialised material to make it easier for SMEs to apply this Regulation, including assistance in calculating the environmental footprint of their products.
3. Member States shall take appropriate measures to help SMEs implement ecodesign requirements set out in delegated acts referred to in Article 5(1), and especially those related to the product passport and the calculation of the product environmental footprint.

These 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, such measures may include:

- (a) financial support, including by giving fiscal advantages and providing physical and digital infrastructure investments;
- (b) better access to finance;
- (c) specialised management and staff training;

- (d) organisational and technical assistance.

## CHAPTER VI - DESTRUCTION OF UNSOLD CONSUMER PRODUCTS

### *Article 19*

#### *Destruction of unsold consumer products*

1. An economic operator that discards unsold consumer products, including when doing so 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; and
  - (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 this information on a freely accessible website or otherwise make it publicly available until a delegated act starts applying to the category of unsold consumer products destroyed by the operator in question, in accordance with paragraph 2.

The obligation referred to in the first subparagraph shall not apply to small and medium sized - enterprises. However, the Commission is empowered to adopt a delegated act in accordance with Article 64 to extend the obligation to small and medium sized enterprises.

The Commission may adopt implementing acts specifying the details and format for the disclosure of the information referred to in the first subparagraph, including the type or category and how this information is to be verified.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(3).

2. Economic operators shall not intentionally damage unsold consumer products with a view to destroying them.
3. In order to prevent the generation of waste, the Commission shall be empowered to adopt delegated acts in accordance with Article 64 to prohibit economic operators to destroy unsold consumer products in the Union.
4. The delegated acts referred to in paragraph 2 may define exemptions to the prohibition to ensure it does not have a disproportionate negative effect on economic operators, allowing the destruction of unsold consumer products:
  - (a) in view of health and safety concerns;
  - (b) in view of damage to such products;
  - (c) in case the product has been refused for donation, preparing for re-use or remanufacturing; or
  - (d) by small- and medium-sized enterprises.
5. Where unsold consumer products are destroyed under an exemption pursuant to paragraph 3, the responsible economic operator shall disclose on a freely accessible website:

- (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.

This obligation shall not apply to small and medium-sized enterprises, unless such obligations are introduced by way of a delegated act under the third subparagraph of paragraph 1.

The details and format for the disclosure of information provided in the implementing act referred to in the fourth subparagraph of paragraph 1 shall apply to the information to be disclosed pursuant to this paragraph, unless the applicable delegated act referred to in paragraph 2 provides otherwise.

## CHAPTER VII - OBLIGATIONS OF ECONOMIC OPERATORS

### *Article 20*

#### *Obligations of manufacturers*

1. When placing products covered by a delegated act referred to in Article 5(1) on the market or putting them into service for their own purposes, manufacturers shall ensure that:
  - (a) they have been designed and manufactured in accordance with the requirements set out in the applicable delegated acts;
  - (b) they are accompanied by any information required by the applicable delegated acts in line with the modalities prescribed in those acts and that this information is accurate and complete;
  - (c) a product passport is available in line with the applicable requirements;
2. Before placing a product covered by a delegated act referred to in Article 5(1) on the market or putting it into service for their own purposes, manufacturers shall draw up the required technical documentation and carry out the conformity assessment procedure specified in the applicable delegated acts referred to in Article 5(1), or have it carried out on their behalf.

Where compliance of a product with the applicable requirements has been demonstrated by that procedure, manufacturers shall draw up an EU declaration of conformity in accordance with Article 36 and affix the CE marking in accordance with Article 38.

Delegated acts referred to in Article 5(1) may include alternative or more specific rules on the declaration of conformity or markings indicating conformity with the applicable requirements in order to take account of rules in other Union legislation applicable to the relevant products and to prevent overlaps or confusion.

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 for a manufacturer's own purposes. Delegated acts referred to in Article 5(1) 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. 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 and, in case the product's conformity is affected, shall trigger a re-assessment in accordance with the relevant conformity assessment procedure.
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 it, that the required information is provided on the packaging or in a document accompanying the product. Delegated acts referred to in Article 5(1) may specify how the required information shall be provided for the products in their scope.
6. Manufacturers shall indicate on the product their name, registered trade name or registered trade mark, the postal address and email address 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

Delegated acts referred to in Article 5(1) may specify how the required information shall be provided for the products in their scope.

7. Manufacturers shall ensure that the product is accompanied by relevant instructions, such as those needed to enable consumers and other end-users 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 include at least the information specified in the delegated acts referred to in Article 5(1) pursuant to point (ii) of Article 7(2)(b).
8. Manufacturers who consider or have reason to believe that a product covered by a delegated act referred to in Article 5(1) that they have placed on the market or put into service is not in conformity with the requirements set out in the applicable delegated act shall immediately take the necessary corrective measures to bring that product into conformity, to withdraw it or recall it, if appropriate.

