Brussels, 23 December 2020

Orgalim comments to the 2020 public consultation on the review of the Construction Products Regulation

Commission Online survey

Introduction

Following up on the conclusions of the evaluation of the EU Construction Products Regulation (CPR) published in 2019, the European Commission has identified five different policy options for how to improve the functioning of the EU market for construction products.

It is important to understand the preferences and expected impacts of the policy options from as many relevant and interested stakeholders as possible. We are inviting you to share your insights, facts and expectations in this public consultation survey. Your input is highly valuable in order to contribute to the evolution and design of the EU legislation on construction products.

The survey consists of two parts: the first part focuses on some background information about you / your organisation, and the second part focuses on the policy options and the impacts you expect them to have. If you are responding as an individual in your personal capacity, you will be able to choose if you wish to respond to a shorter CPR-related questionnaire of a more general nature, or if you wish to respond to a longer, more detailed CPR-related questionnaire that requires a certain level of prior knowledge of the CPR.

If you encounter any issues or have questions regarding the questionnaire, please feel free to contact Copenhagen Economics and the Danish Technological Institute on: CPRsurvey@dti.dk (Copenhagen Economics and the Danish Technological Institute are part of the external contractor in charge of the supporting study commissioned by the European Commission for the assessment of the impacts of future options).

Thank you for your participation.

About you

Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.

Design of detailed survey

5 main policy options have been defined by the European Commission. Policy option C contains three different elements that can either be implemented alone or in combination with each other. Policy option D comes in two different versions, D1 and D2.

A) Baseline: No revision of the CPR, improvements to be made under the current rules and available

mechanisms

B) Repairing the CPR: Option A + improvements to be made by revising various aspects of the CPR

C) Focusing the CPR: Option B +

- C1) Limit the CPR to testing methods, and/or
- C2) Limit the CPR to core areas, and/or
- C3) Make the Common Technical Language optional for manufacturers

D) Enhancing the CPR: Option B + introduction of a thin layer of general product requirements applicable to all or almost all construction products, and subsequent gradual introduction of detailed product requirements for specific products via one of two possible approaches

- D1) Essential product requirements defined in Commission legal acts + voluntary standards
- D2) Product requirements defined in Commission legal acts, co-prepared with CEN and other stakeholders

E) Repealing the CPR: The general EU Mutual recognition principle applies for construction products

We have broken down the policy options into **13 distinct CPR-related elements**. In the following, we ask you, for each of these 13 elements, to select **your most and your least preferred variant** with regard to that element (labelled as "Best" and "Worst").

You also have the **option to skip each of these 13 elements** to which you prefer to not provide any input.

Following your selection of most and least preferred variants, we will ask you to estimate how you think your selected variants will impact your organisation and/or the EU market for construction products in general.

Please remember to save your answer responses frequently to avoid them being lost!

Element 1: Scope of EU harmonisation

The scope of EU harmonisation refers to the level of harmonisation between all products covered by the CPR. Currently, the harmonisation consists in the Common Technical Language for assessing construction product performance. Changes in the CPR can either reduce or increase the scope of harmonisation of construction products in the Single Market.

* Do you wish to provide input regarding **Scope of EU harmonisation**?

- ● Yes
- ○ No

Please select the variants that you like best and worst

	Best	Worst
Variant A) No legislative change, current level of EU harmonisation, continued information efforts where and when needed about the CPR's scope.	●	○
Variant B) Variant A + Eliminate confusion about the scope of the CPR, for example by excluding some products where there is little need for regulation, little intra-EU trade and little safety or environmental concern. It would also explicitly include certain products where there currently is confusion about whether a product is covered or not (e.g. modules, kits and assemblies).	○	○
Variant C1) Variant B + Limit the CPR's scope to assessment methods only. No performance threshold levels or classes would be laid down at EU level.	○	○
Variant C2) Variant B + Limit the CPR's scope to core areas only: i) Where Member States have similar regulatory needs ii) Where there are relevant environmental or safety concerns related to the products iii) Where it is relevant for the market in other ways. Mutual recognition applies for non-core areas.	○	○
Variant C3) Variant B + Make it optional for manufacturers to use the Common Technical Language, and Member States may regulate alternative paths to market access not based on the Common Technical Language. However, Member States must offer market access to manufacturers that do use the Common Technical Language.	○	○

	Best	Worst
Variant D1 and D2) Variant B + Continue the current Common Technical Language approach, but gradually complementing it with proper EU-level product requirements. Minimum harmonisation would be the rule, full harmonisation the exception.	○	○
Variant E) Repeal the CPR: No EU-level harmonisation, mutual recognition applies but no Common Technical Language to express construction product performance.	○	●
I do not know/Indifferent	○	○

Comments:

The Common Technical Language is a great achievement of the CPR. It allows free circulation of construction products based on hENs and EADs in the internal market, while respecting the right of Member States to define (if necessary) the relevant characteristics and performances of products, in order for construction works to comply with national requirements regarding safety, environment, etc.

