



Orgalim position on the Sustainable Products Initiative

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Executive Summary

Orgalim represents Europe's technology industries, providing innovative technology solutions which are underpinning the twin green and digital transitions and can unlock a greener, healthier and more prosperous future for the European Union and its citizens. **Our industries welcome the European Commission's Sustainable Products Initiative** as a key measure to further optimise the way resources are used throughout the economy and society. Our industries stand ready to continue providing innovative, cutting-edge technology solutions and sustainable products and to continuously improving the performance and overall sustainability of products, striving for excellence and ensuring that consumers, businesses and the environment benefit from competing, innovative, cutting-edge technology solutions. For our industries, high product quality is a core competitive argument and this goes hand in hand with sustainability, as for example durability is one of the main objectives of the Sustainable Products Initiative.

The Sustainable Products Initiative (SPI) is an important opportunity for a win-win situation for the environment and the economy, and applying digital solutions for product information, such as Digital Product Passports (DPP), could have benefits for some end-users such as consumers as well as for our industries – provided that they are properly designed according to the **key principles** below:

- To secure the functioning of the **Single Market** – one of the EU's success stories and major achievements – requirements must be **harmonised at EU level**. "The stronger the EU Single Market, the better for the circular economy" should be a guiding principle for future action. We are concerned about different national provisions and mandatory requirements on products not aligned with the EU requirements.
- An **impact assessment** must always be conducted to ensure that their implementation will be workable, proportionate and will contribute to a circular economy. There must be proven environmental benefits that exceed the costs to industry.
- **Ensuring effective enforcement and market surveillance** will be of the utmost importance for the success of the application of the SPI and DPP and will be even more necessary in the future to ensure a level playing field.
- New requirements for products must follow the **New Legislative Framework (NLF)** including the application of the CE marking and declaration of conformity. Product requirements must be based on applicable internal market regulations, to ensure a level playing field and to adjust relevant provisions to specifically solve uncertainties related to definitions, requirements and responsibilities of the different actors.
- Requirements must be based on scientific assessment methods through recognised European or ISO /IEC/ITU international **standards** and must be **reliable and verifiable**. Standardisation bodies and global standards should be used in the design of the SPI and DPP requirements.
- The **"SMERC" principle** must be applied:
 - **Specific** – requirements must be considered on a product group-specific basis. Even within the same product group and within individual categories of equipment in our sector, the products and their environmental impact differ significantly, especially depending on ambient and operating conditions.
 - **Measurability** – the parameters must be clearly determined and measurement methods must be accurately defined.
 - **Enforceability** – it must be possible to verify and enforce requirements through market surveillance.
 - **Relevance** – new parameters and corresponding requirements must be relevant for the environment, the users and applicable even within the specific life cycle phase(s). There must be evidence of clear and significant potential for improvement.
 - **Competitiveness** – there must be no significant negative impact on the industry's competitiveness and the competition must be fair.
- We support information at product level when it is **possible and relevant**.
- The **industry should be involved** as early and as fully as possible in the development of the SPI and the DPP. The sector know-how is extremely important.
- The burden put on companies must be **proportionate**. Additional requirements should be kept as minimal as possible and must be manageable and affordable for SMEs.
- Information should respect **confidentiality** related to protectable trade secrets and secure IP protection.
- There is **no one-size-fits-all approach**. SPI requirements and DPP must be established on a **sector-by-sector and product-by-product basis**, taking into account the differences in products (and differences between business-to-consumer B2C and business-to-business B2B products) and the information that is relevant to them. It is very difficult to respond to the Commission SPI public consultation questionnaire because the

answers to the questions depend very much on the types of products. **Differentiating consumer (B2C) and professional (B2B) products** in the context of material efficiency is crucial. Incentive structures, customer behaviour, customer relations, pricing, material composition and market dynamics distinguish both sectors. To carry forward the success of the SPI, a case-by-case assessment remains of high importance.

- Requirements should be **technology-neutral** to ensure a variety of technology options applicable to sustainable design requirements and choices related to material efficiency.
- Requirements should **not hinder the development of new innovations, business models and products**. Decisions on technology development, product design and technical requirements must be left to the manufacturers who are the technical experts.
- The EU should **support European companies** to put in place these new SPI and DPP measures as well as the EU Member States who will control these measures.
- **We strongly oppose third-party certification or inspection**. Self-assessment is just as valid a procedure and offers the same level of safety benefits as any conformity assessment procedure supported by a third-party (e.g. notified body). Furthermore, it would be unacceptable for industries to be required to bear the costs of third-party certification or inspection because Member States lack the capacity and resources to undertake sufficient market surveillance and enforcement activities.

We have the following **additional recommendations** on the proposed Digital Product Passport(s) (**DPP**):

- DPP should be designed to **support circular economy principles**.
- DPP should be properly designed by policymakers **together with the industry** given its considerable knowledge and expertise about information in value chains, existing systems and what is required for a product passport to work in practice.
- We have a **general concern about the protection of confidential data/information**. It is of the utmost importance to ensure the confidentiality and protection of companies' know-how and trade secrets.
- Information on product characteristics must be **meaningful, easy to understand, reliable, comparable, verifiable** and have an improvement potential from a sustainability perspective. The quality of data is important and data has to be of added value. The recent 'bad example' of the ECHA SCIP database must not be replicated.
- As to the scope of DPP, we recommend to **start with a small number of products and simple criteria** based on data already available rather than with a wide scope and complex criteria. We very much welcome the intention of the Commission to start with a limited number of prototype projects. It is important for DPP to be tested in smaller fields of application before its use becomes more widespread.
- The information content in the passports should be **limited to regulatory requirements** because it is impossible for companies to obtain non-mandatory information from their global and complex supply chains.
- **Consistency and alignment with existing requirements under other EU laws** (e.g. REACH Regulation, ECHA SCIP database, etc) is needed to **avoid the duplication of efforts** in providing information. The passports must be linked to – and ideally extract data from or replace – existing databases and avoid duplications and overlaps causing business an unnecessary administrative burden.
- There must be **clear responsibilities for all actors** (e.g. suppliers, manufacturers, retailers, repairers, recyclers) providing data, accessing and sharing information from the DPP.
- DPP requirements must be **verifiable and enforceable** to guarantee a **level playing field**.
- The appropriate and reasonable **level of detail of information** needs to be determined.
- We welcome that for specific value chains or specific product groups, **stakeholders will be invited to identify relevant data and agree on access**.
- We also welcome that the DPP is expected to be a **decentralised system** linked with the European Dataspace for Smart Circular Applications, importance of quality of data, etc. But it is important that the information / data required will be **standardised in a harmonised EU format** set by the Commission.
- The DPP should be similar to the EU Product Database for Energy Labelling (**EPREL**) database where some information can only be accessed by the authorities and is subject to higher security safeguards.
- Our general position on the proposed **content of the DPP** is as follows (see related explanations on pages 14 to 20), noting that it will depend on the type of products that will be within the scope of the passport as well as on how these proposed requirements will be formulated in details:
 - **We agree** with the following proposals:
 - List of legislation and standards that the product complies with, or the technical specifications that it fulfils
 - Information on safe use and instructions, where applicable

- **We are neutral** on the following proposals:
 - Information relevant for testing, disassembly, maintenance, repair or reassembly
 - Information on Product Environmental and/or carbon footprint, or other relevant sustainability characteristics
 - Any possession of sustainability labels, such as the EU Ecolabel
 - Information on how the product should be recycled and /or handled at the end of life
- **We disagree** with the following proposals:
 - Economic actors at the origin of information
 - Recycled content of each material present in the product
 - Results of compliance tests against legislations, standards or technical specifications
 - Expected lifespan of the product
- **We strongly disagree** with the following proposals
 - List of materials and substances present in the product
 - Quantities of materials and substances present in the product
 - Presence in the product of hazardous chemicals, and if so, their location
 - Information relevant to remanufacture and spare parts (e.g. CAD technical drawings, 3Dprinting files)
 - Information on the origin of product components
 - Information on material sources (e.g. conflict-free materials, responsible mining etc.)

As to circular business models:

- **Policymakers should not develop business models.** They need to focus on the promotion of business models that are decreasing the environmental footprint. Policymakers should accommodate both existing and new business models in terms of placing products on the market and in terms of service activities.
- **A level playing field** must be secured. Manufacturers want to see that, if they are following rules on circularity, there should be an incentive for people to choose these products. Otherwise, less reputable manufacturers may not follow the rules.
- We strongly support the circular business model of **product-service systems**.

We strongly support the Ecodesign instrument which has delivered for the consumer, the industry and the planet through its holistic approach of minimising life cycle impacts, based on scientific evidence, at the least life cycle cost – setting measurable, enforceable requirements case-by-case in big saving areas. We also support the Ecodesign Directive because it provides an EU harmonised framework in accordance with the New Legislative Framework for setting the Ecodesign requirements on energy related products, and as such ensures the functioning of the EU Internal Market for these products. Should the **scope** of the existing Ecodesign Directive be extended to non-energy related products:

- **We recommend maintaining the existing framework of the Ecodesign Directive for energy-related products** to guarantee legal and investment certainty, confidence and trust in the market in the ongoing implementation.
- **Adding new products** within the scope of Ecodesign **should be proportionate** and we defend the method of establishing implementing measures in the existing Ecodesign Directive as stipulated in its Article 15.

Regarding incentives:

- We strongly support developing and implementing **mandatory Green Public Procurement (GPP)** criteria and targets, improving access to finance for the production and consumption of more sustainable products.
- As regards **Extended Producer Responsibility (EPR)**, EPR-related directives (such as the WEEE Directive) have certainly achieved positive results including increased collection volumes and improved recycling results and we recognise the role of producers in the proper collection and treatment of their end-of-life products. However, producers alone cannot achieve the entirety of the objectives and **any extension of EPR's obligations should be carefully analysed** from that perspective. Successful EPR solutions depend not only on producers but also on the effective cooperation of several actors such as municipalities, retailers, consumers, waste companies, recyclers, and enforcement authorities. This is why we call for a **true 'shared responsibility' approach**: all actors involved in the collection and treatment of different waste streams, not only producers, need to respect the same obligations to achieve the collection and recycling targets of EPR-related directives.
- We understand the reasoning behind the **modulation of fees on the sustainability of products under EPR** schemes but please consider the concerns mentioned in this document (on page 25) as we doubt it will work in practice for Waste Electrical and Electronic Equipment (WEEE) and it will have an impact on product design.