They 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 it with 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.

They shall cooperate with that authority, including following a reasoned request, making sure that the immediate, necessary, corrective action is taken to remedy any case of non-compliance with the delegated act applicable to the product in question.

*Article 21*  
*Authorised representatives*

1. A manufacturer may, by a written mandate, appoint an authorised representative.  
The obligations laid down in Article 20(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 referred to in Article 5(1) has been placed on the market or put into service;
  - (b) cooperate with the competent national authorities, at their request, on any measures taken to eliminate 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, including technical documentation, in a language that can be easily understood by that authority and make available relevant documents within 10 days of receipt of a request by a market surveillance authority;
  - (d) terminate the mandate if the manufacturer acts contrary to its obligations under this Regulation and the relevant delegated act referred to in Article 5(1).

*Article 22*  
*Obligations of importers*

1. Importers shall only place on the market or put into service for their own purposes products covered by a delegated act referred to in Article 5(1) that comply with the requirements set out in the applicable delegated acts.
2. Before placing a product covered by a delegated act referred to in Article 5(1) on the market or putting it into service for their own purposes, 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) the product is accompanied by any information required by the applicable delegated acts in line with the modalities prescribed in those acts;
  - (c) a product passport is available in line with the applicable requirements;

The importer shall further ensure that the product bears the required CE marking referred to in Article 37 and is accompanied by the required documents, and that the manufacturer has complied with the requirements set out in Article 20(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 referred to in Article 5(1), 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, the postal address and email address 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.

Delegated acts referred to in Article 5(1) may specify how the required information shall be provided for the products in their scope.

4. Importers shall ensure that the product is accompanied by relevant instructions, such as those needed to 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 referred to in Article 5(1) pursuant to point (ii) of Article 7(2)(b).
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 the applicable delegated acts.
6. Importers who consider or have reason to believe that a product covered by a delegated act referred to in Article 5(1), which they have placed on the market or put into service, is not in conformity with the requirements set out in the applicable delegated acts shall immediately take the corrective measures necessary to bring that product into conformity, to withdraw it or recall it, if appropriate.

They 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 the applicable delegated act pursuant to Article 20 (3), 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.

They shall cooperate with that authority, including following a reasoned request, making sure that the immediate, necessary, corrective action is taken to remedy any case of non-compliance with the delegated act applicable to the product in question.

### *Article 23*

#### *Obligations of distributors*

1. When making a product covered by a delegated act referred to in Article 5(1) available on the market distributors shall act with due care in relation to the requirements set out in the applicable delegated acts.
2. Before making a product covered by a delegated act referred to in Article 5(1) available on the market, distributors shall verify that:

- (a) the product bears the CE marking in accordance with Article 38 and, where relevant, is labelled or is linked to a product passport in accordance with the applicable delegated acts;
  - (b) the product is accompanied by the required documents and by instructions, such as those needed 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 specified in the delegated acts referred to in Article 5(1) pursuant to point (ii) of Article 7(2)(b);
  - (c) the manufacturer and the importer have complied with the requirements set out in Article 20(5) and (6) and Article 22(3).
3. Where a distributor considers or has reason to believe that such a product or its manufacturer is not complying with the requirements set out in the applicable delegated acts, 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 the applicable delegated acts.
  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 the applicable delegated acts shall make sure that the corrective measures necessary to bring that product into conformity, to withdraw it or recall it, if appropriate, are taken.  
  
They 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.  
  
They shall cooperate with that authority, including following a reasoned request, making sure that the immediate, necessary, corrective action is taken to remedy any case of non-compliance with the delegated acts applicable to the product in question.

*Article 24*  
*Obligations of dealers*

1. Dealers shall ensure that their customers have access to any relevant information required by the delegated acts referred to in Article 5(1) pursuant to Article 7, including in case of distance selling.
2. Where relevant, dealers shall ensure that the product passport is easily accessible to customers, including in case of distance selling, as specified in the relevant delegated act pursuant to point (e) of Article 8(2).
3. Where relevant, dealers shall:

- (a) display to customers, in a visible manner, including for online distance selling, the label provided in accordance with Article 25(2) or (3);
- (b) 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 referred to in Article 5(1);
- (c) not provide or display other labels, marks, symbols or inscriptions that might mislead or confuse customers with respect to the information included on the label.

#### *Article 25*

##### *Obligations related to labels*

1. This Article shall apply in case the delegated act referred to in Article 5(1) requires products to have a label pursuant to point (d) of Article 7(6)
2. 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 accurate printed labels in accordance with the relevant delegated act.  

Delegated acts referred to in Article 5(1) may provide that the label is printed on the packaging of the product.
3. 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.
4. 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.
5. 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 referred to in Article 5(1);
  - (b) not provide or display other labels, marks, symbols or inscriptions that might mislead or confuse customers with respect to the information included on the label.

