



POSITION PAPER

Brussels, 12 July 2022

Position and recommendations from Europe's technology industries on the proposed new Construction Products Regulation

Orgalim, representing Europe's technology industries, [welcomes](#) the opportunity to comment on the European Commission's proposal for a [Regulation on Construction Products](#). Within the Construction sector many of our 29 national industry associations and 19 European sector associations represent a variety of large, small and micro-industries that manufacture structural metal products, metal windows and doors, small fixing elements, fire detection systems and fire protective products, domestic heating appliances, pipes and products in contact with water and electrotechnical products such as cables. This input into the Commission's consultation addresses key points for our industry.



WHAT WE SUPPORT: THE OBJECTIVES

- A stronger single market
- Increased focus on sustainability
- The use of digital tools



WHAT CONCERNS US: HOW IT WILL WORK IN PRACTICE

- Scope
- Empowerment of the Commission
- Obligations of manufacturers
- Harmonisation
- Standardisation
- Legal sustainability
- Simplification

Introduction

Orgalim appreciates the efforts made by the European Commission to collect and consider all the feedback from stakeholders received over the last years, which have resulted in the proposal for the revision of the Construction Products Regulation (hereafter, “the new CPR”), published on 30 March 2022. In particular, we welcome the aim of the proposal to achieve a well-functioning Single Market for construction products and to contribute to the objectives of the green and digital transformation.

However, we also believe that the combination of these objectives with the historic specificity of the CPR (Member States subsidiarity principles) makes the new CPR much more complex than the existing CPR. As pointed out by the Commission, general feedback from stakeholders indicates problems in understanding the regulatory concept and content. While this may improve over time, the main issue of complexity will remain, especially when taking into account the number of delegated or implementing acts required to implement the revised CPR.

There are also significant concerns about how the new CPR, improves the process of releasing (mandatory) harmonised standards to keep pace with technological development in the sector. Moreover, the Commission proposal foresees much greater responsibility and involvement of the Commission in the selection and development of harmonised standards. Although this can be seen as an effective way to ensure that all legal requirements are met, it may result in a further slowing down of the process of establishing and listing of harmonised standards and may also lead to conflicts with the processes of the European Standardisation Organisations due to synchronisation differences. In any case, it is expected that this will require a huge amount of manpower and expertise from the Commission.

Apart from these general comments, detailed analysis of the proposal also shows a number of specific points that could be improved. These points are listed in more detail below.

What we support: the objectives

A stronger Single Market

Orgalim supports the objectives of the new Construction Products Regulation to strengthen the Single Market and facilitate the free movement of construction products. To maintain their innovative and competitive potential, businesses need to rely on a clear and harmonised legal framework which defines common rules for all economic operators throughout the EU while maintaining regulatory stability and predictability.

Orgalim sees as positive the fact that the CE-marking system is still a part of the new CPR. This is an important aspect of the harmonisation of the Single Market for construction products, which has allowed our companies to benefit from the free movement of these goods.

We are, however, concerned about the new simplification rules in Article 65 allowing micro-enterprises to use the more lenient verification system, and excluding them from the mandatory Declaration of Performance (DoP) in cases where their product will not leave the territory of a Member State. This new provision needs to be carefully analysed and improved to avoid confusion, particularly regarding the definition of what a “product” is.



We recommend: that the new CPR framework should aim to provide common rules for all economic operators throughout the EU which can be easily managed and controlled by market surveillance authorities to ensure fair competition and a level playing field.

Increased focus on sustainability

We welcome this proposal for a new CPR as the start of a journey towards a more sustainable and digital construction sector. As most Europeans spend up to 90%¹ of their time indoors and buildings are said to account for 40%² of energy consumption, it is easy to see why the construction products industry plays such an important role in the implementation of the circular economy package and environmental sustainability.



We recommend: that the sustainability requirements of the CPR should be fully aligned to the Ecodesign for Sustainable Products Regulation (ESPR), which establishes a framework for requirements to improve the environmental sustainability of products in the Single Market. This alignment will avoid the duplication of testing and information requirements and will ensure that the obligations will be implemented in the same way in all EU Member States.

Use of digital tools

As representatives of Europe's technology industries, we are fully committed to the use of digital tools for compliance procedures. Our industries also see the potential benefits of the Digital Product Passport (DPP), such as better transparency in the value chain and easier access to data.

Wherever possible, existing obligations should be consolidated under the DPP to tap this potential³.



We recommend:

- a product-by-product approach where data requirements must be based on harmonised legislation within the EU, comply with existing obligations and must not duplicate other existing information requirements, and should follow a data minimisation principle as well as protecting confidential business data.