1. Challenges to make products sustainable

1.1. Market-related statements explaining why products sold in the EU are not more sustainable

➤ We **AGREE** with the following statements:

- **“More sustainable products are often too expensive for households with lower incomes”**. Sometimes sustainability costs more. The total cost of ownership (TCO) of such products needs to be considered as many sustainable products are less expensive in the long run. Some education for citizens and consumers on sustainable products and TCO is also needed.
- **“The quality of second hand goods cannot be guaranteed or is difficult to assess”**. It depends on the type of products (B2C or B2B products). We agree with respect to professional products due to safety reasons because for these products there are already systems in place to secure the safety of the second-hand products. Manufacturers are not responsible for the quality of second hand products. There are questions about the responsibility regarding the quality and safety of second hand products. We need to differentiate between products that are remanufactured/refurbished by the manufacturer or dealer and products sold second hand by consumers themselves. There are also questions over which standards would apply; those applicable when the product or equipment was first sold on the market or the newer/updated standards?

➤ We are **NEUTRAL** on the following statements:

- **“Economic actors do not have adequate and reliable information on the sustainability of products”** because we are questioning several terms. What are the definitions of “economic actors” (only consumers or also professionals)? What are the definitions of “information on the sustainability of products”? (this is too vague) and of “adequate and reliable” information?
- **“Products such as electronics become obsolete quickly because of technological innovations”** due to the fact that our answer depends on the type of electronics and also on the use by consumers. There is an enormous difference here between B2C and B2B products. Also of importance are the definitions of “obsolete”, (what kind of obsolescence we are talking about?) and of “planned obsolescence”. Our industries strongly recommend to use EU standards and guidelines to define and measure these concepts.
- **“Many products are not designed to be easily repaired or upgraded”**. What does “easily repaired or upgraded” mean? And specifically, what does “easily” mean?
- **“The cost of repairing a product is too high, in comparison with buying a brand new product”**. Both depend again on the type of products (B2C or B2B products?). We agree for consumer products but not for professional products. Furthermore, there are differences regarding the costs of repairing professional versus consumer products. As safety comes first, professionals are the ones who repair B2B products. There are several reasons why products are not designed to be easily repaired or upgraded. When it comes to the question of new purchases or repairs, consumers often decide against a repair for economic reasons, even though it would make sense from an environmental perspective. The decisive factor here is not so much the absolute cost of repair, but the relationship between the purchase price and the cost of repair. In addition, it is not uncommon for some consumer appliances to be replaced by new ones, even though they still function perfectly.

➤ We **DISAGREE** with the statement **“Some products are designed to break down after a certain amount of time (planned obsolescence)”** because this is not the case in our industries. European technology companies, nurturing a long-term reputation and credibility, simply avoid designing products of short durability. Planned ageing is not, and cannot be, a long-term sustainable business model.

- We **STRONGLY DISAGREE** with the following statements:
 - **“Products do not sufficiently cover the costs of the harm that their production and use cause to the environment”**. Products from the technology industries are generally covered by extended producer responsibility (EPR) following “the polluter pays principle”.
 - **“For electronics, as well as for fashion products, there are not enough places where products can be repaired”**. There are many existing and a growing number of places where consumer electronics can be repaired.
- We have **NO OPINION** on the statement **“Materials used in products are more and more complex and difficult to recycle”**. This question about recycling cannot be answered by our industries. It should be answered by waste treatment operators. Our industries support the waste hierarchy and therefore reuse before recycling and waste prevention in the form of long-lasting products. Manufacturers use more or different substances or materials to achieve certain performance levels, for example durability or energy-efficiency. However, there can be a trade-off between energy-efficiency and producing “simple” products of mono-materials. A thorough analysis is needed to determine the best choice for the environment, consumers and the underlying economic viability. Furthermore, the complexity of the products and materials used is mirrored in the complexity of the regulation, which underlines the need for coherence in the interface between chemicals, products and waste.

1.2. Policy-related statements explaining why products sold in the EU are not more sustainable

- We **STRONGLY AGREE** with the statement **“Diverging national rules and lack of a harmonised set of EU rules discourage large businesses, which operate across various EU Member States, from offering more sustainable products”**. “The stronger the EU Single Market, the better for the circular economy” should be a guiding principle for future action. To secure the functioning of the Single Market – one of the EU’s success stories and major achievements that has improved prosperity and opportunities for European citizens and businesses – it is crucial to ensure a harmonised approach throughout the EU to the various circular economy measures. Our industries want harmonised regulations and rules based on the New Legislative Framework with standards playing a key role. Our industries are already developing sustainable products because of requests from the market and not only because of regulations. However harmonised regulations will make investments in developing and documenting more sustainable products much more attractive. Problems for SMEs and the role of standardisation should be addressed.
- We **AGREE** with the statement **“There is no harmonised set of requirements to foster the sustainability of services provided in the EU”**.
- We **DISAGREE** with the following statements:
 - **“There is no harmonised set of requirements to foster the sustainable design of products placed on the EU market”**. Our sector already has a harmonised set of requirements to foster the sustainable design of products placed on the EU market with Ecodesign for products covered by our industries. Over a decade, the Ecodesign Directive 2009/125/EC has been the policymakers’ preferred tool to define sustainability characteristics and requirements. The Ecodesign Directive is fit for purpose as the core policy tool for the technology industries’ sector and has been proven to be successful. Our industries strongly support the Ecodesign instrument which has delivered for the consumer, the industry and the planet through its holistic approach of minimising life cycle impacts, based on scientific evidence, at the least life cycle cost – setting measurable, enforceable requirements case-by-case in big saving areas. We also support the Ecodesign Directive since it provides an EU harmonised framework in accordance with the New Legislative Framework for setting the Ecodesign requirements on energy-related products, and as such ensures the functioning of the EU Internal Market for these products. Since the Directive entered into force in 2005, our sector has fully embraced the Ecodesign policy, by implementing concrete sustainable product measures and therefore contributing to the EU’s wider climate and resource policy agenda. The Ecodesign and Energy Labelling measures have been the tools to enhance energy and resource efficiency of products and to realise almost half of the EU’s 2020 energy efficiency target according to the Commission. In addition to our comments on Ecodesign, we question whether European

standards are part of the statement “There is no harmonised set of requirements to foster the sustainable design of products placed on the EU market”!

- **“Voluntary approaches, such as labelling, do not provide sufficient incentives for businesses to offer more sustainable products”.** What kind of label – the Energy labelling? Examples of voluntary schemes are the Nordic Swan or the Blue Angel in Germany. Type I labels have succeeded in pushing the market forward with still higher requirements. In some markets and product categories a green label is a necessity – a license to operate.
- **We have NO OPINION** on the statement **“There are insufficient incentives to reward products based on their different sustainability performances”** because we do not understand this statement. The market should reward products. Due to unfair competition and the absence of a level playing field, it is too easy to sell products that are not sustainable. We support mandatory Green Public Procurement and circular business models as ways of making producing sustainable products more economically viable.

2. Measures to make sustainable products the norm

2.1. Design for sustainability - sustainability requirements for products

- **We SUPPORT** the proposal to **“Set binding rules detailing, at product group level, what actions producers are obliged to take to improve their products’ durability, reusability, upgradability and reparability** (for example, for electronic/ICT products, setting a minimum number of cycles during which the battery must function properly)”. The “SMERC” principle should be applied; requirements must be Specific, Measurable, Enforceable, Relevant and not harm the industry’s Competitiveness. We welcome that the rules must be determined at specific product group levels because there is no one-size-fits-all solution. The requirements must be established on a product-by-product basis taking into account the differences in products (and differences between B2C and B2B products) and the information that is relevant to them. This is similar to existing Ecodesign rules for energy-related products. This proposal to “set binding rules detailing, at product group level, what actions producers are obliged to take to improve their products’ durability, reusability, upgradability and reparability” must be developed within Ecodesign, which we strongly support for the reasons explained earlier. The technical specifications at product level must be developed together with the industry which has the know-how about the products.
- **We are NEUTRAL** on the following proposals:
 - **“Require producers/importers to ensure information on reparability is provided on or with a product”.** This needs to be analysed to access the environmentally added value compared to the costs for companies and for consumers. It might be interesting for some products while other products, for example products of low value, should rather be designed for recycling. Again it is relevant to distinguish between B2C and B2C products and further distinguish between products a consumer can repair for themselves without safety concerns and products which only authorised personnel should repair. Thus, the relevance of this type of requirement should be evaluated product category by product category. Another crucial aspect is the level of administrative burden this requirement would require. We recommend that for the chosen product categories a general framework is set up that gives companies room to manoeuvre combined with market surveillance measures, unlike the energy labelling legislation. In addition, it depends on the detailed information that is provided to the end-user. Due to safety reasons, some information might not be provided and some products must be repaired only by professionals. We also have several questions e.g. how will the criteria be designed, what information on reparability should be included, which level of details will be required, enforceability of this requirement? There is a risk of unfair competition, and as a minimum the requirements should be the same for all products in a given product category. We note that the existing French Circular Economy law already requires this information and the scope is limited to B2C products. We recommend to start with a small number of products.
 - **“Ban the use of a substance or substances in a given product, should such substances be found to inhibit product recyclability”.** This proposal is better than the above proposal to “Require producers/importers to ensure information on the chemical content of a product is provided on or

with a product” because it is more targeted and creates more value. The assessment of a substance should not be reduced to the inhibition of recyclability. A solution must be found for each substance on a case-by-case basis: either a better substitute or improving/ enhancing recycling. The responsibility should be shared between manufacturers and waste treatment operators. Also it should be proven that there is threshold for recycling. Substances which inhibit product recyclability are not related to substances of concern or substances of very high concern (a combination of ordinary substances can hinder recyclability). An impact assessment is needed for each substance on a case-by-case basis. Policy making and decisions regarding chemicals should be risk-based not hazard-based (see more details in Orgalim [Position Paper](#) on the new Circular Economy Action Plan). A risk-based approach should be carried out to assess substances which should be avoided in products/waste. The problem of legacy substances should also be addressed and the “SMERC” principle described earlier applied.