#### *Article 26*

##### *Obligations of fulfilment service providers*

Fulfilment service providers shall ensure that, for products covered by a delegated act referred to in Article 5(1) that they handle, the conditions during warehousing, packaging, addressing or dispatching, do not jeopardise the products' compliance with the requirements set out in the applicable delegated acts.

## Article 27

### *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 the manufacturer under Article 20, where they:

- (1) place a product covered by a delegated act referred to in Article 5(1) on the market under their name or trademark;
- (2) modify such a product already placed on the market in such a way that compliance with the applicable requirements may be affected.

## Article 28

### *Obligations of online marketplaces and online search engines*

1. The cooperation referred to in Article 7(2) of Regulation (EU) 2019/1020 shall, 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) cooperating with law enforcement agencies at national and Union level, including the European Anti-Fraud Office, through the 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 (data scraping), allowing them 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) [...] on a Single Market for Digital Services (Digital Services Act) and amending Directive 2000/31/EC, online marketplaces shall design and organise their online interface in a way that enables dealers to fulfil their obligations set out in Article 24 and allows economic operators to fulfil their obligations under Article 29(3) 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 referred to in Article 5(1) 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 this information, and shall inform dealers of the obligation to display 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 referred to in Article 5(1), 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 contain a statement of reasons and specify one or more exact uniform resource locators and, where necessary, additional information enabling the identification of the illegal content concerned.

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 referred to in Article 5(1).

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].

### *Article 29*

#### *Information obligations of economic operators*

1. Delegated acts referred to in Article 5(1) may require manufacturers, their authorised representatives or importers to make parts of the technical documentation related to the relevant product digitally available to the Commission and market surveillance authorities without request, in order to facilitate the verification of compliance with the applicable requirements.

If so, the delegated act shall specify the means through which the relevant information shall be made available.

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 covered by a delegated act referred to in Article 5(1);
  - (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. Delegated acts referred to in Article 5(1) may specify a period longer or shorter than 10 years to take account of the nature of the relevant products or requirements.

3. 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) 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.

### *Article 30*

#### *Monitoring and reporting obligations of economic operators*

1. Delegated acts referred to in Article 5(1) may require manufacturers, their authorised representatives or importers to make available information on the quantities of a product covered by those delegated acts placed on the market or put into service in the Union over a specified period of time and differentiated per product model.

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

If so, the delegated acts shall specify the means through which the relevant information shall be made available and its periodicity.

2. Delegated acts referred to in Article 5(1) may require the product placed on the market to be able to measure the energy it consumed or its performance in relation to other relevant parameters referred to in Annex I, while in use. If so, the product shall record the resulting in-use data and make it visible to the end-user.
3. For products covered by a requirement referred to in paragraph 2, economic operators placing those products on the market shall:

- (a) collect the in-use data in so far as it can be accessed remotely via the internet, unless the end-user expressly refuses to make that data available;
- (b) anonymise the data collected under point (a) and report it to the Commission. 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 delegated act referred to in Article 5(1) shall specify the details and format for reporting the in-use data as referred to in point (b).

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

## **CHAPTER VIII - CONFORMITY OF PRODUCTS**

### *Article 31*

#### *Test, measurement and calculation methods*

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 be in conformity with any test, measurement and calculation requirements set out in the relevant delegated acts referred to in Article 5(1).

Delegated acts referred to in Article 5(1) may require the use of online tools to ensure the harmonised application of calculation methods.

### *Article 32*

#### *Circumvention*

1. Economic operators shall not place on the market or put into service for their own purposes products designed to alter their behaviour or properties when they are tested

in order to reach a more favourable result for any of the parameters regulated in the relevant delegated act referred to in Article 5(1). This shall include, but is not limited to, 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.

2. Economic operators 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 parameters regulated in the relevant delegated act referred to in Article 5(1). This shall include, but is not limited to, prescribing a manual alteration of the product before a test that alters the performance of the product.
3. Economic operators shall not place on the market or put into service for their own purposes products 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 parameters regulated in the relevant delegated act referred to in Article 5(1) 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 parameters regulated in the relevant delegated act referred to in Article 5(1) or the functional performance from the perspective of the user when measured with the original testing method, 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 referred to in Article 5(1) applicable at the time of the placing on the market or putting into service of the product.