The scope of the CPR must respect the fact that construction products in general have no detached function in construction works. Together with other products they form part of a technical solution for the performance of the construction work. It is the variety of construction products and product performances which allows the design and realisation of the most economic, sustainable and durable construction work according to the applicable local conditions and restrictions. Whereas individual product limitations can be implemented (e.g. via standardisation requests in the scope of the harmonised standard(s) a limitation or extension of the scope of the CPR could have wider-reaching detrimental effects.

CPR current acquis needs to be adjusted to the reality of the CPR and potentially revised options. Nevertheless, this should be done in an incremental fashion with the objective of building on the current foundation. The main objective to be achieved should be the elimination of the hENs backlog and the establishment of a legal procedure providing legal certainty while retaining the bottom-up and technical features of the current process to develop technical specifications.

Solutions:

- Binding rules and criteria – start process of negotiation with potential amendments of the JIS 5 and soon to be published CEN "Core rules for hENs" guidelines with the objective of a formal endorsement by the European Commission.
- New and revised standardisation requests – need detailed lists of characteristics with specific references to Annex ZA.
- New standardisation requests should allow product definition outside the existing constraints.
- A revised process in CEN for hENs for enhanced quality controls based on the criteria and the deliverables specified in the standardisation requests. A parallel faster process for CEN to revise hENs

Criteria for technical specifications to be harmonised and cited should be part of the legal text of a revised CPR. From the suggested options for solutions it is expected that significant improvements to the current situation in all dimensions can be developed based on variant A.

Element 2: CE marking and Declaration of Performance (DoP)

The Declaration of Performance (DoP) provides information on the performance of a construction product – it is a standardised document that must include a set of pre-defined characteristics of the product, no more, no less. The CE marking indicates that a construction product is in conformity with its declared performance and that it has been assessed according to a European standard or that a European Technical Assessment has been issued for the product. Each construction product covered by a European harmonised standard or for which a European Technical Assessment has been issued needs to have this Declaration and has to be CE marked in order to be placed on the EU market.

*Do you wish to provide input regarding **CE marking and Declaration of Performance (DoP)**?

- ● Yes
- ○ No

Please select the variants that you like best and worst

	Best	Worst
Variant A) No legislative change but continued promotion of the CE marking and DoPs through information/communication efforts	●	○
Variant B) Variant A + Clarify and eliminate information overlaps with DoP. Allow preliminary CE marking when standards are in the pipeline (valid for a limited time period). Make it possible to declare additional characteristics in the DoP.	○	○
Variant C2) Same as Variant B, but only applicable to the core areas of the CPR. For products outside the core areas, no CE marking or obligation to draw up or communicate a DoP.	○	○
Variant C3) Same as Variant B, but CE marking and DoP is only allowed for manufacturers that use the Common Technical Language. If the Common Technical Language is not used, it is not allowed to use a CE mark or a DoP, or any document that could be mistaken for a DoP.	○	○
Variant D1 and D2) Variant B + mandatory CE marking for products covered by EU product requirements (even if they are not covered by national regulation on construction works). DoP supplemented or replaced by a Declaration of Conformity with product requirements.	○	○
Variant E) Repeal the CPR: No CE marking or obligation to draw up or communicate a DoP for construction products	○	●
I do not know/Indifferent	○	○

Comments:

For Orgalim, priority should be given to ensuring that the standards developed in CEN are as comprehensive as possible, and appropriate for Member States' requirements. If this is the case, there will be no need for additional requirements nationally and thus no need for further actions. This requires the revision of the standardisation requests to update them to the market and Member States' needs. While we support pre-emptive dialogue, we do not support enhanced legalisation through new judicial infringements procedures. We need further clarification on the meanings of "ex-ante processes".

There is clearly a need to eliminate the overlap of information in the CE marking and to digitalise information. However, preliminary CE marking of construction products and allowing additional (non-harmonised) characteristics in the DoP would not contribute to understanding and trusting the system.

Proposing preliminary CE marking does not consider the situation in which an issue is identified (e.g. related to the reliability of the assessment method) which could even require the withdrawal of the preliminary CE marking after the product has been installed. The proposal therefore bears considerable liability risks along the supply chain which can neither be laid upon manufacturers, designers nor contractors, who followed the rules valid at the time of their decisions. The risks would ultimately rest with the owner, who will not accept these.

We expect a positive impact on sustainability, durability and environmental issues when BWR7 is in place.

Element 3: Standardisation process

The standardisation process refers to the process of adapting and adding standards under the framework of the Construction Products Regulation. Currently, this refers to standards of the assessment of construction products' performance when incorporated in a construction work, and the Common Technical Language to express such product performance. CEN (European Committee for Standardization) develops these standards, together with Member States, industry representatives and other experts. Currently, there is a problem that many of the standards that are developed are not approved by the Commission – therefore, firms cannot refer to those standards and affix a CE mark on their products.

*Do you wish to provide input regarding **Standardisation process**?