- **We DO NOT AGREE** with the proposal to **“Require producers/importers to publish information on how they have prioritised materials that are safe and sustainable-by-design, and have substituted chemicals of concern with safer ones whenever possible”** if mandatory for the following reasons:
 - There is no definition yet of the concept “safe and sustainable-by-design”. Discussions have just started under the new Chemicals Strategy for Sustainability.
 - Publication should be on a voluntary basis. However, even if it is only on a voluntary basis, the market power could lead to a “quasi” requirement. Producers/ importers may be obliged to document such information but they must not be required to publish such information. This is confidential technology know-how which must not be made available to the general public and competitors. The protection of European Intellectual Property Rights regarding confidential business information on products is crucial for the competitiveness of our European companies and must be guaranteed.
 - It would represent an excessive and thus not proportionate administrative burden for the industry.
 - Industry needs sufficient time to adapt their products and manufacturing processes especially when Substances of Very High Concern (SVHC’s) are affected by REACH and waste management legislation.
 - We need to make a distinction between legacy issues (e.g. DDT, PFAS, cadmium in plastics, etc) and our present knowledge about chemicals. In many products there is no alternative chemical available today or such an alternative chemical may have other disadvantages or face the risk of being nominated as an SVHC itself.
 - The EU and national authorities need to financially support the industry in finding alternative chemicals that can substitute ‘problematic’ chemicals and be involved in the substitution process.
 - Is this proposal related to best practices?
 - This seems to be a purely academic and administrative exercise and we believe actual changes speak for themselves.

- **We STRONGLY DISAGREE** with the following proposals:
 - **“Require producers/importers to prove that the design of their products respects the following prioritisation: (first preference) that the product is capable of being reused /repaired/shared; (second preference) that the product is capable of being remanufactured/refurbished/upgraded; (third preference) that the product is capable of being recycled”.** Again there is no one-size-fits-all solution. Requirements must be established on a product-by-product basis taking into account the differences in products (and differences between B2C and B2B products) and the information that is relevant to them. We do not support such proposed prioritisation without an impact assessment. We support Ecodesign because for each product group there is a detailed impact assessment and definitely with a distinction between B2C and B2B products as these priorities often are part of the contract when for example delivering machinery to be used in industry. The prioritisation should not only cover sustainability aspects but also safety aspects as well as taking into consideration that durability may trump other considerations both from a consumer and an environmental point of view. An example is technology built into a house meant to last 20-30 years. There are not enough incentives rewarding very long-lasting products. Policymakers appear to favour repairable products over very durable ones. This raises the question about the balance in the circular economy between long-lasting versus efficient products. We are missing legal definitions of remanufacturing and refurbishment. Regarding remanufacturing and refurbishment, the Ecodesign life cycle approach is supported by our industries because it is fundamental for defining the

requirements and should be a guiding principle for authorities. Existing as well as new business type models such as servitisation incentivise the extension of product life cycles through durable design, repair, refurbishment and remanufacturing. It is a desirable development that products, as long as they are economically and environmentally beneficial, and respect product safety requirements, are used for as long as possible through good maintenance, repair, service and also through upgrading. Some of these business models have already existed for a long time, others are ongoing through new business concepts within the industry. In addition, it is important that legislation provides a stable and coherent framework for those existing and future business models – safeguarding end-users, providing legal certainty to actors and ensuring that these actors (manufacturers, remanufacturers, repair industry, distributors, etc.) bear the corresponding responsibilities. In the construction of such a framework, it is also important to identify and address any conflicting requirements between different policy objectives and the different obligations in the legislation. The Internal Market is also of great importance for the development of circular business models. Furthermore, to turn these approaches into a functioning business model, it must be economically viable to extend the lifetime of products and to purchase remanufactured and/or refurbished products.

- **“Require producers/importers to prioritise modular design of their products, so as to facilitate repair, remanufacture, upgrade and disassembly** (for example for ICT products, batteries, screens and back covers should be removable in less than a defined number of steps)”. This issue should be solved by the market – by the companies according to the products themselves – and not by mandatory specific requirements. We recommend to set requirements for results, for example reuse or recycling targets, but not for the specific methods or technologies employed by producers. Again there is no-one-size-fits-all solution and we need a thorough analysis for each product group on what requirements or targets add most value, and in this context what would be the best solution from an environmental point of view. We also need fair competition and a level playing field. Furthermore, we must point out that there are aspects other than sustainability to be considered, notably safety. Finally, we question the definition of “modular design” as well as how it will be possible for companies to prove adherence to this prioritisation and to avoid it becoming an administrative burden with no added value.
- **“Require producers/importers to offer product guarantees, which could include “commitment to free repair as first remedy” in case of failures and a “commitment to upgrade the product periodically”**. The guarantee is the responsibility of retailers. We are concerned by the economic impacts of free repair as first remedy and we find that this is a step too far into what should be the competence of companies; deciding which business model to follow. There is a difference between providing companies with incentives to conduct business in a more sustainable way and setting specific requirements determining the only type of business model to choose. In addition, we would welcome clarification about the meaning of “commitment to upgrade the product periodically”.
- **“Require producers/importers to display a repairability score on their products, in line with harmonised requirements at EU level, to facilitate comparison of product repairability”** for the reasons explained under the above proposal to require producers/importers to ensure information on repairability is provided on or with a product (see page 7). In addition, how will this repairability score work in practice? Will it be similar to the existing energy labelling classes?
- **“Require producers/importers to establish a repair network for their products”**. It is up to the market to decide how products should be repaired. To be noted that for complex professional use products there are already sufficient systems for repair in place.
- **“Require producers/importers to ensure information on a product’s average expected lifespan is provided on or with a product”**. We question whether this very detailed proposal is the right way to go. Again it is up to the market to decide. For B2B products lifespan is included in the contracts and every product would need a defined set of conditions to establish the lifespan.
- **“Require producers/importers to ensure information on the chemical content of a product is provided on or with a product”** for the following reasons:
 - This could mean a “full material declaration” disclosure. This information is not available for the OEM through the supply chain. IP plays a role as information is protected by supply. For complex products it is very difficult to create a full list of materials and substances – especially if we want data that is reliable and verified across international supply chains. For electronics for example such a list will be very long.

- We question how such a long list would improve the sustainability of products.
 - The workload and administrative burden of such a requirement would far outweigh the positive aspects.
 - Information to allow safe use is already communicated via Safety Data Sheets and REACH Article 33 information. The REACH Article 33 information can, but does not necessarily, exist on or with the product. What is the additional benefit of the extra information? Does this benefit justify the burden? How does this measure contribute to achieve the above-mentioned targets? Information about a product's chemical content does not reveal information about recycled content. The amount of recycled material cannot be determined by chemical analyses. For "addressing the presence of hazardous chemicals in products", a one-size-fits-all solution is not the preferred solution because different products, different markets, different recipients, etc. require different solutions to achieve this aim with appropriate measures and costs. The ECHA SCIP database is a negative example for a one-size-fits-all solution.
 - Would it also include the product? If so, what is the definition of "product"? Should it cover every physical product, i.e. substances, mixtures as well as simple and complex articles? A clear definition of product versus article versus material versus mixture/chemicals is necessary.
 - The existing REACH Article 33 obligations are already very difficult for companies to implement (see more details in the Orgalim [Position Paper](#) on the ECHA SCIP database) and there are technical issues. . In addition, there is limited use compared, especially in cases where, during use, there is no exposition with the Candidate List substance expected.
 - Many products are imported into the EU and there is no reliable information from non-EU countries.
 - It would represent an excessive and thus not proportionate administrative burden.
 - We do not recommend using the ECHA SCIP database for such information since the information in the SCIP database has a different target. SCIP is intended for the waste treatment organisations while the information here is intended for the recipients of the products.
 - The distinction between "on" or "with" a product is important. Product information should be allowed to be communicated in a digital form. Learning from the SCIP database, the format should not be a one-size-fits-all format.
 - The definition of chemical content is essential. To add a proposal for the definition or state requirements for the definition, e.g. chemical content does not mean Full Material Declarations. The definition should be unified within the EU.
 - Harmonised standards and adequate resources are necessary to conduct chemical analysis. Producers and importers should not be obliged to conduct chemical analyses to fulfill the obligations. Additional information needed for any new information requirements should be made available by the upstream suppliers, independently from what is meant by "product", substance, mixture or article. Especially, complex articles' producers and importers should not be required to conduct chemical analyses. Chemical analyses are often destructive and, therefore, can not be conducted for products produced or imported in small quantities.
 - Definition of analytics standards is the responsibility of the EU
 - It is not clear what it is a "sustainable product".
 - The format should be decided by the industry.
- **"Require additional information to be made available on material sources, e.g. content in the product of critical raw materials and minerals from conflict-affected and high-risk areas"**. Due diligence (conflict minerals) should remain voluntary and in line with OECD Guidelines. See more details in the Orgalim [Position Paper](#) about conflict minerals.