### *Article 33*

#### *Presumption of conformity*

1. Methods for tests, measurement or calculation for the purposes of compliance and verification of compliance with ecodesign requirements 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 reliable, accurate and reproducible. In addition, those methods shall be presumed to be in conformity with the test, measurement and calculation requirements set out in the relevant delegated acts referred to in Article 5(1) to the extent that those requirements are covered by such harmonised standards or parts thereof.
2. Products covered by a delegated act referred to in Article 5(1) 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 the relevant delegated acts referred to in Article 5(1) to the extent that those requirements are covered by such harmonised standards or parts thereof.
3. Products covered by a delegated act referred to in Article 5(1) which have been awarded the EU Ecolabel pursuant to Regulation (EC) No 66/2010<sup>50</sup> shall be presumed to comply with the ecodesign requirements of the relevant delegated acts

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<sup>50</sup> 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).

referred to in Article 5(1) in so far as those requirements are covered by the EU Ecolabel criteria.

#### *Article 34*

##### *Common specifications*

1. The Commission may adopt implementing acts laying down common specifications for ecodesign requirements, including the essential requirements referred to in Article 10, or for methods for tests, measurement or calculation for the purposes of compliance and verification of compliance with ecodesign requirements, where:
  - (a) it has requested one or more European standardisation organisations to draft a harmonised standard in relation to a 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 those requirements or methods are covered.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(3).

2. Methods for testing, measurement or calculation for the purposes of compliance and verification of compliance with ecodesign requirements which are in conformity with common specification or parts thereof shall be presumed to be reliable, accurate and reproducible. In addition, they shall be presumed to be in conformity with the test, measurement and calculation requirements set out in the relevant delegated acts referred to in Article 5(1) to the extent that those requirements are covered by such common specification or parts thereof.
3. Products covered by a delegated act referred to in Article 5(1) which are in conformity with common specifications or parts thereof shall be presumed to be in conformity with the requirements set out in the relevant delegated acts referred to in Article 5(1) to the extent that those requirements are covered those common specifications or parts thereof.

#### *Article 35*

##### *Conformity assessment*

1. Delegated acts referred to in Article 5(1) shall, based on the criteria set out in Article 4(1) of Decision No 768/2008/EC and the nature of the ecodesign requirements concerned, specify the applicable conformity assessment procedures from among the module set out in Annex IV and the modules described in Annex II to Decision No 768/2008/EC.

Delegated acts may amend, add or further specify the steps of the relevant module as appropriate to the product or ecodesign requirements concerned.

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 36*  
*EU declaration of conformity*

1. The EU declaration of conformity shall state that the fulfilment of requirements specified in the applicable delegated acts referred to in Article 5(1) 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 referred to in Article 5(1). 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 referred to in Article 5(1) 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 37*  
*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 38*  
*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.

## CHAPTER IX - NOTIFICATION OF CONFORMITY ASSESSMENT BODIES

### *Article 39* *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 referred to in Article 5(1).

### *Article 40* *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 45.
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 41. 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 41* *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 precise legal body applying. 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 40(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 65(3).

#### *Article 42*

##### *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 43*

##### *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 national law 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 be independent of any and all business ties with organisations that have an interest in the products it assesses, in particular manufacturers, their trade partners or 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 under the relevant delegated act referred to in Article 5(1) 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 potentially conflicting loyalty obligation, 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 harmonised decision-making;
- (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 referred to in Article 5(1);

- (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 referred to in Article 5(1), 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 44*

##### *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 43 in so far as the applicable harmonised standards cover those requirements.

#### *Article 45*

##### *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 43 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 43(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 referred to in Article 5(1).

#### *Article 46*

##### *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 43(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 43. 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 referred to in Article 5(1).
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 43.

#### *Article 47*

##### *Notification procedure*

1. Notifying authorities only notify conformity assessment bodies which have satisfied the requirements laid down in Article 43.
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 46(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 43.
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 48(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 43.

7. The Commission and the other Member States shall be notified of any subsequent relevant changes to the notification.

#### *Article 48*

##### *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 49*

##### *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 43, 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 50*

##### *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 65(2).

The Commission shall update the list of notified bodies referred to in Article 48(2) within 2 weeks of the implementing act being adopted.

#### *Article 51*

##### *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 referred to in Article 5(1).
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 52*

##### *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 43 or its obligations; or
    - (b) a product placed on the market does not comply with the relevant delegated acts referred to in Article 5(1); 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 53*  
*Exchange of experience*

The Commission shall provide for the organisation of exchange of experience between the Member States' authorities responsible for notification policy.

*Article 54*  
*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 referred to in Article 5(1) 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 referred to in Article 5(1). 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 55*

#### *Member State incentives*

Where Member States provide incentives for a product covered by a delegated act referred to in Article 5(1) that defines classes of performance, pursuant to Article 7(4), in relation to one parameter listed in Annex I, those incentives shall aim at the highest two populated classes of performance at EU level or, where relevant, at products with an EU Ecolabel, unless otherwise specified in that delegated act.

Where a delegated act referred to in Article 5(1) defines classes of performance, pursuant to Article 7(4), in relation to more than one parameter listed in Annex I, it may indicate in relation to which parameter this Article shall be implemented.