● Yes
○ No

Please select the variants that you like best and worst

	Best	Worst
Variant A) No legislative change. Attempt to further streamline standardisation work with CEN within the existing rules.	●	○
Variant B) Variant A + The Commission can complement the Common Technical Language where needed, when no harmonised standards exist or where they are insufficient. This will be based on technical content provided by private bodies and Member States' authorities. All standards will be freely available and translated into all official EU languages. Claims that are not based on Harmonised Technical Standards must be based on 'state of the art' methods or 'best available techniques'.	○	○
Variant E) Repeal the CPR: No EU standards and therefore no EU standardisation process for construction products	○	●
I do not know/Indifferent	○	○

Comments:

The issues encountered with the standardisation process are not solely related to CEN processes. The starting point was incomplete, and imprecise mandates which together with a lack of reliable and binding guidance for the content of harmonised standards have caused problems – as the construction products industry has been pointing out for many years.

The standardisation process, which includes among other things a consultation of draft working results which is open and accessible to all stakeholders (construction product industry, contractors, designers, authorities, science, consumers), both at European and national level, is what grants harmonised standards the presumption of reflecting the state of the art. When bypassing the standardisation approach to amend insufficient standards or in case of non-existent standards, this presumption is not valid and the Commission would need to assume full responsibility, in particular for the fitness, repeatability and reproducibility of test methods.

We believe that the expert capacity and budget of the Commission and Member States will be insufficient to cope with the demands. Furthermore, the bottom-up approach from the industry with a central role for the European Standards Organisations is crucial in order to gather technical expertise to be able to set up state of the art harmonised technical specifications. The rules for setting up these specifications and the legal obligations should be clear. Guidance regarding legal aspects is important because Technical Committee (TC) members generally have a technical background. The cooperation of TCs, CEN and the Commission (HAS consultants should be enhanced, bearing in mind the case of CPR building products which are put on the market with clear Product Performance, enabling Member States to build safe and sustainable buildings.

*What impact do you think that Variant B would have on the issue of delays in the standardisation process?

- ○ Large decrease
- ○ Small decrease
- ○ No or negligible impact
- ○ Small increase
- ○ Large increase
- ● I do not know/Not relevant

Comments:

Provided that complete and detailed standardisation, as well as reliable and binding guidance, are available, Variant B would be limited to exceptional cases and should not be the general approach. Therefore, the impact for the individual case may be greater, but for overall delays it would be small or even negligible.

Element 4: National requirements

The purpose of the Construction Products Regulation is to improve the free circulation of construction products in the EU Single Market. Currently, Member States are not allowed to have additional, national or local, requirements that adds

requirements beyond those that are harmonised at EU level. However, Member States are responsible for setting the safety, environmental and energy requirements applicable to buildings and civil engineering works. For example, a Member State is free to set the level of fire safety performance it deems necessary for construction products to be used on its territory, but it must allow market access to any product that has been placed on the market in accordance with the CPR requirements. However, there are instances where Member States do maintain national or local requirements even where they should not be allowed to do so.

*Do you wish to provide input regarding **National requirements**?

- ● Yes
- ○ No

Please select the variants that you like best and worst

	Best	Worst
Variant A) No legislative change, the Commission will go against national requirements within the existing system	●	○
Variant B) Variant A + National requirements allowed only in specific cases where EU provisions do not yet cover the relevant regulatory need of the Member State	○	○
Variant C2) Same as Variant B for the core areas. For non-core areas, national requirements are allowed	○	○
Variant C3) Variant B + Member States would be allowed to have an alternative path to market access not based on the Common Technical Language, but Member States must offer market access for products that use the Common Technical Language.	○	○
Variant D1 and D2) Variant B + EU sets minimum product requirements. Member States may have additional product requirements, unless the EU has fully harmonised the requirements for a product.	○	○
Variant E) Repeal the CPR: Member States free to set requirements for all aspects of construction products, not regulated by other EU laws	○	●
I do not know/Indifferent	○	○

Comments:

An internal market for construction products free of barriers to trade only functions if the Commission, Member States and industry abide by the same set of internal market rules, while respecting the subsidiarity principle. Where necessary, infringement of these rules should be prosecuted. Since conflicts in such complex systems are unavoidable a 'conflict resolution mechanism' should be established.

While Orgalim supports and respects the subsidiarity principle, variant B could lead to a least a temporary de-harmonisation. The way to avoid variant B is through complete and detailed standardisation requests together with transparent information from Member States at an early stage, which allows amending standardisation requests at regular intervals.

A positive impact on sustainability, durability and environmental issues is expected when BWR7 is in place.

Variant C and D (and of course E) would jeopardise more than 30 years of achievements in support of an internal market for construction products.

Element 5: Product safety requirements

Currently, harmonisation of construction products is limited to a harmonised method of assessment of product performance. There are no EU-wide product safety requirements defined for construction products by the CPR. It is important to note the difference between construction product safety requirements (input requirements), which may be

introduced in a revised CPR, and construction safety requirements (process requirements) which would not be introduced in a revised CPR.