➤ **We have NO OPINION** on the following proposals:

- **"Require producers/importers to prove that they have assessed possible causes of failures and addressed them, with a view to optimising product durability"**. This proposal is too vague. We need a common understanding of the causes and risks of failure because otherwise there is a risk of a non-level playing field. Furthermore, the durability of a product is a complex concept that depends on the design of the product but also on several other aspects such as robustness, reparability, upgradability, maintenance and reuse as well as on the usage of the product by consumers and customers, the way the product was installed, the environment of the products, etc. Increased product durability means conflicts with other aspects of the product such as lightweighting, energy efficiency, substances substitution and affordability.

There is currently no methodology available that would allow a reliable assessment of the durability of products.

- **“Require producers/importers to ensure information on access to repair services is provided on or with a product”.** Not only manufacturers should have obligations, also other actors in the value chain e.g. retailers in this case.

2.2. Responsibility for information, including Digital Product Passport(s)

2.2.1. Key principles for successful Digital Product Passport(s)

Applying digital solutions for product information, such as Digital Product Passports (DPP), could have benefits for some end-users such as consumers as well as for our industries provided they are properly designed according to the **key principles** below:

- An **impact assessment** must always be conducted to ensure that the implementation of DPP will be workable, proportionate and will contribute to a circular economy. There must be proven environmental benefits that exceed the costs to industry.
- To secure the functioning of the **Single Market** – one of the EU’s success stories and major achievements – requirements must be **harmonised at EU level**. “The stronger the EU Single Market, the better for the circular economy” should be a guiding principle for future action. We are concerned about different national provisions and mandatory requirements on products not aligned with the EU requirements.
- **Ensuring effective enforcement and market surveillance** will indeed be of the utmost importance for the success of the application of the DPP and will be even more necessary in the future to ensure a level playing field.
- Requirements must follow the **New Legislative Framework (NLF)** including the application of the CE marking and declaration of conformity. Product requirements must be based on applicable Internal Market regulations, to ensure a level playing field and to adjust relevant provisions to specifically solve uncertainties related to definitions, requirements and responsibilities of the different actors.
- Requirements must be based on **scientific assessment methods** recognised through international **standards** and must be **reliable and verifiable**. Standardisation bodies and global standards should be used in the design of the requirements.
- The **“SMERC” principle** must be applied:
 - **Specific** – requirements must be considered on a product group-specific basis. Even within the same product group and within individual categories of equipment in our sector, the products and their environmental impact differ significantly, especially depending on ambient and operating conditions.
 - **Measurability** – the parameters must be clearly determined and measurement methods must be accurately defined.
 - **Enforceability** – it must be possible to verify and enforce requirements through market surveillance.
 - **Relevance** – new parameters and corresponding requirements must be relevant for the environment, the users and applicable even within the specific life cycle phase(s). There must be evidence of clear and significant potential for improvement.
 - **Competitiveness** – there must be no significant negative impact on the industry’s competitiveness and the competition must be fair.
- The **industry should be involved** as early and as fully as possible in the development of the DPP. The sector know-how is extremely important.
- The burden put on companies must be **proportionate**. Additional efforts should be kept as minimal as possible, and must be manageable and affordable for SMEs.
- Information should respect **confidentiality** related to protectable trade secrets and secure IP protection.
- There is **no one-size-fits-all approach**. DPP must be established on a **sector-by-sector and product-by-product basis** taking into account the differences in products (and differences between B2C and B2B products) and the information that is relevant to them. It is very difficult to respond to the Commission SPI consultation questionnaire because the answers to the questions depend very much on the types of products. **Differentiating**

consumer (B2C) and professional (B2B) products in the context of material efficiency is crucial. Incentive structures, customer behaviour, customer relations, pricing, material composition and market dynamics distinguish both sectors. To carry forward the success of the SPI, a case-by-case assessment remains of high importance.

- Requirements should be **technology-neutral** to ensure a variety of technology options applicable to sustainable design requirements and choices related to material efficiency.
- Requirements should **not hinder the development of new innovations, business models and products**. Decisions on technology development, product design and technical requirements must be left to the manufacturers who are the technical experts.
- The EU should **support European companies** to put in place these new DPPs as well as the EU Member States to control these DPPs.
- The DPP should be designed to **support circular economy principles**.
- The DPP should be properly designed by policymakers **together with the industry** given its considerable knowledge and expertise about information in value chains, existing systems and what is required for a product passport to work in practice.
- We have a **general concern about the protection of confidential data/information**. It is of the utmost importance to ensure the confidentiality and protection of companies' know-how and trade secrets.
- Information on product characteristics must be **meaningful, easy to understand, reliable, comparable, verifiable** and have an improvement potential from a sustainability perspective. The quality of data is important and data has to be of added value. The recent 'bad example' of the ECHA SCIP database must not be replicated.
- As to the scope of DPP, we recommend to **start with a small number of products and simple criteria** based on data already available rather than with a wide scope and complex criteria. We very much welcome the intention of the Commission to start with a limited number of prototype projects. It is important that DPP will be tested in smaller fields of application before its use becomes more widespread.
- The information content in the passports should be **limited to regulatory requirements** because it is impossible for companies to obtain non-mandatory information from their global and complex supply chains.
- **Consistency and alignment with existing requirements under other EU laws** (e.g. REACH Regulation, ECHA SCIP database, etc) is needed to **avoid the duplication of efforts** in providing information. The passports must be linked to – and ideally extract data from or replace - existing databases and avoid duplications and overlaps causing business an unnecessary administrative burden.
- There must be **clear responsibilities for all actors** (e.g. suppliers, manufacturers, retailers, repairers, recyclers) providing data, accessing and sharing information from the DPP.
- DPP requirements must be verifiable and enforceable to guarantee a **level playing field**.
- The appropriate and reasonable **level of detail of information** needs to be determined.
- We welcome that for specific value chains or specific product groups, **stakeholders will be invited to identify relevant data and agree on access**.
- We also welcome that the DPP is expected to be a **decentralised system** linked with the European Dataspace for Smart Circular Applications, importance of quality of data, etc. But it is important that the information/data required will **be standardised in a harmonised EU format** set by the Commission.
- The DPP should be similar to the EU Product Database for Energy Labelling (**EPREL**) database where some information can only be accessed by the authorities and is subject to higher security safeguards.

2.2.2. Opportunities of Digital Product Passport(s)

We have identified the following **examples of opportunities** of Digital Product Passports (DPP) for our industries on the condition that the passports will be designed, implemented and enforced properly:

- Better transparency in the value chain
- More market shares for responsible manufacturers
- Easier access to data
- One unique place for all digital product information

- Help with choosing products in a unique EU harmonised approach
- Advancing digitalisation in the company
- Less paper work in connection with bringing products to the EU Internal Market (e.g. digital instead of printed users manuals) on the condition that the Digital Product Passport will replace existing requirements
- Simplified data collection and management
- Advancing digitalisation and simplifying material data compliance requirements
- Engaging end-users
- Improved and increased customer interaction
- Retrieving disused products for remanufacturing.
- Traceability of modifications done to the product (upgrade, repair, remanufacture, etc)
- Enabling the circular economy to be less dependent on raw material markets
- Streamlining data collection from industry and actually reducing the administrative burden

2.2.3. Challenges of Digital Product Passport(s)

- **Managing confidential data** (for example making sure that information is only available to those entitled to access it):
 - The number one concern of producers is that their confidential business know-how and trade secrets could be served on a plate to their competitors. Companies cannot control who will have access to their data.
 - It is important to define who can access the data in the passport (different levels of data).
 - Some of the required data is very sensitive. If it becomes public, uncontrolled product copies cannot be prevented. The competitive advantage of trade secrets will be lost, and supply channels will be transparent thereby losing business advantages.
 - Too high security risk. Government entities should not be put in a position of holding considerable amounts of proprietary business information and protecting it. Cybersecurity is a an important and growing problem. What repercussions will governments face if proprietary information is hacked and stolen?
 - The technology used must be safe (encryption, readability by different softwares, etc).
 - For example, for B2B products service business such as maintenance and repair is often a standard practice in our sector agreed on in the contracts. If this information on service business such as maintenance and repair were to become publicly available, we expect that these types of services business which are important for circular economy will decrease. For example the incentives for companies to create long-lasting products will diminish.
- **Managing the complexity of products and value chains and the quantity of data that is required to make such a passport effective:**
 - We have very complex products in our industries, with thousands of parts, components and sub-components and our supply chains and source plants are globally distributed.
 - The structure of data should be defined by experts from different fields of product life cycle and IT experts.
 - The application should happen at the level of “representative products” or at the corporate level and should not cover tailor-made products and applications. The risk is a multiplication of reporting requirements applied to every individual product sold. The related efforts and costs would not be proportionate and would severely impact the industry’s competitiveness as well as potentially the quality of the data reported. Some data would more meaningfully be given to consumers on a corporate level.
- **Ensuring the relevance and reliability of the information included in the passport:**
 - Digitally available information does not automatically mean reliable information. Verification will be needed to ensure compliance.
 - Smart Product Category Rules / Product Specific Rules are needed for efficient and sector-specific approaches.
 - This sounds like a lot of information (metadata tags) for each product. The maintenance of such volumes of data will be considerable.
 - Difficulty in distinguishing between non-serialised products would create much unnecessary work.

- **Minimising the administrative burden by reusing data already uploaded on existing databases and ensuring their interoperability:**
 - Avoiding duplication of data and using already existing data will be key for the success of DPP.
 - A harmonisation of existing databases will be required as well as a decentralised system that collects data from existing databases.
 - The recent bad experience with the development and use of the ECHA SCIP database (e.g. lack of system stability with volume of traffic, reduced performance allowance for submissions after production release (limit to 1,000 articles in dossier), lack of understanding of complexity within complex business/supply chain/business models, etc) must not be repeated.
 - The fact that there are hundreds of different ways in which companies store data (from excel sheets to SAP) will be the main obstacle to gathering data. In addition, companies use different Enterprise Resources Planning and Environmental Management systems that have differently structured data and that will need to be upgraded. Also, companies will not give access to a third party.