Where classes of performance are defined under Regulation (EU) 2017/1369 and under this Regulation in relation to an energy-related product, Article 7(2) of Regulation (EU) 2017/1369 shall apply.

### *Article 56*

#### *Green public procurement*

Where requirements are set pursuant to Article 5(4) 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, they may include technical specifications, selection criteria, award criteria, contract performance clauses, or targets, as appropriate, and shall be based on the parameters referred to in Annex I, regulated in the relevant delegated act.

Where such requirements are established pursuant to Article 5(4), the relevant delegated act may lay down how the implementation of the requirements shall be monitored and reported by Member States.

## CHAPTER XI - MARKET SURVEILLANCE

### *Article 57*

#### *Market surveillance action plans*

1. Without prejudice to Article 13 of Regulation (EU) 2019/1020, each Member State shall, at least every two 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 referred to in Article 5(1). 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 point (a) of Article 60(1) 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 65(2).

#### *Article 58*

##### *Minimum number of checks*

1. The Commission is empowered to adopt delegated acts in accordance with Article 64 supplementing 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 referred to in Article 5(1) or in relation to specific requirements set out in such delegated acts, in order to ensure checks are performed on a scale adequate to safeguard the effective enforcement of ecodesign requirements. The delegated act may, where relevant, specify the nature of the checks required and methods to be used.

In adopting delegated acts, the Commission shall take account of the criteria listed in paragraph 2, the activities planned in Member States' action plans, the common priorities identified by the administrative cooperation group pursuant to point (a) of Article 60(1) and, where relevant, the priorities included in the implementing acts referred to in paragraph 5.
2. Market surveillance authorities shall have the right to recover from the supplier the costs of document inspection and physical product testing in case of non-compliance with delegated acts referred to in Article 5(1).

#### *Article 59*

##### *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 two years, draw up a report by 30 June containing information on the nature and number of checks performed, 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 referred to in Article 5(1). The report shall be 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 report shall include:

- (a) a comparison of this information with the activities planned in the context of the action plans drawn up pursuant to Article 57(1);
- (b) indicative benchmarks for market surveillance authorities in relation to the frequency of checks and the nature and severity of penalties imposed.

The Commission shall publish the report 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 60*

##### *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 57(1) and shall identify:

- (a) common priorities for market surveillance as referred to in point (a) of Article 57(1), based on objective criteria as referred to in Article 57(3);
- (b) priorities for Union support pursuant to paragraph 2;
- (c) requirements set out in delegated acts referred to in Article 5(1) that are applied or interpreted differently that should be priorities for the organisation of common trainings or adoption of guidelines pursuant to paragraph 2.

2. Based on priorities identified in consultation with 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 referred to in Article 5(1) 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 referred to in Article 5(1), including common practices and methodologies for effective market surveillance.
  - (e) The Union shall, where appropriate, finance the actions referred to in point (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 61*

#### *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 referred to in Article 5(1) presents 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 referred to in Article 5(1), 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 referred to in Article 5(1); or
  - (b) shortcomings in the harmonised standards or common specification referred to in Articles 33 and 34 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 62*

##### *Union safeguard procedure*

1. Where, on completion of the procedure set out in Article 61(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 65(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 33 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 34, 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 65(3).

#### *Article 63*

##### *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 38 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 38 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 20(6) or Article 22(3) is absent, false or incomplete;
  - (h) any other administrative requirement provided for in Article 20 or Article 22 or in the applicable delegated act referred to in Article 5(1), 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 64*

##### *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 Articles 5(1), 19(1), third subparagraph, 19(2), and 58(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 Articles 5(1), 19(1), third subparagraph, 19(2), and 58(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 the Member State Expert Group established pursuant to Article 66, acting in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. For delegated acts adopted pursuant to Article 5(1), the consultation of the Member State Expert Group shall take place after the consultation pursuant to Article 16.
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 Articles 5(1), 19(1), third subparagraph, 19(2), and 58(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 may be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 65*

##### *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.

#### *Article 66*

##### *Member State Expert Group on Ecodesign*

1. The Commission shall establish a Member State Expert Group on Ecodesign (the 'Member State Expert Group') consisting of experts from each Member State.
2. The Member State Expert Group shall:
  - (a) advise the Commission on the adoption of delegated acts in the context of the consultation referred to in Article 64(4);
  - (b) express views, in accordance with point (f) of Article 5(5), on the preparation of the delegated acts referred to in Article 5(1).
3. The Member State Expert Group shall be chaired by the Commission and constituted in accordance with the horizontal rules on the creation and operation of Commission expert groups.