* Do you wish to provide input regarding **Product safety requirements**?

● Yes
○ No

Please select the variants that you like best and worst

	Best	Worst
Variant A) No EU construction product safety requirements. However, national product safety requirements must comply with the general EU free movement principles (non-discrimination and mutual recognition).	●	○
Variant D1) Introduce a thin layer of horizontal EU product safety requirements applicable to the vast majority of construction products. Additional specific requirements would gradually be introduced afterwards, for certain selected products or product families. Where such EU requirements are introduced, manufacturers must comply with them and affix a CE mark, even if their products are not covered by national regulation on construction works. The EU would in most cases introduce minimum product safety requirements, so that Member States can introduce national product safety requirements in addition. In exceptional cases, the EU would introduce full product safety requirements where Member States would not be allowed to introduce national requirements. The additional specific requirements would be introduced via the New Legislative Framework approach: CEN will develop voluntary standards with essential product requirements upon request from the European Commission, and products that comply with those standards would provide presumption of conformity.	○	○
Variant D2) Same as Variant D1, except that the additional specific requirements would be introduced via the Technical specifications Approach: Detailed requirements would be included in Harmonised Technical Specifications, i.e. Commission acts would lay down harmonised technical specifications	○	○
Variant E) Repeal the CPR: Same as A, no EU construction product safety requirements. National product safety requirements must comply with the general EU free movement principles (non-discrimination and mutual recognition).	○	●
I do not know/Indifferent	○	○

Comments:

Construction products as such are generally safe. For those products which require specific handling, manufactures provide handling instructions according to the prescriptions of the GPSD.

Further needs for safety requirements should be included in the standardisation requests.

Furthermore, for construction products where a Material Safety Data Sheet is required, it must also be provided with the DoP.

Element 6: Market surveillance and enforcement

Member States are responsible for ensuring proper market surveillance of construction products placed on their market. The purpose of the market surveillance activities is to ensure that construction products comply with the CPR rules. Currently, the CPR has procedures for when construction products are not marketed in conformance with the CPR, but in order to use them it must be that the declared performance of a product is inaccurate and that it poses a risk to health and safety.

A revised CPR could introduce a series of legislative measures to strengthen market surveillance and enforcement of construction products, including:

- *Stronger empowerments for market surveillance authorities related to fact-finding (e.g. the right to confiscate samples or to seize documents related to presumably non-compliant products)*

- *Stronger empowerments for market surveillance authorities to issue punitive measures on noncompliant operators (e.g. by imposing fiscal sanctions or to exclude non-compliant operators from public tenders)*
- *Allow manufacturers to sue non-compliant competitors*
- *Allow consumer and environment organisations to sue non-compliant operators*
- *Set up a sector-specific EU-wide whistle blowing portal for non-compliant construction products*
- *Introduce minimum benchmarks for the number of full-time equivalent staff at national market surveillance authorities*
- *Introduce procedures to ensure the proper performance of market surveillance staff, e.g. EU-wide qualification requirements for hiring staff*

* Do you wish to provide input regarding **Market surveillance and enforcement**?

● Yes
○ No

* Are you giving your contribution as a public authority?

○ Yes
● No

Please select the variants that you like best and worst

	Best	Worst
Variant A) No legislative change. Enhance national market surveillance enforcement through guidance and recommendations to Member State authorities.	○	○
Variant B) Variant A + a legislative package of measures to strengthen market surveillance and enforcement (the following question will allow you to indicate the measures you would prefer to be included and not included, if you select Variant B as your "Best" variant)	●	○
Variant E) Repeal the CPR: Market surveillance up to each Member State and according to national rules and procedures.	○	●
I do not know/Indifferent	○	○

Comments:

For Orgalim, the question of market surveillance remains an area of concern in the implementation of the CPR. SMEs in particular are exposed to abusive behaviour in the market and face issues in reporting them to market surveillance authorities.

Some of the envisaged measures are already possible under the current CPR and the others require implementation at national level. The introduction of European legally binding provisions, such as a minimum benchmark for the number of CPR surveillance staff and minimum European qualification requirements, can help strengthen market surveillance.

Despite the recent review of the regulation 765/2008, unfair competition remains a reality, especially considering that it remains difficult for SMEs to report abusive behaviour to market surveillance authorities. Reporting should be possible without public disclosure of the company identity due to possible commercial impact.

Enhanced market surveillance is thus welcome. However, most of the issues of non-compliance are related to 'documentary' issues* rather than to non-conformity on the market. This is due to the difficulties for SME manufacturers in complying with the formal requirements of DoPs and the production CE market. They are often unsure of how to formally report product characteristics and performance of products in the right format. This has led to an artificially high level of non-conformity due to uncertainties around formal rules of declaration.

Solution:

Further guidance is needed on the content of the DoP and CE marking under the CPR, including the possible re-introduction of documentation requirements in hENs, to reduce the high level of documentary non-conformity.