Our concerns: how it will work in practice

To ensure the innovative and competitive potential of European construction businesses, the journey towards the objectives mentioned above needs to be implemented in a practical and transparent way. We are concerned that some elements of the proposed framework remain unclear or impractical.

¹ *Indoor air pollution, European Commission*

² *New rules for greener and smarter buildings, European Commission*

³ See the *Orgalim Position Paper on the ESPR*

Scope (Articles 2 and 3, Annex IV)

Definition of a construction product

The scope of new CPR has been significantly broadened. The change in wording in the definition of a construction product and the definition of “permanent”, means that the new regulation will not only cover traditional construction products but also many other products which may also be used or placed inside a building for more than two years (e.g. household equipment, machines, etc.) but have no function for the construction work itself. We consider this as a risk for potential overlap with other regulations, for market confusion, and for the legal certainty of the CPR. Furthermore, the addition of Row 33 to Table 1 in Annex IV – “Construction Products not included in the product areas above” increases the confusion. This constitutes a major change from the current CPR. As a consequence, it is not clear how the new CPR will be applied to products in Annex I part A because only a voluntary European standard is cited but a harmonised standard based on Annex I, Part A is not cited.



We recommend: that the current criteria for construction products is maintained as follows; that the product “has an effect on the performance of the construction works with respect to the basic requirements for construction works”.

Assembly in the works

The provisions of Articles 2c) and 3(5) regarding the production of building products by fabricators and assembly in the works solve the scope issue problem in the current CPR where these products are not covered (because there is no economic transaction). However, there is no clarification provided on how market surveillance will be conducted for these products.



We recommend: that the new CPR should set out clear provisions for the market surveillance of construction products assembled directly in the works.

Transparency for future development

Empowerment of the Commission

Following our review of the new CPR, Orgalim has ascertained that the Commission has been empowered to intervene in almost every conceivable situation; we count 24 provisions, most notably in Article 4 on technical specifications, but also in Articles 5, 6, 8 and 85.



We recommend: that the procedure for adopting delegated and implementing acts should be as transparent and inclusive as possible. Furthermore, the documents developed by the Commission should be based on the best available evidence through impact assessments, as well as transparent and inclusive dialogue with stakeholders from the Member States and industry.



We strongly recommend: that new performance and information requirements under the future upcoming delegated acts must not impose a disproportionate burden on companies, and data must be of added value for the different actors in the value chain – including the economic operators.

Technical specifications

One of the most notable aspects of the new CPR is that the Commission is empowered to develop technical specifications outside the established standardisation system, which could lead to a risk of a decoupling of the technical specifications from 'state of the art' in the market. It is of the utmost importance that this possibility is limited to exceptional circumstances.



We recommend: that the Commission should refrain from issuing its own technical/common specifications where possible. Technical specifications must be based on scientific assessment methods using recognised European or ISO/IEC/ITU international standards and must be reliable and verifiable.

Orgalim sees a need to define clear uniform criteria across all areas of legislation to determine when to trigger technical specifications.



We recommend: that these criteria are developed within the guidelines the Commission has announced as part of the Standardisation Strategy. These guidelines should be developed in a transparent manner with the involvement of industry.

Industry input

Industry input will be vital for the success of the CPR. Expert input from industry will be needed to ensure that the proposed requirements will work in practice.



We strongly recommend: that the governance structure of the Committee on Construction Products is refocused. The Committee should be given increased powers as a consultative body to achieve a better balance between the interests of the Commission and the other stakeholders, making the procedure for adopting delegating acts and dialogue with stakeholders as transparent and inclusive as possible. It will be crucial for all relevant stakeholders to be part of the Committee on Construction Products, as their industry-expert knowledge is essential.

Obligations of manufacturers

The new CPR proposal introduces several new obligations on the manufacturers in addition to those set out in the existing set of rules. Some of them will lead to a considerable increase in the costs of bringing products to the market.

EU Database – Articles 21 & 78

The Commission is empowered to establish an EU database or system that builds on the Digital Product Passport to which the manufacturer is obliged to report information from the Declaration of Performance (DoP) and the Declaration on

Conformity (DoC). Orgalim has serious concerns regarding what information the manufacturer may be potentially obliged to provide – especially given that it could be shared with third countries that comply voluntarily with this regulation. In the case where such information is shared with third countries it is practically impossible to enforce confidentiality of the data unless the provisions are embedded within trade agreements with those third countries willing to have such reciprocity on construction products. In addition, it will also constitute a significant administrative burden to provide and maintain such information, especially for SME's or companies with large product portfolios.