## CHAPTER XIV - AMENDMENTS TO REGULATION (EU) 2019/1020

### *Article 67*

#### *Amendments to Regulation (EU) 2019/1020*

In Annex I to Regulation (EU) 2019/1020, the following point is added to the list of Union harmonisation legislation:

“70a. Regulation of the European Parliament and of the Council on ecodesign for sustainable products, amending Regulation (EU) 2019/1020 and repealing Directive 2009/125/EC (OJ... L..., p...)\*.

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\* [Regulation of the European Parliament and of the Council on ecodesign for sustainable products, amending Regulation (EU) 2019/1020 and repealing Directive 2009/125/EC (For the Publications Office to fill in the OJ publication details)]”

## CHAPTER XV - FINAL PROVISIONS

### *Article 68*

#### *Penalties*

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must 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 those provisions to the Commission 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 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 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, as amended by the Directive listed in Annex VIII, Part A, is hereby repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directive set out in Annex VIII, Part B.
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 IX.

3. Implementing measures adopted under Directive 2009/125/EC shall remain applicable and shall, for the purposes of this Regulation, be considered as delegated acts referred to in Article 5(1).

For those implementing measures, scope exemptions included in Article 1 of Directive 2009/125/EC shall continue to apply.

4. 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 referred to in Article 5(1) of this Regulation and covering the same product groups, the manufacturer shall, for a period ending 10 years after the final unit was manufactured, make an electronic version of documentation relating to the conformity assessment performed and the declaration of conformity issued 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 20th day following 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*  
*The President*

*For the Council*  
*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 on ecodesign 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<sup>51</sup>

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 product sustainability 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 an EU 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
- 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:

<sup>51</sup> As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

In terms of improved products environmental sustainability and access to sustainability information along the supply chain

- 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.

In terms of incentives to more sustainable products and business models

- 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

In terms of improved application of sustainable product legislative framework

- 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 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:

In terms of improved products environmental sustainability and access to sustainability information along the supply chain

- Number of product groups covered by delegated acts pursuant to Article 5
- Estimated change in Pollutants and Greenhouse Gas (GHG) emissions 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)

In terms of incentives to more sustainable products and business models

- 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.

In terms of improved application of sustainable product legislative framework

- 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 Article 5(1). 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 details and 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 implementing acts will be adopted after thorough assessment of impacts and consultation of stakeholders, in line with Better Regulation guidelines.

Delegated acts on product sustainability 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 economic operators. 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 policies 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 EU 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.

- The preparation of up to 2 implementing acts and horizontal tasks related to support to market surveillance and the circular business hub.

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 12,5 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	12,5	24	23	21	20	19
SPI new products	0	16	21,5	23,5	25,5	28,5
Digital product passport	0,5	2	2	2	2	2
Support to market surveillance	0,5	0,5	2	2	2	2
Support to customs control	0	1,5	2	2	2	2
Circular business models hub	0	0	0,5	0,5	0,5	0,5
Total	13,5	44	51	51	52	54

In the Impact Assessment report, different administrative setups have been envisaged to implement the new legislative framework.

An option is to delegate some of the activities to an external agency, including for example contract/studies management, some technical support to stakeholders,

standardisation activities and support to the product passport. The ability to delegate a significant portion of the work to an agency should however not be overestimated as most of the work currently done by the European Commission under ecodesign is already related to core policy work that cannot be delegated. Only work that is currently subcontracted could be to a large extent delegated to an agency. On that basis, the estimated number of FTEs needed to implement the SPI does not warrant the overhead costs linked to the setting up of an agency. However, the mandate of an existing agency could be modified to add this function. This option was not considered mature enough to be retained in this financial statement, but further analysis could be done in time for the mid-term review of the multiannual financial framework.

Another 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. In that context, the delegation of some of the workload to an agency could remain a possibility, mainly for the type of activities that are currently sub-contracted. 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. In the context of this financial statement, this option was not considered substantially different to the current situation in terms of resources needed. It could be further explored during the implementation of the new legislation.

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 for all FTEs in 2022), and 3 additional END are requested as from 2023, both to facilitate the phasing-in in permanent staff, from 28,5 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 Consultation 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 central 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;]
- 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€ per year would be needed from 2023 to 2027 and from entry into operations an annual maintenance fee of 160 k€.

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<sup>52</sup>**

**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.*

Comments

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<sup>52</sup> 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>

## 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 Consultation 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.

### 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. <sup>53</sup>	from EFTA countries <sup>54</sup>	from candidate countries <sup>55</sup>	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 <sup>56</sup>	NO <sup>6</sup>	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

<sup>53</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>54</sup> EFTA: European Free Trade Association.

<sup>55</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans.

<sup>56</sup> 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)
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DG: GROW		Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	Year 2027 and following	TOTAL
• Operational appropriations								
Budget line <sup>57</sup> 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	8,777	23,338
Budget line	Commitments (1b)							
	Payments (2b)							
Appropriations of an administrative nature financed from the envelope of specific programmes <sup>58</sup>								
Budget line	(3)							
<b>TOTAL appropriations for DG GROW</b>	=1a+1b +3	3,402	4,056	3,770	3,370	4,370	4,370	23,338
	=2a+2b +3	1,021	2,237	3,709	3,764	3,830	8,777	23,338

<sup>57</sup>

According to the official budget nomenclature.