The objective pursued must be a shift of focus from formal non-compliance towards a performance-based approach, by directing the control types towards more tests and in situ inspection, with fewer documentation checks.

A coordinated approach is needed between national authorities, in line with an internal market monitoring programme. Increased funding for market surveillance authorities and digitalisation of DoP are also important possible solutions to be included.

*(Report on the Member States reviews and assessment of the functioning of market surveillance activities for the 2010-2013 period pursuant to Article 18(6) of Regulation (EC) No 765/2008, http://ec.europa.eu/DocsRoom/documents/13905/attachments/1/translations).

Please indicate your preference for including the following legislative measures in a revised CPR:

	Include	Do not include	No opinion
*Stronger empowerments for market surveillance authorities related to fact-finding (e.g. the right to confiscate samples or to seize documents related to presumably non-compliant products)	●	○	○
*Stronger empowerments for market surveillance authorities to issue punitive measures on non-compliant operators (e.g. by imposing fiscal sanctions or to exclude non-compliant operators from public tenders)	○	●	○
*Allow manufacturers to sue non-compliant competitors	○	●	○
*Allow consumer and environment organisations to sue non-compliant operators	○	●	○
*Set up a sector-specific EU-wide whistle blowing portal for noncompliant construction products	○	●	○
*Introduce minimum benchmarks for the number of full-time equivalent staff at national market surveillance authorities	●	○	○
*Introduce procedures to ensure the proper performance of market surveillance staff, e.g. EU-wide qualification requirements for hiring staff	●	○	○

Impacts of the variant you selected as "Best", compared to variant A (No legislative change).

Please specify all the relevant impacts that you think that your "Best" variant will have on the following aspects on the EU market for construction products, compared to variant A (no legislative change). You only need to select an answer for those impacts that you expect your "Best" variant to have (you can leave some or all impacts blank). If you leave impacts blank, they will be processed as an 'I don' t know/Not relevant' reply. You also have the opportunity to add comments in free text.

	Large decrease	Small decrease	No or negligible impact	Small increase	Large increase	I do not know Not relevant
The administrative burden for your organisation	○	○	●	○	○	○
Cross-border trade of construction products within the EU Single Market	○	○	○	●	○	○
Exports of construction products to non-EU countries	○	○	○	○	○	●
Imports of construction	○	●	○	○	○	○

	Large decrease	Small decrease	No or negligible impact	Small increase	Large increase	I do not know Not relevant
products from non-EU countries						
Economic actors' compliance with relevant rules and regulations for construction products	○	○	○	○	●	○
Competition among manufacturers of construction products within the EU Single Market	○	○	●	○	○	○
Safety of construction products	○	○	○	○	○	●
Construction product innovation	○	○	○	●	○	○
Competitiveness of micro, small and medium-sized manufacturers of construction products, compared to large manufacturers	○	○	○	○	○	●
Sustainable use of resources for producing construction products	○	○	●	○	○	○
Durability of construction products (i.e. product lifetime)	○	○	●	○	○	○
Quality of the built environment (i.e. the human-made environment: buildings, cities, etc) in the EU	○	○	○	●	○	○

Comments:

Element 7: EOTA and Technical Assessment Bodies (TABs)

EOTA is the European Organisation for Technical Assessment. Its purpose is to develop European Assessment Documents (EADs) which is a document providing information about the performance of a construction product. Technical Assessment Bodies (TABs) are the executive arm of EOTA and in charge of the technical assessment of construction products not covered or not fully covered by current standards. TABs are entitled to issue European Technical Assessments (ETAs) based on the EADs. ETAs can be used as an alternative route to market access where there are no harmonised European standards.

*Do you wish to provide input regarding **EOTA and Technical Assessment Bodies (TABs)**?

- ● Yes
- ○ No

Please select the variants that you like best and worst

	Best	Worst
Variant A) No legislative change, work to improve the functioning of EOTA and TABs within the current rules	●	○
Variant B) The TABs would be replaced by the Regulatory Advancement Bodies (RABs). When a draft Harmonised Technical Specification (HTS) is in the pipeline, manufacturers can have their products assessed by a RAB. The RABs can issue a certificate confirming the performance and conformity of the products as requested in that draft HTS. The certificate would be valid until the actual citation or publication takes effect, or a maximum of 18 months. The certificate gives manufacturers the right to affix a preliminary CE mark followed by the letters "(pr)" and the date of expiry of the certificate, to their products. EOTA would be replaced by a follow-up organisation taking the role as a second standardisation body.	○	○
Variant E) Repeal the CPR: No need for the EOTA/TABs	○	●
I do not know/Indifferent	○	○

Comments:

EOTA

The industry needs an agile and efficient route to address new products and/or their intended uses, but the system has suffered from continuous delays and an overlap between some EADs and hENs has been identified.