We recommend:

- We recommend: that the data minimisation principle should apply (as much data as needed, as little data as possible). The requirements should take into account existing databases; such as the database for information on Substances of Concern In Products (SCIP), the European Product Registry for Energy Labelling (EPREL) database, and the upcoming DPP to avoid unnecessary and onerous duplication.
- We recommend: a decentralised approach to avoid a central “registry” of the EU for millions of individual product identifiers. Data management should be kept at manufacturers’ or product/data users’ level.
- We recommend: that access to the information should be allowed on a need-to-know basis only. The confidentiality related to protectable trade secrets must be respected.
- We recommend: that the responsibility of providing data must be shared between the different actors in the value chain, so that the burden of providing the data is not only on the manufacturer who is placing the product on the market.
- We recommend: that consistency and coherency with other legislation must be ensured.

Moreover, the obligation for manufacturers to provide information within two months is too short to be workable.



We recommend: that the period should be at least six months.

Non-professional use label – Article 22

The new CPR also introduces an obligation on the manufacturers to label products according to whether they are suitable for professional or non-professional use. The existing regulation only focuses on the professional user; however, with this obligation the new CPR moves more towards the direction of the DIY sector, which could lead to challenges.



We recommend: in many cases, it may not be possible for the manufacturer to control whether certain products are only used by professionals. This should be reflected in the new CPR text.

The manufacturer is obliged to provide details about how the product can be repaired, and other information necessary to repair the product. Even though the information must be accompanied by the necessary warnings, it cannot be ruled out that the DIY sector will try to repair their products, which may not be appropriate in all cases. This might result in a risk of damage to the manufacturer's reputation, where products are not repaired properly and therefore do not work as intended. According to the new CPR text, the manufacturer is only exempt from this obligation if for security reasons it is not justifiable to make the information available.



We recommend: that these obligations need further consideration and we stand ready to support the Commission to develop further details and guidelines on these requirements.

Supply of spare parts to a product - Article 78

The new CPR also provides an obligation on the manufacturer to be able to supply spare parts for a product for ten years after the last product of the respective type has been marketed or directly installed in a building. This requirement is difficult to comply with, especially for SMEs with limited storage facilities. Moreover, there is a risk of manufacturers producing more spare parts than needed to make sure that they can meet the obligation, which is not necessarily beneficial from a sustainability perspective. There is also a risk of producing spare parts that in future will not be compliant with new regulations. It is important to have the possibility to provide spare parts that respects the applicable regulation when the product was placed on the market.



We recommend: setting out different requirements for different products – for example, most long lasting designs may be harder to repair. Please see further recommendations in the Orgalim Position on the “right to repair.”⁴

Harmonisation (Article 7, Article 9-12, and Chapter IV)

Orgalim welcomes the drive towards harmonisation in the new CPR, especially with respect to the section of key definitions.

However, European Assessment Documents (EADs) are no longer considered as harmonised Technical Specifications (hTS) and are therefore not part of the harmonised zone. Member States can generate their own performance criteria for the products outside the harmonised zone. This questions the whole concept of the European Assessment Documents and the European Technical Assessments in terms of applicability (Articles 3.38 and 3.46).



We recommend: that these aspects need further consideration and we stand ready to support the co-legislators to develop the proposal further with the objective of harmonisation of the Single Market.

Legal sustainability (Article 92)

The user base of the new CPR consists of a large variety of actors – many of whom are SMEs – which underlines the need for clear processes, responsibilities, and timelines. The existing

⁴ See the [Orgalim Position Paper on the “right to repair”](#)

Construction Products Regulation entered into force in 2013 and has not been working effectively, as has been described in the explanatory memorandum of the new CPR proposal. The new regulation is proposed to take effect gradually as each new product family transitions to the requirements that are supported by harmonised standards cited in the Official Journal of the EU (OJEU). This will result in different requirements for different construction products and cause confusion among economic operators and market surveillance authorities alike.



We recommend: that the Commission provides clear information on the transition processes. In particular, in order to avoid unnecessary disruption in the application of the new CPR, we call on the EU institutions to ensure that the existing harmonised standards remain valid until the new regime is fully operational and until a new harmonised standard under the CPR is cited in the OJEU. Furthermore, until the new CPR is in place, standardisation deliverables that are currently in the process of revision, or standards that would be eligible for revision and are waiting for a standardisation request, should continue to be developed under the requirements of the old regime.

Standardisation (Chapter IV)

Short term solutions

Orgalim sees as positive the fact that some of the basic elements from the existing regulation have been kept in the new CPR proposal. It is also positive that the system is still based on harmonised standards as the main basis for the CE-mark and Declaration of Performance (DoP). The standardisation process has been underperforming in the existing regulation, which underlines the importance of a standardisation system that is built on uniform and transparent procedures which at the same time reflect the interests and involvement of the industry.