<sup>58</sup>

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.

• 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	8,777	23,338
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes	Commitments	(6)							
	Payments								
<b>TOTAL appropriations under HEADING 1 of the multiannual financial framework</b>	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	8,777	23,338

EUR million (to three decimal places)

<b>Heading of multiannual financial framework</b>	<b>Number</b>	<b>Heading 3 (Natural Resources and the Environment)</b>
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DG: ENV			Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	Year 2027 and following	TOTAL
			• Operational appropriations						
Budget line <sup>59</sup> 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	7,328	17,444
Budget line 09.02.02 LIFE Circular economy and quality of life <sup>60</sup>	Commitments	(1b)	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
	Payments	(2b)	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.

<sup>59</sup>

According to the official budget nomenclature.

<sup>60</sup>

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 EU 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 2023-2027, while a maintenance fee of 0.160 million EUR will be needed annually thereafter.

Appropriations of an administrative nature financed from the envelope of specific programmes <sup>61</sup>									
Budget line		(3)							
<b>TOTAL appropriations for DG ENV</b>	Commitments	=1a+1b+3	2,276	2,948	2,180	2,680	3,680	3,680	17,444
	Payments	=2a+2b+3	0,683	1,567	2,449	2,637	2,780	7,328	17,444

DG: ENER			Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	Year 2027 and following	TOTAL
• Operational appropriations									
Budget line <sup>62</sup> 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	12,725	25,218
Budget line	Commitments	(1b)							
	Payments	(2b)							
Appropriations of an administrative nature financed from the envelope of specific programmes <sup>63</sup>									
Budget line		(3)							
	Commitments	=1a+1b+3	1,622	1,596	4,250	5,250	6,250	6,250	25,218
	Payments	=2a+2b	0,487	0,965	2,403	3,488	5,150	12,725	25,218

<sup>61</sup>

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.

<sup>62</sup>

According to the official budget nomenclature.

<sup>63</sup>

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.



<b>Heading of multiannual financial framework</b>	<b>7</b>	<b>'Administrative expenditure'</b>
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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 updated to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	Year 2027 and following	TOTAL
DG: GROW							
• Human resources	0,360	1,704	2,292	2,446	2,523	2,640	11,965
• Other administrative expenditure	0,005	0,005	0,096	0,097	0,097	0,090	0,390
<b>TOTAL DG GROW</b>	0,365	1,709	2,388	2,543	2,620	2,730	12,355
	Appropriations						

	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	Year 2027 and following	TOTAL
DG: ENV							

• Human resources	0,360	1,738	2,209	2,363	2,520	2,640	11,830
• Other administrative expenditure	0,005	0,005	0,097	0,096	0,097	0,090	0,390
<b>TOTAL DG ENV</b>	0,365	1,743	2,306	2,459	2,617	2,730	12,220
	Appropriations						

	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	Year 2027 and following	TOTAL
DG: ENER							

• Human resources	0,360	2,052	2,206	2,206	2,206	2,206	2,206	11,236
• Other administrative expenditure	0,005	0,005	0,097	0,097	0,096	0,090	0,390	
<b>TOTAL DG ENER</b>	0,365	2,057	2,303	2,303	2,302	2,296	11,626	
Appropriations								

	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	Year 2027 and following	TOTAL
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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
<b>TOTAL DG TAXUD</b>	0,000	0,236	0,314	0,314	0,314	0,314	1,492
Appropriations							

<b>TOTAL appropriations under HEADING 7</b> of the multiannual financial framework	(Total commitments = Total payments)	1,095	5,745	7,311	7,619	7,853	8,070	37,693
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EUR million (to three decimal places)

	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	Year 2027 and following	TOTAL
<b>TOTAL appropriations under HEADING 1 to 7</b> of the multiannual financial framework	8,395	14,345	17,511	18,919	22,153	22,370	103,693
Commitments	3,285	10,515	15,871	17,509	19,613	36,900	103,693
Payments							

### 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	Type <sup>64</sup>	Average cost	OUTPUTS					TOTAL					
			Year 2022	Year 2023	Year 2024	Year 2025	Year 2026		Year 2027 and following				
↓		€	€	€	€	€	€	€					
SPECIFIC OBJECTIVE No 1 <sup>65</sup> Improve products environmental sustainability and access to sustainability information along the supply chain													
- Output	Delegated acts (reviews)	0,300	-	-	2,100	6	1,800	5	1,500	5	1,500	23	6,900
- Output	Delegated acts (new products)	0,800	-	-	3,200	4	4,800	4	3,200	12	9,600	26	20,800
- Output	Implementing acts (market surveillance, unsold goods)	1,000	-	-	1,000	1	1,000	1	1,000			3	3,000
Subtotal for specific objective No 1			-	-	6,300	12	7,600	10	5,700	17	11,100	52	30,700

Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).  
As described in point 1.4.2. 'Specific objective(s)...'