The criteria for the activities of EOTA and the national Technical Assessment Bodies (TABs) are not clear and transparent enough. At EOTA level, it is currently possible to work on EADs without corresponding mandates from the Commission.

Industry is also using EADs to fill the gap of uncited harmonised standards. CPR criteria for products eligible to use the EOTA route "not covered or not fully covered by a harmonised standard" can be misused by adding irrelevant essential characteristics.

A clear separation of the standardisation and EOTA fields is necessary and needs to consider both legal and technical issues. EAD development should be limited to products outside the scope of other harmonised technical specifications as explained in article 19. Additional characteristics cannot be used as an excuse to deviate from the existing approach.

Moreover, variant B does not consider the situation in which an issue is identified (e.g. related to reliability of the assessment method) which could even require withdrawing the preliminary CE marking after the product has been installed. The proposal therefore bears considerable liability risks along the supply chain which can neither be laid upon manufacturers, designers nor contractors, assuming they have followed the rules valid at the time of their decisions. The risks would ultimately rest with the owner, who will not accept them. Consequently, instead of fostering trust in the system, the proposal would result in the opposite.

The revision of the EOTA approach may be necessary to consider, but, if pursued, it must not be replaced by a system of dubious benefits and considerable liability risks for the market.

Notified bodies

Some product families reported different levels in the quality of the work of notified bodies when performing the tasks required by the regulation. The source of this problem is the different notification procedures and requirements by Member States. The quality of the work of notified bodies must be equivalent in all Member States.

National authorities and Product Contact Points for Construction

The functioning of national authorities can only be improved if Member States provide resources for it. The functioning of PCPCs cannot be improved, because of limitations in their capacity: no employee from any national authority can know in detail all national prescriptions on all products.

Solution:

Notification by Member States must follow the same rules across Europe, but requesting accreditation of notified bodies would not improve the situation because accreditation requirements and processes differ between Member States. Quality assessment of notifying authorities/notified bodies by the Commission could reduce the gap between them.

There should be a clear procedure and an independent body with enough technical expertise to consult and decide

how to avoid (and solve) overlapping scopes before an EAD is drafted (The Commission needs technical support to undertake this task). Confidentiality has to be granted, but at the same time EADs need to be developed following a consistent approach and uniform procedure in order to ensure a level playing field.

A good way to improve PCPCs could be to make them reporting points, with the task of registering and documenting all cases of misfunctioning of the CPR (abuse of EADs, wrong DoPs, wrong CE marking etc).

Element 8: Notified Bodies

Notified Bodies are the only recognised third parties to carry out the assessment of performance of construction products covered by the standards set in the CPR. They are appointed by the responsible authority in each Member State. Notified Bodies assess the performance of construction products, they can certify constancy of performance, and certify factory production control systems. They can carry out these activities for all, a few, or just one of the 7 Basic Requirements for construction Works (BWRs) (for example, some specialise in fire safety assessments only). However, calculating and assessing environmental impacts (BWR7) would only be possible for a few Notified Bodies, as such calculations are a science of their own.

*Do you wish to provide input regarding **Notified Bodies**?

- ● Yes
- ○ No

Please select the variants that you like best and worst

	Best	Worst
Variant A) No legislative change, attempt to improve the functioning of the Notified Bodies within the current rules	●	○
Variant B) Variant A + Introduce mandatory qualification and competence requirements that Member States must use when they designate a Notified Body. The Commission can block the designation of a Notified Body if there is not enough evidence to prove its competence. Notified Bodies must apply clear pass-fail criteria towards manufacturers, and must change the staff responsible for certifying products of a given manufacturer every 3 years. In addition to the Notified Bodies, special bodies would be designated with specific responsibility for BWR 7 (environmental impact calculations). The special bodies could be a sub-group of the Notified Bodies, similar to the current ones in charge of fire safety.	○	○
Variant E) Repeal the CPR: no role for Notified Bodies	○	●
I do not know/Indifferent	○	○

Comments:

From our perspective, a CPR review would have to ensure that the quality of the work of notified bodies is equivalent in all Member States. Some product families reported different levels in the quality of the work of notified bodies when performing the tasks required by the regulation. The source of this problem is the different notification procedures and requirements by Member States. Variant B as described here would, moreover, be hard to put into practice, as accreditation is not within the legislative powers of the European Union and is subject to market needs.

Notification by Member States must follow the same rules across Europe, but requesting accreditation of notified bodies would not improve the situation because accreditation requirements and processes differ between Member States. Quality assessment of notifying authorities/notified bodies by the Commission could reduce the gap between them.

With regard to BRCW 7: notified bodies are currently appointed by Member States either for specific group(s) of products covered by specific harmonised standard(s) or for horizontal tasks independent of a group of products (standards). There is no need for a different approach for the assessment of environmental performance. What is needed, and what Orgalim proposes, is defining clear criteria and rules, so that notified bodies across Europe can demonstrate compliance and request the notification.