- **Minimising the costs and environmental impacts involved in setting up a digital 'product passport':**
 - Using a standardised approach for delivering information along the value chain can increase operational efficiency if it is restricted to the "own" level of the value chain – receiving information from the supplier and delivering to customers.
 - Setting up a digital passport which includes all proposed information will increase the reporting burden dramatically, damaging EU competitiveness, unless it can be done by collecting information from established existing databases without adding to the administrative burden of industry.
 - For example, by extending the requirements beyond e.g. "for all components in a product" and especially for components outside the EU, a major duplication of work will be created and the burden is neither acceptable nor proportionate.

2.2.4. Content of Digital Product Passport(s)

Our industries are concerned about most of the proposed content of Digital Product Passport(s) e.g. what information should be collected as part of such a digital 'product passport'.

Our general concern is about the protection of confidential data/information. It is of the utmost importance to ensure the confidentiality and protection of companies' know-how and trade secrets.

Our general position on the proposed **content of the digital product passport** is as follows, noting that it will depend on the type of products that will be within the scope of the passport and also on how these proposed requirements will be formulated in detail.

- **We AGREE** with the following proposals:
 - **List of legislation and standards that the product complies with, or the technical specifications that it fulfils.**
 - The list of regulations and standards the product fulfils is acceptable on the condition they are already part of the information required in the Declaration of Conformity. They should not be mandatory for all products.
 - The list of legislation and standards is already provided in current technical literature and Declarations of Conformity for many products. For example, complex products in B2B / professional use cases are often customised according to customer requirements and technical specifications are already part of the contract with the customer.
 - We would welcome information about the intended users of this information.
 - Companies should provide this information only to market surveillance authorities, as a long list of legal requirements and standards would be meaningless to consumers.
 - All documents should be in digital format.
 - Information should not be duplicated and should be centralised in one place.

- **Information on safe use and instructions, where applicable.**
 - We agree as long as this refers only to already existing product information.
 - This information is already given now for most products as part of the user instructions.
 - Reference to standard ISO/IEC/IEEE 82079-1:2019 Preparation of information for use (instructions for use) of products should be generalised
 - Special consideration or distinction should be made between consumer products and professional use products.

➤ We are **NEUTRAL** on the following proposals:

- **Information relevant for testing, disassembly, maintenance, repair or reassembly** (e.g. test protocol, disassembly process and instructions, etc.).
 - Providing assembly and disassembly instructions is a common practice for many products but again it depends on the type of products, the difference between B2C & B2B products, on who will receive this information and on the level of confidentiality (reference to standard EN 45559:2019 - Methods for providing information relating to material efficiency aspects of energy-related products), with possible IPR-issues.
 - For consumer products which consumers can repair, basic information regarding disassembly, maintenance, repair or reassembly could be relevant and reasonable to be included in a product passport. For B2B products, this information could be considered as confidential information that is usually already part of a contract. More detailed information and test protocols could be relevant and accessible only for consumer products for professional repair or service centres. For example, mobile machinery is made for professionals, operated by professionals and serviced and repaired by professionals – all of them requiring specialised training and tools. For many products or systems this information must be kept within a close group of professionals due to safety reasons. Other examples are the control and steering systems for elevators.
 - The DPP should be similar to the EPREL database where some information can only be accessed by the authorities and has a higher security level.
- **Information on Product Environmental and/or carbon footprint, or other relevant sustainability characteristics.**
 - Again it depends on the type of products. It might be easier to give the Product Environmental Footprint (PEF) for one product but not for other products.
 - This information should be delivered voluntarily and not be mandatory because:
 - SMEs are not ready for this.
 - Data is hard to compile and very costly.
 - There is no general method available to compare the data based on global standards.
 - International companies want to use international standards and not those of the EU.
 - As a methodology of calculation should first be defined by the Commission, we cannot evaluate the impact of the proposal.
 - The associated costs of the full LCA for the manufacture should be considered.
 - This information might be necessary for users and required for their reporting on CO₂ accounting. To make it possible, a horizontally standardised approach for a representative product (product category rules) needs to be used. This standard must be customised and applied along the full supply chain (product specific rules).
 - We do recognise the PEF/OEF methods, yet the methodology remains complex and non-cost-efficient, leading to high administrative burdens, in particular for SMEs. See more details in our [Position Paper](#). For a comprehensive assessment of the sustainability of products, a consideration of the entire life cycle is important. This is the only way to identify the actual environmental impact of a product at the individual life cycle stages and to avoid possible rebound effects. We strongly support the life cycle approach, because it enables buyers to better understand why investment in environmentally-friendly technology pays off over the entire life cycle of the product. It is very important that requirements and results are comparable. Increased harmonisation of product requirements criteria is essential to be able to better compare different national, European and global systems and will also facilitate the functioning of the EU Internal Market.

- **Any possession of sustainability labels, such as the EU Ecolabel**
 - As not all products are within the scope of such labels and also as not all products have such sustainability labels, we agree with this proposal only for products which already have these labels. We disagree for products which do not yet have such sustainability labels.
 - Recent research done by the French Government and presented during an EU workshop “Substantiating Green Claims” shows that in Europe there are already 400 labels, logos and procedures to identify the sustainability aspects of a product.
 - These labels must be harmonised at EU level based on standards and be the unique basis to be used by national labels/logos in order to prevent any hampering of the functioning of the EU Internal Market.
 - As many consumers are overwhelmed by the variety of environmental and product labels, these labels must be product-specific, simple and comprehensible.
 - The EU Ecolabel remains a good voluntary tool for stimulating a reduction in the environmental impact in the product’s life cycle. We advocate for maintaining the EU Ecolabel as an accessible tool for all companies, especially SMEs, and the prevention of the introduction of expensive preliminary studies like LCA in order to apply for the label.
- **Information on how the product should be recycled and/or handled at the end of life.**
 - Our opinion on this proposed requirement again depends on the type of products, on the level of detail, and also on how products are collected and sorted.
 - We agree with this proposal at the condition that the information on recycling and handling at the end of the product’s life is the same as that already requested under the existing WEEE Directive.
 - If applicable due to WEEE or Ecodesign implementing measures, information should then be defined there or in associated standards.
 - [The I4R platform](#) provides treatment and recycling facilities and preparation for reuse operators with access to WEEE recycling information in line with the requirements of WEEE Directive 2012/19/EU.

➤ **We DISAGREE** with the following proposals:

- **Economic actors at the origin of information** (Manufacturer / Service provider/ Retailer / Distributor/ Recycler/ Providers of Repairability services).
 - We question if this is feasible in practice following the bad experience with ECHA SCIP database.
 - Risk of disclosure of the supply chain to our competitors.
 - Risk of putting the entire burden on importers (like SCIP).
 - This information should only be at the top level for the products sold and should not include information on sub-suppliers of components as long as components are only approved from the original supplier.
- **Recycled content of each material present in the product:** we support the good intention of recycled content but we have several questions, concerns and recommendations:
 - We highlight again the importance of applying a product-by-product and material-by-material approach as requirements on recycled content will depend on the type of products.
 - One of the current barriers for recycled content is that today there is only a small amount of materials being recycled and reused in new products. For example, some materials e.g. plastics need a value that makes them attractive to collect and recycle. As long as the quality, quantity and the price of primary materials is significantly lower than that of secondary materials, we oppose a mandatory use of recycled content in products. At present, there is still a lack of a sufficiently available supply of high-quality, certified recyclates that are capable of meeting the regulatory, technical and material requirements of the many different product applications over their service life. Furthermore, there is no economic incentive to use recyclates. Since there is an issue with the quality and quantity of recyclates available on the market, the industry faces problems sourcing recycled material. It is very important that policymakers concentrate on these greater barriers.
 - It is not possible for our industries with complex products to provide information about the recycled content of each material present in our products because only materials suppliers have this information, not the manufacturers. We do not always receive raw materials from the same source. Commodities like steel, copper, silver etc. already include recycled material, but the percentage is not known and varies per product batch. This is the reason why recycled content should focus only on a

few materials in the products. This needs to be evaluated for each product category and also for each material.

- Before setting requirements on recycled content, we stress the need to take into account the interface of chemical, product and waste legislation and the importance of coherent objectives. If this is not the case, our industries will not be able to increase the share of recycled plastics in our products.
- Existing material efficiency standard EN 45557:2020 with a general method for assessing the proportion of recycled material content in energy-related products should be used.

– **Results of compliance tests against legislations, standards or technical specifications:**

- It is not necessary for the product passport to include all test results because the CE marking already means that the product is compliant. This is why we question the need for, and added value of, this information.
- We disagree with this proposal if the requirement will become mandatory. The sharing of test results should remain voluntary and should also be provided to market surveillance authorities on a voluntary basis because technical specifications are often related to testing – which is part of the industrial know-how and so is sensitive and challenging information for competitive reasons (IPR, trade secrets, data access, disclosure and protection). In addition, producing all this information is complex for the companies and in particular for the SMEs.

– **Expected lifespan of the product:**

- The intention is good but first we need standards and a methodology.
- Again, it really depends on the type of product and on how and where it is used. Expected lifespan of the product might be good for a certain item, but for example recyclability might be better for another product.
- Expected lifespan of the product should be voluntary and not mandatory because it is very expensive to test lifespan, in particular for long-lasting products, and it is very difficult to measure for our products.
- It is not applicable for B2B products, where the service span is agreed on in the contracts.
- Is “expected lifespan of the product” referring to the warranty period? Is lifespan the same as lifetime? Lifespan is not same as the service span We agree with the condition that lifespan is considered as the durability defined in EN 45552 and not as the reference service life (RSL) as defined in Product Category Rules (example EN 50693).
- Expected lifespan of the product should not become an unconditional consumer guarantee.
- This information is already provided for many products. However, the information already published is general information which never specifies the environmental and operating conditions of use. This information can be relevant only if it is accompanied by conditions of use.
- For example, mobile machinery is used in various applications with different wear and tear profiles. A generic, single-value lifespan would be misleading if no limits of application are specified. If this requirement trickled down to components and service parts, this is proprietary information on how products are designed. B10 life is tightly-guarded data (e.g. machine manufacturers provide Expected Life in some manuals today, while describing the limits. EAEU / TR CU 010/2011 requires this information to be included.)