<sup>64</sup>  
<sup>65</sup>

SPECIFIC OBJECTIVE No 2		Incentivise more sustainable products and business models to improve value retention																
- Output	Support to Circular Business Hub	0,500 per year	-	-	-	-	1	0,500	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	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	9	9,000	27	27,000	
Subtotal for specific objective No 3			-	-	-	3	3,000	6	6,000	9	9,000	9	9,000	9	9,000	27	27,000	
<b>TOTALS</b>			-	-	-	16	9,800	20	14,100	20	15,200	27	20,600	83	59,700			

### 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 and following	TOTAL
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<b>HEADING 7 of the multiannual financial framework</b>							
Human resources	1,080	5,730	7,021	7,329	7,563	7,800	36,523
Other administrative expenditure	0,015	0,015	0,290	0,290	0,290	0,270	1,170
<b>Subtotal HEADING 7 of the multiannual financial framework</b>	<b>1,095</b>	<b>5,745</b>	<b>7,311</b>	<b>7,619</b>	<b>7,853</b>	<b>8,070</b>	<b>37,693</b>

<b>Outside HEADING 7<sup>66</sup> of the multiannual financial framework</b>							
Human resources							
Other expenditure of an administrative nature							
<b>Subtotal outside HEADING 7 of the multiannual financial framework</b>							

<b>TOTAL</b>	<b>1,095</b>	<b>5,745</b>	<b>7,311</b>	<b>7,619</b>	<b>7,853</b>	<b>8,070</b>	<b>37,693</b>
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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.

<sup>66</sup> 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
<b>• Establishment plan posts (officials and temporary staff)</b>						
20 01 02 01 (Headquarters and Commission's Representation Offices)	0	28,5	38	42	44	45
20 01 02 03 (Delegations)						
01 01 01 01 (Indirect research)						
01 01 01 11 (Direct research)						
Other budget lines (specify)						
<b>• External staff (in Full Time Equivalent unit: FTE)<sup>67</sup></b>						
20 02 01 (AC, END, INT from the 'global envelope')	13,5	15,5	13,0	9,0	8,0	9,0
20 02 03 (AC, AL, END, INT and JPD in the delegations)						
<b>XX 01 xx yy zz</b> <sup>68</sup>	- 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)						
<b>TOTAL</b>	<b>13,5</b>	<b>44,0</b>	<b>51,0</b>	<b>51,0</b>	<b>52,0</b>	<b>54,0</b>

**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] with additional allocations to be granted to the managing DGs under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	<p><u>For desk officers:</u></p> <p>Preparation of external contracts to support preparatory studies, impact assessment, assessment of harmonised standards (terms of reference or AA, evaluation, monitoring)</p> <p>Supervision of preparatory, review studies or other studies in preparation of the working plan, implementing acts, delegated acts</p> <p>consultation of the Consultation Forum, consultation of WTO, internal adoption procedure,</p>
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<sup>67</sup> AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

<sup>68</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

	<p>follow-up to delegated acts including standardisation mandate, monitoring and publication of harmonised standards,</p> <p>guidance to industry in implementation and to market surveillance authorities in surveillance activities</p> <p>contribution to horizontal tasks including evaluation of results, presentation of the legislation to stakeholders, preparation of briefings, correspondence...</p> <p><u>for assistants:</u></p> <p>organisation of meetings (agendas, invitations, administrative follow-up, minutes, registry of expert groups)</p> <p>decision procedures (Decide entries, calls for evidence, committees, preparation of documents including legal editing, requests for translation and publication)</p> <p>financial procedures (preparation of management plan, of calls for tender or service orders or AAs, evaluations, requests for commitments and payments, reporting)</p>
External staff	<p>Supervision of preparatory, review studies or other studies in preparation of the working plan, implementing acts, delegated acts</p> <p>consultation of the Consultation Forum, consultation of WTO,</p> <p>follow-up to delegated acts including standardisation mandate, monitoring and publication of harmonised standards,</p> <p>guidance to industry in implementation and to market surveillance authorities in surveillance activities</p> <p>contribution to horizontal tasks including evaluation of results, presentation of the legislation to stakeholders, correspondence...</p>

### 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 budget lines supporting policy implementation, under Headings 1 and 3 of the MFF. No reprogramming 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 <sup>69</sup>	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								

<sup>69</sup> 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 <sup>70</sup>						
		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).

<sup>70</sup>

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.