Element 9: Product Contact Points for Construction

The main purpose of the national Product Contact Points for Construction is to provide information about Member States' building regulations relevant to the intended use of construction products. They are currently not in charge of providing information on the harmonised system created by and under the CPR, although it happens that Product Contact Points for Construction do this anyway, while it is not clear to what extent they are used for their main purpose.

*Do you wish to provide input regarding **Product Contact Points for Construction**?

- ● Yes
- ○ No

Please select the variants that you like best and worst

	Best	Worst
Variant A) Improve the functioning of the Product Contact Points for Construction to ensure that they fulfil their current purpose	●	○
Variant B) Variant A + Evaluate the role and use of Product Contact Points for Construction. In case they are not or hardly used for their main purpose, a different purpose could be envisaged, such as providing information about the harmonised system of the CPR	○	○
Variant E) Repeal the CPR: No obligation for Member States to administer Product Contact Points for Construction	○	●
I do not know/Indifferent	○	○

Comments:

The proper functioning and quick response of Product Contact Points is crucial for the functioning of the internal market as long as Member States have the responsibility for construction works and can set requirements affecting the use of construction products. To do this Product Contact Points need to adapt to express any existing national requirement in the Common Technical Language as defined in harmonised technical specifications. This adaptation does not require a revision of the legislation but only Member States' commitment.

To speed up responses from Product Contact Points their assessment and response (i.e. information on regulatory requirements at national level, including regulatory compliance checks) should be based on a harmonised European digital format that is consistent with the harmonised technical specification, in all languages of the European Union.

Please indicate

	Large decrease	Small decrease	No or negligible impact	Small increase	Large increase	I do not know Not relevant
*What impact do you think it would have on economic operators' access to relevant information, if the national Product Contact Points for Construction' purpose was changed to provide information about the harmonised system of the CPR?	○	○	●	○	○	○

Comments:

Information about the harmonised system of the CPR (e.g. what are harmonised technical specifications, what CE marking means, etc.) is already available. When the CPR was adopted the industry and Member States made a great effort to inform and train stakeholders along the supply chain. Further or renewed training may be necessary, however PCPs should focus on their primary task: to deliver a quick response on existing information and performance

requirements and provide compliance assessments.

Element 10: Simplification

The CPR contains some simplification provisions to reduce the administrative burden for manufacturers. For example, manufacturers may refrain from drawing up a Declaration of Performance in some instances (e.g. if a product is custom-made), or by replacing the need for type-testing or type-calculation of a product if it is deemed that the product achieves a certain level or class of performance without further testing or calculation. However, the use of many of these simplification provisions is limited, and there are concerns that the wording of some of these provisions is unclear and difficult to understand.

Between the No change option and the Repeal option, legislative measures could be envisaged to improve simplification, for example:

- *Redraft the current simplification provisions of the CPR to clarify them*
- *Allow Member States to exempt all firms from all or some conformity assessment obligations*
- *Allow Member States to exempt small, medium and micro firms from all or some conformity assessment obligations*
- *Allow Member States to exempt micro firms from all or some conformity assessment obligations*
- *Make it possible for the Commission to reduce or lift AVCP obligations if manufacturers have an appropriate liability insurance in place*

*Do you wish to provide input regarding **Simplification**?

● Yes
○ No

Please indicate the variants that you like best and worst

	Best	Worst
Variant A) No legislative change, promote the uptake of the current simplification provisions within the CPR to the extent possible	●	○
Variant B) Variant A + legislative measures to improve simplification (to be further examined in the following question if you select Variant B)	○	○
Variant E) Repeal the CPR: No need for simplification provisions of the CPR	○	●
I do not know/Indifferent	○	○

Comments:

As a general principle, Orgalim welcomes simplification and supports the removal of the information overlap between CE marking and DoP by allowing reduced CE marking in combination with an online DoP.

Simplified procedures are best addressed by technical specifications rather than legislation.

We suggest the following points for inclusion in the development of technical specifications:

- Harmonised technical specifications should clarify how to deal with discontinuous and non-industrialised procedures.
- The less onerous assessment approach must be selected and the technical provisions as regards definition of the product type and factory production control need to be considered in an appropriate way for the quantities involved.
- Simplification provisions (art. 5, 37 & 38) need to be clarified to be implementable, which is not currently the case (e.g. Art 5. Introductory paragraph is not understandable, namely "in the absence of Union or national provisions requiring the declaration of essential characteristics").
- Clear definition of "non-serial" in the CPR is necessary.

Alternatively, with respect to the marking on the product, the marking may also be carried out on the delivery note of the product with a link to the website or by a QR code.

Allowing Member States the ability to exempt certain types of manufacturers would distort the market, potentially create barriers to trade, and would generally be detrimental to understanding and increasing trust in the system.

Element 11: New business models / products – 3D-printing, prefabricated houses

Standardised rules as laid down by the CPR refer mostly to traditional construction products. Innovative products, such as 3D printed construction products of pre-fabricated small one-family houses, are usually not, or at least not fully, covered by the CPR's scope.