➤ **We STRONGLY DISAGREE** with the following proposals:

– **List of materials and substances present in the product.**

- Our industries are fully committed to reducing the content of hazardous substances in their products to support a more circular economy and achieve sustainability goals. A meaningful exchange of information between partners in the value chain, focusing on substances of very high concern, can improve the product life cycle footprint, from design to recycling and therefore contribute to a circular economy. When looking at legislation to achieve these goals, our industries believe that any proposal should be evaluated on the basis of its demonstrable and real improvements for the environment.
- But we strongly disagree with this proposal because this could mean a “full material declaration” disclosure. This information is not available for the OEM through the supply chain. IP plays a role as information is protected by supply. For complex products it is very difficult to create a full list

of materials and substances – especially if we want data that is reliable and verified across international supply chains. For electronics for example such a list will be very long.

- We question how such a long list would improve the sustainability of products.
 - The workload and administrative burden of such a requirement would far outweigh the positive aspects.
 - For very complex products the identification of all material and substances would be a minimum 10+ years exercise
 - For complex products with a large number of different substances present, it is questionable what the end-user will use this information for and if the end-user will understand the information provided.
 - As mentioned above, “information to allow safe use” is already communicated via Safety Data Sheets (SDS) and REACH Article 33 information.¹
 - The list of materials and substances present in the product would largely depend on the level of detail that is required. It makes a big difference whether we can list steel, aluminum, polyamide, etc. or whether we need to report specific alloys, polymer types etc. The level of detail should be agreed on and fixed through standards.
 - Definition of “product” versus “article” is necessary.
 - A clear scope of the product passport must be defined.
 - Material is a technical choice. Technical neutrality should be guaranteed. No relevant use for customers (apart from SVHC).
 - The existing REACH Article 33 obligations are already very difficult for companies to implement (see more details in our [Position Paper on the SCIP database](#)) and there are technical issues.
 - Many products are imported into the EU and there is no reliable information from non-EU countries,.
 - We do not recommend to use the SCIP database for such information since the information in the SCIP database has a different target. SCIP is intended for the waste treatment organisations while the information in the digital product passport is intended for the recipients of the products. This would give the SCIP database more importance than it should have and increase the complexity of SCIP, as SCIP is a ‘one-size-fits-all solution’ in its current form.
 - Distinction between “on” or “with” a product is important. Product information should be allowed to be communicated in a digital form. Learning from the SCIP database, the format should not be a one-size-fits-all format.
 - As mentioned earlier, definition of chemical content is essential and should be unified within the EU²
 - Harmonised standards and adequate resources are necessary to conduct chemical analysis. As mentioned earlier, producers and importers should not be obliged to conduct chemical analyses to fulfill the obligations.³
 - Definition of analytics standards is the responsibility of the EU.
 - The LCA does not cover the complete list of materials and it depends on the level of details for material not required by regulation. A data sensitivity level 3 is required (refer to EN 45559 Level of data sensitivity).
- **Quantities of materials and substances present in the product:**
- Our industries are fully committed to reducing the content of hazardous substances in their products to support a more circular economy and achieve sustainability goals. A meaningful exchange of information between partners in the value chain, focusing on substances of very high concern, can improve the product life cycle footprint, from design to recycling and therefore contribute to a circular economy. When looking at legislation to achieve these goals, our industries believe that any proposal should be evaluated on the basis of its demonstrable and real improvements for the environment.

¹ See section ‘Design for sustainability - sustainability requirements for products’

² See section ‘Design for sustainability - sustainability requirements for products’

³ See section ‘Design for sustainability - sustainability requirements for products’

- But the question is not limited to materials and substances of very high concern and not even to hazardous materials and substances. Therefore, we strongly disagree with this proposal because this could mean a “full material declaration” and we understand that Full Material Declarations are intended to become mandatory. Full Material Declarations are confidential business information and must not be made available to the general public and to (non EU) competitors. This information is not available for the OEM through the supply chain. IP plays a role as information is protected by supply. The protection of European Intellectual Property Rights regarding confidential business information on products is crucial for the competitiveness of our European companies and must be guaranteed.
 - For complex products it is very difficult to create a full list of materials and substances – especially if we want data that is reliable and verified across international supply chains. For electronics for example such a list will be very long.
 - We question how such a long list would improve the sustainability of products.
 - A level playing field should be guaranteed between EU and non-EU manufacturers
 - The workload and administrative burden of such a requirement would far outweigh the positive aspects.
 - We should stick to the existing concentration limit (RoHS, SCIP database) and not go beyond it.
 - Another point regarding the quantities – even processed food products do not have to be labelled with a Full Material Declaration. Many quantities of ingredients are not disclosed. A 100% recipe is not revealed.
 - Material is a technical choice. Technical neutrality should be guaranteed. No relevant use for customers (apart from SVHC).
 - The existing REACH Article 33 obligations are already very difficult for companies to implement (see details in our [Position Paper on the SCIP database](#)).
- **Presence in the product of hazardous chemicals, and if so, their location:**
- We would welcome information about the intended use of this information for consumers, end-users and recyclers as well as about the expected environmental benefits.
 - As long as the products are safe to use and the content of the hazardous substance does not pose a threat to consumers or recyclers this information does not add value.
 - The information on SVHC location may help (for recycling) only in some specific cases.
 - The existing REACH Article 33 obligations are already very difficult for companies to implement (see our [Position Paper on the SCIP database](#)) and there are technical issues. In addition, REACH Article 33 obligations do not mandatorily include the “location” of the substance. This is only communicated if such information is necessary to allow safe use (using the article without exposition to the Candidate List substance).
 - “Hazardous chemicals” is not a clearly defined term. These substances should be limited to Candidate List substances.
 - A risk management approach should differ from recycling requirements. In complex electronic devices such as electronic boards, SVHCs are often present in very small quantities in tiny parts of the article. Detailed information on these microscopic parts is useless to recyclers, since the presence of an SVHC would usually not affect the final, often metallurgic treatment process. It is impossible to separate the sub-components (resistors, capacitors, etc) since they are firmly soldered. Waste operators therefore cannot use the information at all (see details in our [Position Paper on the SCIP database](#)). In addition, in accordance with the WEEE Directive, electronic waste is handled separately by specialised recyclers and manufacturers already provide the information demanded in Article 15 of the WEEE Directive e.g. via [the I4R platform](#) which offers treatment and recycling facilities access to information on the recycling of electric and electronic devices.
- **Information relevant to remanufacture and spare parts (e.g. CAD technical drawings, 3Dprinting files).**
- Important risk of IP disclosure. The availability of such information is related to trade secrets/confidential information of manufacturers. IPR (Patents and Trade Marks) and know-how (trade secrets Directive) of companies must be protected.
 - Due to IP on trade secrets, no R&D or production documents can be shared.
 - To guarantee the performance of the equipment and to keep the type test protocols valid, only original spare parts are permitted.

- For safety and performance reasons, manufacturers shall be responsible and control remanufacturing processes.
- Certain product types are too difficult or expensive to repair and spare parts difficult to find. For such product types, actions are probably needed – but again IPR and trade secrets must be preserved.
- **Information on the origin of product components:**
 - As to the supply chain, each company, including SMEs, must be free to make business decisions by itself, including on supply chains and locations. We support the use of funding, including for R&D&I, both at EU and at national levels, to help companies, especially SMEs, export to third-countries. In this respect, the European trade promotion organisations should be leveraged to give SMEs the necessary know-how regarding the existence and the opportunities created by the Free Trade Agreements. See more details in our [Position Paper](#).
 - How can this be structured? Very complex and with low benefit. For complex products there are many components and very complex supply chains. This requirement would lead to meaningless information. For complex products, information should be provided only at product level, not at component level.
 - Risk of IP loss and intentional disruptions of supply chain.
 - This requirement must be aligned with existing trade/internal market rules.
 - This is not an environmental criterion (beyond the transport/CO₂ aspect)
- **Information on material sources (e.g. conflict-free materials, responsible mining etc.):**
 - Due diligence (conflict minerals) should remain voluntary and in line with OECD Guidelines. See more details in our [Position Paper](#).
 - It is very difficult to get detailed information about this along the value chain.
 - This requirement would be more relevant at company level than at product level.

2.2.5. Digital aspects of Digital Product Passport(s)

- Our industries are concerned about how the digital product passport (DPP) is going to work in practice. For example, who will have access to the data and how will the access will managed?
- In general, we would **support the Commission's idea of creating an address similar to the URL** (Uniform Resource Locator) for the product. When combined with a tag (QR code, Radio frequency identification (RFID), Bluetooth tag) the different stakeholders could connect directly to access the product's unique digital profile with quantitative and qualitative, static and dynamic, standardised and machine-readable data.
- We would like to stress the **importance of keeping data in its the place of origin**. Therefore, we support the Commission's approach on this matter. However, it is still not clear which part of the data can stay in the place of origin and where the other part of data is going to be stored. We want to highlight that there is no need to mirror and copy the data in centralised databases. Moreover, it should not duplicate other existing specifications and databases. The Digital Product Passport should collect the necessary data on the product, manufacturing process, materials, subcontracting chain and create a data support platform. It could also act as an interactive system and could be based on cloud services. There needs to be an interface redirecting to the manufacturer's website, where it will have the flexibility to provide information in its own way.
- **Data management** (dataflows, cloud service behind the Digital Product Passport) **must be created**. However, when it comes to data management it must be ensured that additional effort for data management should be kept as minimal as possible because it must be manageable and affordable for SMEs.
- Importance of **cybersecurity** when it comes to the development of the Digital Product Passport. Access to data is sensitive in many ways (IPR, trade secrets etc.). Therefore, it must be ensured that the data remains secure and confidential. The number one concern for the industry is that confidential business know-how and trade secrets could be exposed to their competitors. This is why there must be clear responsibilities for accessing and sharing information for the Digital Product Passport.
- The recipient of the information and how the information is used, must define the design and content of the Digital Product Passport. The principle of **'freedom of contract'** remains relevant for organising the data exchange and flow of data between companies also when mobilising different digital solutions for circularity. It is essential that the standardised knowledge and data models of the product and associated properties (data) reflect the mechanism defined by the experts (terminology, performance, physical interdependencies etc.). Business

participation in the design of the Digital Product Passport is essential as well as in the design of its digital infrastructure.