However, it is difficult to see how the new CPR will solve the problem of the standards that have been blocked from release in the OJEU in the short term. In particular, given that the proposal provides for much greater responsibility and involvement of the Commission in the selection and development of harmonised standards, there are concerns that this may result in an inherent bottleneck in the process. Taking into account the vital importance of standardisation in the transition to the new CPR, we are concerned that not enough attention is being focused on solutions to the issue of standards offered for citation which are being found to lack quality. Unfortunately, we do not see relevant proposals to address this issue and the possible new implementation issues related to the different elements introduced in the CPR proposal risk creating further obstacles blocks in the standardisation system.

This issue is rightly being addressed in the horizontal framework of the European Standardisation Strategy, but we would like to stress its particular importance for the construction sector.



We recommend:

- separating the legal mandatory requirements for construction products from the different, more flexible, ways of implementing these requirements. This would allow the European Standardisation Organisations (ESOs) to find (one or more) ways to specify valid characteristics and assessment methods to fulfil the requirement, while still leaving the Commission with the possibility to check

whether the characteristics and assessment methods are one acceptable way (but not the only way) to fulfil the requirements. We believe that this approach would be much faster and more flexible.

- a strong commitment from all stakeholders to find solutions to ensure that the standards developed in CEN/CENELEC are published in the OJEU. Orgalim stands ready to contribute to the work of the EC- ESO Task Force on the speedy adoption of harmonised standards and the High-Level Forum on Standardisation.

Ex ante preparation

The proposed transition relies heavily on the deliverables provided by the standardisation community. However, we are concerned that only a small part of the new standardisation requests will be foreseen ex ante to prepare new standards for implementation.



We recommend: that the preparatory work continues in the Expert Group on CPR Acquis, to which many of our members contribute. However, this work should take into account existing information in order to avoid duplication and bureaucracy.

European Assessment Documents

The principles and rules concerning when to call a harmonised standard mandatory or not mandatory are not clear in the legislative proposal.



We recommend: that a better balance should be achieved between confidentiality for the individual manufacturers and the need for transparency for the overall industry. Unless these rules are clarified for the different new elements introduced, we see the risk that the implementation of the new CPR may be further delayed.

Sustainability requirements

Finally, we fear that the ambiguous provisions regarding scope and sustainability requirements will deter standardisation work. These provisions will not create a market incentive to create new standards on efficiency or sustainability if the result is that new categories of products previously not covered by this regulation are brought into the remit of this new legislative framework. Furthermore, it is unclear whether the European Standardisation Organisations need to wait until the new environmental criteria are clearly defined and agreed before they can start their preparatory work.



We recommend: that the sustainability aspects should be fully aligned with the Ecodesign for Sustainable Products Regulation to avoid duplications.

Simplification

Inherent product safety requirements

Orgalim is concerned that the combination of the DoP with a DoC related to inherent product safety requirements does not result in simplification, as highlighted by many stakeholders during the impact assessment. Although a good idea in theory, the implementation costs remain proportionally higher for SMEs with fewer resources. Furthermore, it is important that the risk to safety should not be impacted by lowering safety requirements for SMEs.



We recommend: the need for clarification of the link between the inherent product and building safety.

Additional scope and requirements

This proposal requires a substantial effort from industries, and especially for SMEs we are concerned that their skills and resources may not be sufficient to meet its increased scope and additional requirements. We welcome the measures to help SMEs with the general implementation of the CPR. However, a disproportionate administrative burden is not acceptable for any economic actor.



We recommend: that there should be no disproportionate negative impact on the competitiveness of all companies – not only SMEs.

Finally, we are concerned about the very high number of planned upcoming delegated acts, as implementation will be challenging for industry and authorities alike.

Conclusion

Orgalim believes that the recommendations suggested in this position paper would contribute to a clearer regulatory environment for the construction sector. We look forward to working with all stakeholders involved to build a future regulation that both provides a high level of sustainability and ensures the free flow of goods in the European Single Market.

In the short term, in order to resolve the current difficult situation experienced by many industry stakeholders the priority must be to address in the new CPR document very clear and transparent concepts which will allow the so far unpublished harmonised technical documents (harmonised standards, European Assessment Documents,..) to be released as soon as possible.

For the long-term process of improving the CPR, a much higher degree of transparency and clarity is required when discussing the various topics in the draft. There are serious doubts about whether aspects like the “long transition period” or the co-existing requirements from the old and new regulations will be manageable for authorities and stakeholders to implement the new developments in the European market for construction products without adversely affecting the level playing field.

Orgalim represents Europe’s technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU’s largest manufacturing sector, generating annual turnover of €2,480 billion, manufacturing one-third of all European exports and providing 10.97 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.