*Do you wish to provide input regarding **New business models / products – 3Dprinting, prefabricated houses**?

- ● Yes
- ○ No

Please indicate the variants that you like best and worst

	Best	Worst
Variant A) No legislative change, implying no anticipation of/provisions for new business models in the CPR beyond what is currently possible	●	○
Variant B) Legislative change so that the CPR would anticipate new business models, for instance by bringing materials and datasets used for 3D-printing of construction products, and small prefabricated one-family houses, within its scope. Operators of 3Dprintshops would be assigned the responsibilities of distributors within the meaning of the current CPR. The Commission would further be empowered to modify the CPR's scope and/or to make clarifications regarding the CPR's application to new business models in the future.	○	○
Variant E) Repeal the CPR: No (need for) the CPR to anticipate new business models, up to each Member State to regulate market access for new construction products.	○	●
I do not know/Indifferent	○	○

Comments:

The CPR was designed to deliver construction product information which is needed to build structures and construction works – allowing these to be designed and built in line with the individual requirements as outlined by the BRCW. This general concept is also applicable to new techniques and business models, such as 3D printing. It only requires the relevant product characteristics to be identified and, if necessary, amended to the relevant harmonised technical specifications, following the existing procedures.

Prefabricated houses are the borderline between the regulatory competences of the Commission and Member States. A prefabricated house would need to meet the requirements for buildings where it is "installed". These requirements (including assessment methods) are however under the sole responsibility of Member States.

The only way forward would therefore be the agreement between all Member States on what are the requirements, performances and characteristics that need to be fulfilled by prefabricated houses in Europe (including climatic conditions, load impacts as well assessment/calculation methods). This seems very unrealistic considering the current differences in national approaches and the subsidiarity principles.

Element 12: Environmental aspects (BWR7 Sustainable use of natural resources)

The CPR does not include a harmonised method for assessing and communicating a construction product's environmental performance. It is likely that Member States will increasingly introduce national legislation on how to assess the environmental footprint of buildings and other construction works, and therefore indirectly also the environmental footprint of construction products.

*Do you wish to provide input regarding **Environmental aspects (BWR7 Sustainable use of natural resources)**?

- ● Yes
- ○ No

Please indicate the variants that you like best and worst

	Best	Worst
Variant A) Continued slow introduction of requirements regarding environmental aspects in harmonised standards	●	○
Variant B) Introduce a harmonised method for assessing and communicating the environmental performance of construction products. The harmonised method would be based on an existing Life Cycle Assessment method, for example the Commission's Product Environmental Footprint or EN 15804. It is currently open which method that will be chosen.	○	○
Variant E) Repeal the CPR: No Basic Works Requirements	○	●
I do not know/Indifferent	○	○

Comments:

It is not for the CPR to include harmonised assessment methods. Orgalim nevertheless agrees there is a growing need for communicating the environmental performance of construction products, yet the CPR already foresees the framework to do so.

In fact, the Commission has long mandated CEN with the development of a harmonised methodology. One of the CEN deliverables in this respect is EN 15804, which provides a harmonised methodology at European level to determine the product input for the assessment at building level. It is recognised by Member States and applied across the whole of the EU.

Element 13: Circular economy

A circular economy is an economic system aimed at eliminating waste and promoting a continued use of resources. Currently, the CPR does not contain specific rules for used or remanufactured (i.e. altered in some way, e.g. by cleaning the products, cutting off damaged parts, or a new coating), construction products.

For this element, there are two alternatives of Variant B, representing two different ways in which a revised CPR could introduce specific rules for used or remanufactured construction products.

*Do you wish to provide input regarding **Circular economy**?

● Yes
○ No

Please indicate the variants that you like best and worst

	Best	Worst
Variant A) No specific provisions regarding the placement of used or remanufactured construction products in the EU Single Market	●	○
Variant B1) Allow certain used or remanufactured construction products to obtain CE marking in the same way as new products, with limited obligations for companies. Certain obligations would be introduced for manufacturers to promote the circularity of the construction sector, for example an obligation to take back construction products from a construction site that have not been used, or an obligation to ensure appropriate access to spare parts to repair damaged construction products.	○	○
Variant B2) The revised CPR defines a 'gold standard' for (very few) used or remanufactured products and allow free circulation in the EU for those products. Member States would regulate all other products outside the 'gold standard'		
Variant E) Repeal the CPR: Up to each Member State to regulate market access criteria for used	○	●

	Best	Worst
and remanufactured construction products		
I do not know/Indifferent	○	○

Comments:

Orgalim supports the addition of sectoral provisions related to the Circular Economy plan and the European Green Deal within the CPR. The use of recycled materials and reused products can already be addressed within the existing CPR.

However, at this preliminary stage we would like to call for caution concerning the proposal to set a legal obligation to use certain types of products, as some of our companies produce craft products in situ. Such an obligation should not result in forcing the use of industrially-based products at the expense of small-scale, non-serial and craft-made ones. A certain degree of flexibility should be included.

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