2.3. Avoidance of destruction of goods

- **We support introducing a ban** on the destruction of unsold durable goods as long as the conditions necessary to achieve the reuse or recycling of unsold durable products meet the objective of sustainable development.
- We believe that **several categories of products should be excluded from this ban** on the destruction of unsold durable goods, such as goods not complying with relevant legislation, defunct accessories/spare parts of products no longer on the market, counterfeit products and products that pose a health or safety risk.
- For products whose reuse involve **serious health or safety risks** we strongly recommend applying existing product safety measures.

2.4. Circular business models

Our **recommendations** about circular business models:

- **Policymakers should not develop business models**, but they need to promote the development of such models and adjust legislation if it hinders new business models that are decreasing the environmental footprint. In addition, in some areas, service companies for maintenance exist. Choice of business model varies between sectors. For example, in complex systems the ownership of each component in the life cycle may not be relevant because the components are interdependent. In those cases the system as a whole needs to be addressed to extend the lifespan rather than the ownership of each component. Then, the involvement of all actors, including the users, is needed, each bearing a specific responsibility. Policymakers should accommodate both existing and new business models in terms of placing products on the market and in terms of service activities.
- **A level playing field must be secured.** Manufacturers want to see that, if they are following rules on circularity, there should be an incentive for people to choose these products. Otherwise, less reputable manufacturers may not follow the rules. Therefore, market surveillance is a must when implementing ecodesign requirements.

Regarding the options proposed in the Commission questionnaire:

- **We STRONGLY SUPPORT the circular business model of product-service systems** (i.e. users do not buy the product from manufacturers/owners but rather the service associated with the product, e.g. car leasing. This means that the manufacturer/owner is responsible for repairing and maintaining the product, thus incentivising better reparability and a potentially longer lifespan of the product). Product policy should be stable and support the product as a service business model.
- **We also SUPPORT support other circular business model types**, such as:
 - **Collaborative and sharing economy** (i.e. where sharing of products replaces purchasing, e.g. for power tools or other products that consumers use only occasionally. As a result, less resources are used to satisfy the same needs). This is the way to go, but it does not yet function in all regions of Europe.
 - **Reverse logistics** (i.e. where the reverse transport of products, from consumer to producer, is arranged in view of repair or reuse. e.g. beer bottles or old phones). This is a very good idea but it is not possible for all products. To be noted that reverse logistics also means take-back schemes under the WEEE Directive.
- **We are NEUTRAL** on the circular business model of **on-demand production** (i.e. where the production of goods occurs only for those customers expressly requesting them, thus preventing overproduction and waste). This transition from mass production to mass customisation depends on the type of products (household or professional products?). This is already generally the case for standard operating procedure in B2B relations, for example in the machinery industry.
- In order to **best enable or regulate the four circular business models** mentioned above (product-service systems, collaborative and sharing economy, reverse logistics and on-demand production), we believe the EU should:

- Foster increased collaboration amongst the circular business community and facilitate exchange of best practice/lessons learnt’.
 - Facilitate market access for circular innovations by decreasing the administrative burden for new circular business models, e.g. by speeding up approval procedures for novel products and application to existing funding schemes, where appropriate.
 - Prioritise circularity as a criteria or as part of a reward system in the use of public finances, e.g. by giving priority to circular business models in financing schemes and in formulation of public tenders, for example by giving Total Cost of Ownership priority.
- **Another circular business model type** not listed in the Commission consultation questionnaire is the **cooperation between companies for specialised equipment**. Within our branch of companies delivering advanced equipment for energy production (oil, gas and electricity), we have some companies operating "circular" in the sense of "renting of capacity". An example is to borrow the neighbours' CNC-machine for some specific tasks when they are fully-booked in their own production.
- **We AGREE** there are still several **main barriers to the successful deployment of more circular business models in the EU**:
- The profitability of these business models is not viewed as sufficient, or is viewed as too high-risk. This barrier depends on the type of products (household or professional products).
 - The initial investment costs and financial capital required to establish such business models are too high
 - Consumer awareness of, and responsiveness to, these business models are insufficient.
 - There is a lack of training for entrepreneurs/potential entrepreneurs in how circular business models operate.
 - There is a lack of demonstrable success stories or large-scale projects demonstrating the business case for such business models.
- **We do not believe** that the lack of the technical skills necessary to perform the functions required by these business models (repair, maintenance etc.), the fact that these business models are more difficult for SMEs to adopt (e.g. given the initial investment costs) or the lack of clear regulatory framework to support such business models are the main barriers to the successful deployment of more circular business models in the EU. We reiterate that policymakers should not develop business models, but they need to promote the development of such models and adjust legislation if it hinders new business models that are decreasing the environmental footprint.

2.5. Ecodesign

We strongly support the Ecodesign instrument which has delivered for the consumer, the industry and the planet through its holistic approach of minimising life cycle impacts, based on scientific evidence, at the least life cycle cost – setting measurable, enforceable requirements case-by-case in big saving areas. We also support the Ecodesign Directive because it provides an EU harmonised framework in accordance with the New Legislative Framework for setting the Ecodesign requirements on energy-related products, and as such ensures the functioning of the EU Internal Market for these products.

Should the **scope** of the existing Ecodesign Directive be extended to non-energy-related products:

- **We recommend maintaining the existing framework of the Ecodesign Directive for energy-related products** to guarantee legal and investment certainty, together with confidence and trust in the market in the ongoing implementation.
- **Adding new products** within the scope of Ecodesign **should be proportionate** and we defend the method of establishing implementing measures in the existing Ecodesign Directive as stipulated in its Article 15.

Regarding the **review of the Ecodesign Directive** which is proposed to build, where appropriate, on criteria and rules established under the EU Ecolabel Regulation, the Product Environmental Footprint approach and the EU Green Public Procurement criteria:

- We do not recommend building the review of the Ecodesign Directive on criteria and rules established under the EU Ecolabel Regulation. Specifically, the use and relevance of the Ecolabel for professional products is very limited because it applies only to a selected number of product groups.
- It is important that the Ecolabel remains a voluntary product-specific tool and continues to apply as a complementary instrument to the activities under the Ecodesign and Energy Labelling Directives.

As for the **links between the Ecodesign Directive** and the criteria and rules established under the **Product Environmental Footprint (PEF)** approach:

- Life cycle assessment (LCA) is an excellent tool for understanding what is environmentally large and small in a product life cycle, e.g. the use phase and the manufacturing phase. However, LCA should be used with caution to generally assess products from multiple producers, since the input data may vary between different producers. Hence LCA is a good tool for a company to assess its products, but the impact values should not be used to compare different producers or as a basis for legislative requirements.
- We recommend policymakers to rely on internationally recognised methodology since our industries are often global. Changes to the methodology should be made cautiously so as not to undermine current and past developments or Ecodesign investments.
- We support the use of LCA for companies to internally assess the environmental impact of their products and acknowledge that the use of the environmental footprint of products or components for the LCA of a larger system needs to provide transparent, objective and verified information.
- However, the PEF method is not suitable for all enterprises, especially not for SMEs, and many factors prevent a strict comparability between LCA results.
- We recommend the PEF to remain voluntary. PEF is a very complex tool and it should be used carefully.
- We recommend that the PEF should not be used for any labelling.

As mentioned earlier, **differentiating consumer and industrial goods** in the context of material efficiency is crucial. Incentive structures, customer behaviour, customer relations, pricing, material composition and market dynamics distinguish both sectors. To carry forward the success of the Ecodesign Directive, case-by-case assessment remains of high importance.

The ongoing development of material efficiency standards by European **standardisation** organisations is also actively supported by our industries. Product-specific EU standards are highly relevant for a successful implementation.

2.6. Incentives for circularity

Important barriers for more circularity beyond manufacturers' control continue to exist and impact achieving further progress.

As regards **Extended Producer Responsibility (EPR)**:

- EPR-related directives (such as the WEEE directive) whereby producers "*bear financial responsibility or financial and organisational responsibility for the management of the waste stage of a product's life cycle*" have certainly achieved positive results including increased collection volumes and improved recycling results.
- We recognise the role of producers in the proper collection and treatment of their end-of-life products. However, producers alone cannot achieve the entirety of the objectives and **any extension of EPR's obligations should be carefully analysed** from that perspective. Successful EPR solutions depend not only on producers but on the effective cooperation of several actors such as municipalities, retailers, consumers, waste companies and recyclers and enforcement authorities. In our view, obligations, responsibilities and effective enforcement go hand in hand: which means that the responsibility of each actor has to be defined clearly and fairly. All actors must contribute to achieving the objectives and authorities should enforce the different obligations.
- We call for a **true 'shared responsibility' approach**: all actors involved in the collection and treatment of different waste streams, not only producers, need to respect the same obligations to achieve the collection and recycling targets of EPR-related directives.
- We therefore urge the authorities to:
 - Define obligations for all actors based on a good understanding of their respective roles;
 - Adopt Implementing Acts laying down minimum quality WEEE treatment standards for all actors in strict accordance with the European standards for WEEE. All WEEE has to be properly collected and treated, whoever is in charge;
 - Implement effectively a reporting obligation for all actors to better monitor the flows;
 - Effectively enforce the different obligations.

