



Industry Joint Paper on the legislative proposal on Empowering Consumers for the Green Transition and proposed amendments in the European Parliament and in the Council

27/03/2023

Our core messages:

1. **We are in favour of consistency with the ESPR and Substantiating Green claims:** Amendments to this legislation should be discussed and evaluated in parallel to the changes discussed in the Ecodesign for Sustainable Products Regulation proposal and the future requirements in the Commission’s proposal on Substantiating green claims and on the Right to Repair. The topics largely overlap, we need to shape a robust and clear legal framework where obligations are divided among the different laws and the market and authorities easily know which law to look at for each type of obligation.
2. **We are against a fragmented EU single market:** The introduction of a procedure for the mutual recognition of national sustainability labels and national sustainability information tools based on minimum requirements at EU level, as proposed by the Parliament, will lead to a fragmented Single Market. We believe the Single Market should not be weakened but reinforced instead.
3. **We object the introduction of multiple and overlapping sustainability labels:** We are concerned that consumers will be exposed to an information overload. Integrating some of the proposed information in the DPP under the ESPR could mitigate this.

Proposed amendments to the Consumer Rights Directive

Definitions must be consistent across different EU laws: We believe it is not beneficial to introduce differences in definitions between the Sale of Goods, the ESPR and the Consumer’s rights directive. It is key to use definitions and concepts in a consistent manner, so that requirements and obligations are clear and easy to understand. Different wording can result in different obligations, creating a messy patchwork of overlapping rules and diverse obligations that is difficult to understand, interpret, apply and enforce. We propose building on the existing definitions in the Sales of Goods Directive and in the ESPR (e.g., for the definition of ‘durability’).

Information requirements on commercial guarantees and introduction of a label of guaranteed lifetime should be reconsidered: The Commission’s proposal foresees that

the duration of the commercial guarantee for durability should be stated at the point of sale when it exceeds two years, making a link to duration of the EU legal guarantee. The European Parliament proposes to introduce a label for guaranteed lifetime.

We caution against a systematic confusion between terms and obligations as regards the legal guarantee and the commercial guarantee.

Consumers are already exposed to many pieces of information, there is a risk that consumers may ignore important information such as on product safety or energy performance of the product. Integrating some of the information in the Digital Product Passport (DPP) under the ESPR could address this issue.

Sustainability Index/labels, Repair Index/labels should not be addressed here: We do not support the European Parliament proposals to introduce multiple new information requirements, imposing also sustainability labels:

- We are concerned that consumers will be exposed to an information overload. Integrating some of the information in the DPP under the ESPR could mitigate this.
- A reparability score is already being introduced in a number of Ecodesign energy-related products (e.g. smartphones and tablets) and a possible horizontal delegated act is already discussed in the ESPR framework regulation. A careful coordination between files is indispensable.

Information about the future availability of spare parts is already addressed in ESPR:

We would suggest limiting information obligations to the existing and future obligations for spare parts in the current and future Ecodesign provisions (ESPR). Additional obligations in other pieces of legislation creates confusion and complexity for the market and authorities.

We question whether claims regarding the availability of spare parts can be easily enforced against all economic actors (manufacturers and importers) for all products already on the first day of placing on the EU market, when the obligation applies.

Information on repair should be made available before entering into a contract: As suggested by the Czech Presidency, we agree that the consumer, before being bound by the contract, should be informed of the existence and the conditions of after-sales services, including repair services, where such services are provided or are required by law in the product specific legislation.

Pre-approval schemes for sustainability labels and sustainability information tools should be dealt with under the Green Claims proposals: The European Parliament proposals introduce pre-approval procedures for sustainability labels or sustainability information.

As clearly stated by the Commission in a public debate in the European Parliament (IMCO Committee), pre-approval procedures are not in the scope of this proposed legislation. We agree that the Parliament proposals overlap with the rules to be introduced by the future legislative proposal on Substantiating Green Claims.

We believe that all proposals regarding sustainability labels and certifications should be put on hold to seek consistency with the future Green claims legislative proposal via joint discussions as it happens in other legislative files where coordination is required (e.g., ETS with CBAM).

Mutual recognition of national tools fragments the EU Single market: The introduction of a procedure for the mutual recognition of national sustainability labels and national

sustainability information tools based on minimum requirements at EU level, as proposed by the Parliament, will not be enough to fix the current fragmentation of the Single Market. In some countries national labels will simply fulfil the minimum requirements, while in other countries national labels may go significantly beyond them. As a result, each Member State will have different content requirements, labels will not be directly comparable, and companies, in particular SMEs, will face additional burden and cost to access parts of the EU single market. As suggested by the European Commission, this topic is out of scope in this proposal. A set of fully harmonised labelling and information schemes are part of the solution and should be covered by the coming legislative proposal on Substantiating Green Claims.

Digital means should be preferred: We believe the new and multiple labelling requirements proposed by the European Parliament will be extremely difficult to fulfil, especially if they are also required in a printed version or on the product or its packaging. We recommend that the digital format is always preferred where possible. This reduces the impact on the environment (e.g., lengthy manuals that need to be added to the product) and reduces the administrative burden on companies, allowing them to invest resources in the actual sustainability of their product.

Harmonised pictograms should be encouraged: Where instead the information should be provided in printed form, the use of pictograms should be encouraged by the legal text. As proposed by the Czech Presidency, we believe that the consumer should be informed (e.g., about the absence of a commercial guarantee) using a Union harmonised graphic format in accordance with Annex of the proposal.

Proposed amendments to the Unfair Commercial Practices Directive

Certification scheme for sustainability labels overlaps with Green Claims proposals:

In Annex I, the proposed prohibition of sustainability labels that are not based on a certification system or established by authorities overlaps with the rules to be introduced by the future legislative proposal on Substantiating Green Claims.

We recommend that all proposals regarding sustainability labels and certification should be put on hold and that policy makers should ensure consistency with the Green Claims legislative proposal via joint discussions, as is the case in other legislative files where coordination is required (e.g., ETS and CBAM).

General alignment with the ESPR is needed: More generally, we consider that requirements in product specific regulations or methodologies to be developed in horizontal measures under the ESPR will improve the clarity and the transparency of processes and will hopefully in many cases result in better substantiated declarations made under the UCPD and less misleading practices towards consumers. It is fundamental that the concepts and requirements of ESPR, CRD and UCPD align.

List of co-signatories

EGMF – www.egmf.org

EFIC – www.efic.eu

EHI – www.ehi.eu

EHPA – www.ehpa.org

EIHA – www.eiha-infrared.com

EPEE – www.epeeglobal.org

EPTA – www.epta.eu

EUHA – www.euha-alliance.eu

EUnited – www.eu-nited.net

EUROVENT – www.eurovent.eu

FESI – www.fesi-sport.org

LightingEurope – www.lightingeurope.org

TIE – www.toyindustries.eu