We recommend **retail markets** to better promote circular products and solutions and contribute when possible to facilitate circular activities (such as the existing take-back obligation). Retail markets have a key role to play in order to better inform consumers on the proper way to use their products.

As to the proposals in the Commission questionnaire:

- **We STRONGLY SUPPORT** the proposals to:
 - **Improve access to finance** for the production and consumption of more sustainable products.
 - Develop and implement **mandatory Green Public Procurement (GPP)** criteria and targets. Our industries fully support mandatory GPP. Making public authorities lead by example would back up EU industry's existing efforts to become a circular economy leader. To realise the large circular economy potential, Green Public Procurement has to drive the circular economy and to enable economic potentials; it is imperative to base procurement on total cost of ownership, including product lifetime and operating costs and, if possible, considerations about the post-consumption phase. Mandatory Green Public Procurement is certainly a powerful tool to boost the demand for sustainable products, provided that the requirements are feasible to implement, to measure and to control. In addition, public procurement should be based on life cycle costing to incentivise innovative technology uptake. To fully tap into the purchasing power of public authorities, we call upon the Member States to make more enforcement efforts at the end of the Green Public Procurement process to secure a level playing field.

Our recommendations for sustainability criteria for public procurement:

 - The starting point of the procurement will be sectorial standards and, when relevant, the EU's green procurement criterion, established on the basis of reliable and verifiable methodologies, and objective and measurable criteria relevant for the different product categories, based on the overall life cycle of products, and consistent with applicable regulations. For example, the requirements for quality labels such as the EU Ecolabel could be used when relevant.
 - The procurement will be based on total cost including product lifetime and operating cost.
 - The procurement includes consideration of relevant concrete requirements for the product's post-consumption phase and the initial input of materials producing a new product. In addition, significant efforts should be demonstrated by the industry to include information concerning improvements on life cycle and as far as the post-consumption phase. These efforts should be supported, recognised and valued.
 - The offers will be evaluated, with priority given to quality parameters such as durability, sustainability or security of supply, and not only the lowest price.
 - The contract includes a provision of innovation to encourage partnership on continuous improvements of the operation and the green profile of the procurement.
 - Make better use of standardisation to promote sustainability.
- **We SUPPORT** the proposal to **recognise voluntary commitments by producers** to increase the sustainability of their products. We support voluntary initiatives and market-driven sustainability, but again we need to distinguish between B2C and B2B products which are different.
- **We are NEUTRAL** on the proposal to **better use and promote voluntary sustainability labels**, such as the EU Ecolabel. As to the EU Ecolabel, it remains a good voluntary tool for stimulating a reduction in the environmental impact in the product's life cycle. We advocate for maintaining the EU Ecolabel as an accessible tool for all companies, especially SMEs, and the prevention of the introduction of expensive preliminary studies like LCA in order to apply for the label.
- **We DISAGREE** with the following proposals:
 - **Modulation of fees on the sustainability of products under Extended Producer Responsibility (EPR) schemes** (e.g. producers who place products that are more easily recyclable on the EU market pay reduced fees). On the general concept of "eco-modulation" of producers' fees for WEEE, our sector acknowledges policymakers' good intention to reward producers for their efforts in ever more environmentally conscious product design contributing to the achievement of the targets of the circular economy. We understand the reasoning behind modulated fees, but we doubt it will work in practice for Waste Electrical and Electronic Equipment (WEEE) and it will have an impact on product design. This is a national issue which is difficult to solve. For example, in France, Germany and Denmark modulated fees for EEE are not easy to implement and do not meet the expected objectives. An essential requirement for successful implementation across the EU is harmonised criteria and guidance at EU level. Otherwise it will

hinder the Internal Market. Furthermore, a modulated fee would not be an effective incentive for producers of EEE, since 'better designed' products are more likely to be taken up by other actors than producers. Besides, the main cost for producers is not recycling, but collection and logistics that add up to 90% of the costs. Modifying the recycling part of the fee appears insignificant and ineffective as an incentive for producers.

Joint APPLiA – DIGITALEUROPE – EUCOLIGHT – LIGHTINGEUROPE – ORGALIM -WEEE Forum industry recommendations for a workable and successful eco-modulation of producers' fees for WEEE are:

- Fees must cover real costs for end-of-life waste management and through modulation provide true incentives for producers.
 - Criteria underpinning the modulation of fees must be harmonised at EU level and coherent with existing EU legislation and related European and international standards.
 - As the implementation of modulated fees on all WEEE would be extremely challenging, the EU framework and eco-modulation schemes must start simply, i.e. cover only a few easy-to-understand criteria and only a few types of products or product categories.
 - Modulated fee criteria should be simple, auditable and enforceable as well as enforced.
 - Measures must be taken to counter misuse of modulated fees by (online) free-riders.
 - Existing EPR schemes for WEEE in the Member States and obligations of producers must be preserved.
 - The total sum of fees, i.e. the total set of regular fees as well as bonus and malus fees, must not exceed the necessary costs requirement of WFD Article 8(a).
 - Modulated fees criteria must be defined in close consultation with the relevant stakeholders, and in particular with producers.
 - Modulated fees criteria must be sufficiently flexible and updated periodically to reflect technological progress.
 - There should be sufficient implementation time for producers to adapt their processes and particularly the design of the products.
 - We strongly recommend the Commission to conduct a thorough impact assessment of the eco-modulation concept, criteria, environmental impacts, financial consequences, and existing modulated fees schemes in Europe.
 - The 'real' end-of-life costs and the 'recyclability' of a specific product can only be determined years after the product has been placed on the market.
- **Increasing transparency on the performance of products as regards sustainability**, for instance by identifying different levels of sustainability performance at EU level.
- We support more transparency, but this will make the whole process much more complicated.
 - We have several questions e.g. would this be a PEF labelling similar to the energy labelling system, what are the levels set by PEF category rules, what is the definition of sustainability performance?
 - We do not support a mandatory labelling system or a complex rating system.
 - For a comprehensive assessment of the sustainability of products, consideration of the entire life cycle is important. This is the only way to identify the actual environmental impact of a product at the individual life cycle stages and to avoid possible rebound effects. We strongly support the life cycle approach, because it enables buyers to better understand why investment in environmentally-friendly technology pays off over the entire life cycle of the product. It is very important that requirements and results are comparable. Increased harmonisation of product requirements criteria is essential to be able to better compare different national, European and global systems and will also facilitate the functioning of the EU Internal Market.
 - As to Product Environmental Footprint (PEF), we do recognise the PEF/OEF methods, yet the methodology remains complex and non-cost-efficient, leading to high administrative burdens, in particular for SMEs. We want a standardised global PEF not a European one. See more details in our [Position Paper](#).

3. Compliance with, and enforcement of, sustainability requirements for products

Ensuring effective enforcement and market surveillance will be of the utmost importance for the success of the application of the SPI and DPP and will be even more necessary in the future to ensure a level playing field.

It is crucial to **step up efforts**, in cooperation with national authorities, **on enforcement of applicable sustainability requirements** for products placed on the EU market, in particular through concerted inspections and market surveillance actions.

We strongly oppose third-party certification or inspection. Self-assessment is just as valid a procedure, and offers the same level of safety benefits, as any conformity assessment procedure supported by a third-party (e.g. notified body). Furthermore, it would be unacceptable for industries to be required to bear the costs of third-party certification or inspection because Member States lack the capacity and resources to conduct sufficient market surveillance and enforcement activities.

As to the proposals in the Commission questionnaire:

➤ **We SUPPORT** the following proposals:

- **Set verification targets for the products deemed most likely to be non-compliant** (e.g. electronic gadgets). But currently there is too little market surveillance carried out. That is why it is of the utmost importance that these verification targets are enforced in practice to ensure that products coming from outside the EU are equally checked and sanctioned and to ensure the level playing field. For example, for electrical installation there is the issue of “no-name” products. We strongly support the EU Product Compliance Network (EUPCN) which aims to structure the coordination and cooperation between market surveillance authorities in EU countries, and streamline market surveillance practices within the EU that facilitate the implementation of joint enforcement activities by Member State authorities, such as joint investigations. The activities of this Network should take into account whether the non-compliant products are also non-compliant from a sustainability point of view, and not only from a safety angle.
- **Accompanying measures from the Commission to Member States** (e.g. guidance, support etc.)

➤ **We STRONGLY DISAGREE** with the following proposals:

- **Require third-party certification or inspection to simplify the work of Member State enforcement authorities.** Self-assessment is just as valid a procedure, and offers the same level of safety benefits, as any conformity assessment procedure supported by a third-party (e.g. notified body). The proposed mandatory third-party certification would drive up costs. It would also increase lead time, an essential success factor for any manufacturer and particularly for seasonal businesses, thereby directly impacting our competitiveness. Adding such costs and red tape without a discernable safety benefit, at a time when the industrial backbone of Europe’s economy is still struggling to recover from the crisis, would seriously jeopardise the trust of European entrepreneurs in the EU’s policy priorities. In addition:
 - Third party verification or inspection could reduce pressure on market surveillance authorities. But it will have a high cost (e.g. certifications means auditing costs of production facilities on top, notified bodies will need to be set up, accreditations must be paid and tests bought).
 - Third-party certification or inspection cannot replace inspections by authorities.
 - It is not acceptable that industries will bear the costs of this third-party certification or inspection because Member States lack the capacity and resources to undertake more market surveillance and enforcement activities.
 - Who will verify that the independent third party certification is really reliable when billions of models/products will be covered by the legislation?

- **Support Member States in the distribution of surveillance tasks per product category** (e.g. Member State A responsible for construction materials; Member State B for heating and cooling equipment etc.)
- Regarding **Ecodesign**, the requirements are very clear but too few products are checked. There are not enough enforcement activities, mainly due to a lack of resources and testing capacity in Member States. Furthermore, risks are related not to safety but to environmental damage. We should apply the New Legislative Framework approach to risk .

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 €2,126 billion, manufacturing one-third of all European exports and providing 11.33 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.