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Orgalim comments on the Commission Discussion Paper about the first Ecodesign for Sustainable Products Regulation (ESPR) and Energy Labelling Working Plan

Executive summary

To build on the success of the existing Ecodesign Directive and ensure that the new Ecodesign for Sustainable Products Regulation (ESPR) will be successful and will not undermine the competitiveness of our industries, we recommend that the following **key principles** are respected when developing new ESPR requirements for products:

- The implementation should start small and simple.
- New ecodesign requirements must always follow the EU Better Regulation principles, the New Legislative Framework (NLF) and be based on scientific assessment methods through recognised standards.
- Costs for the industry must be proportionate. There must be fair competition and a level playing ensured by robust market surveillance and effective enforcement.
- Requirements should be harmonised at EU level, technology-neutral, set product-by-product and consistent across different legislations.
- The scope of the ESPR delegated acts should be limited to the product properties that are the most decisive to the environmental performance of a product/product group and trade-offs must be analysed.
- The industry should be involved in the whole process as early and as fully as possible.
- Economic operators should be given sufficient time to prepare for the implementation of new ESPR requirements. Companies, and in particular SMEs, should be supported to comply with requirements.
- Third party verification should be used only if the nature, the type and the degree of the risks entailed to the product justify it. For Substances of Concern, implementation should be done case-by-case.
- Testing after repair which is needed for most products should be taken into account.
- Life cycle assessment methods and requirements, especially when working across sectors and materials, need to be aligned across and with already existing approaches.

For **final products**, producers in the value chain should be made aware of the type of information and data they are expected to share through the value chain and how the data flow might work in practice.

For **intermediate products**, we welcome the fact that data will be requested from the manufacturers of these products. This will help our industries to access data from these manufacturers and reduce the administrative burden. As to the proposed options to mitigate the risks, we support the option *“to consider the possibility of setting only information requirements on intermediate products”*. We do not support the option *“to complement the requirements on intermediate products by equivalent requirements on final products incorporating these intermediate products, which could take the form of horizontal requirements on these final products”* for the reasons explained in this document.

The proposed **horizontal ecodesign requirements** require early warning and a clear-cut description of scope for companies, in particular for SMEs, to be able to implement in time. We would welcome a description of how horizontal requirements would work in practice. Contradictions between horizontal delegated acts and product-specific delegated acts must be avoided, as well as double-regulation.

Introduction and key recommendations

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 over €2,819 billion, manufacturing one-third of all European exports and providing 11.9 million direct jobs. Our industries are global leaders in the carbon-neutral energy, electrification, alternative fuels and clean manufacturing technologies needed to achieve net-zero, and we are committed to playing our part to deliver the net-zero transformation and the green transition.

Our industries welcome the Ecodesign for Sustainable Products Regulation (EU) 2024/1781 (ESPR) as a key measure to further optimise the way resources are used throughout the economy and society, and to bring new business opportunities – a win-win for the environment and the economy, making the most of new digital solutions. Orgalim has already expressed its views and recommendations in its position paper dated 1 June 2022 and in its recommendations dated 21 March 2024.

We thank the European Commission for consulting the members of the new Ecodesign Forum on their discussion paper dated 29 January 2025 on the first ESPR and Energy Labelling Working Plan.

We support the Commission proposal to set a five-year ESPR and energy labelling working plan (i.e. from 2025 to 2030) with an intermediate review after three years (i.e. in 2028). A duration of five years instead of three years will give better predictability for companies.

To build on the success of the Ecodesign Directive and ensure that the implementation of the new ESPR will be successful and will not undermine the competitiveness of our industries, we recommend that the following key principles are respected when developing new ESPR requirements for products:

- The implementation should **start small and simple** to generate political support for further measures by making sure that the new ecodesign requirements under ESPR and the Digital Product Passport (DPP) are implementable in real life for all companies - and in particular for SMEs – and successful.
- New ecodesign requirements must always follow the **EU Better Regulation** principles, the **New Legislative Framework** (NLF), be based on scientific assessment methods through recognised European or ISO /IEC/ITU international **standards** and be reliable and verifiable.
- **Costs** for the industry must be **proportionate**. We are concerned that the costs for industry (potential third-party verification, costly data requirements etc.) might outweigh the gains for the environment and potentially impact industry competitiveness.
- There must be **fair competition and a level playing** field between economic operators based inside and outside the EU. **Ensuring effective and robust enforcement** of the upcoming delegated acts under the ESPR through the market surveillance system will be critical for the success of the ESPR.
- Requirements should be **harmonised at EU level** to secure the functioning of the EU internal market.
- 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 be set **product-by-product** to take into account individual characteristics and specificities of products including specific functionality of products within the same product category as well as differences between business-to-consumer B2C and business-to-business B2B products.
- Requirements should be **consistent across different legislations** to avoid double regulation and burdensome duplication of efforts
- The scope of the ESPR delegated acts should be limited to the **product properties that are the most decisive to the environmental performance** of a product/product group and **trade-offs** must be analysed.
- **The industry should be involved** in the whole process **as early and as fully as possible** from the preparatory studies to delegated acts and standards - to achieve requirements feasible to implement in real life.
- Economic operators should be given **sufficient time** to prepare for the implementation of new ESPR requirements to ensure legal certainty and predictability.

- **Companies, and in particular SMEs, should be supported** to comply with requirements.
- **Third party verification** should be used only if the nature, the type and the degree of the risks entailed to the product justify it.
- For **Substances of Concern**, implementation should be done case-by-case to ensure regulations support effective circularity without imposing unnecessary restrictions.
- **Testing after repair** which is needed for most products should be taken into account.
- **Life cycle assessment methods and requirements**, especially when working across sectors and materials, **need to be aligned** across and with already existing approaches.

For more details see Orgalim [recommendations](#) presented at our Policy Exchange webinar on ESPR and DPP held on 21 March 2024.

Recommendations on final products

We will not comment on the three final products (textiles/apparel, furniture and tyres) which have been identified by the Commission to be realistically included in the first ESPR and Energy Labelling Working Plan.

However, we would like to draw attention to the fact that our industries will be indirectly affected by these final products through our value chains (e.g. textile machinery or electrical equipment for textiles). It is therefore important that **producers in the value chain of these products are aware of what kind of information and data they are expected to share and how the data flow might work in practice**. In addition, we would welcome information regarding **the upstream level** (Tier 2 supplier level?) **up to which** the Commission is expecting suppliers to share information.

To avoid double regulation and ensure that life cycle assessments are conducted on all products, **components** should not be regulated both as components and at the same time as part of finished products.

Recommendations on intermediate products

We will not comment on the two intermediate products (steel and aluminium) which have been identified by the Commission to be realistically included in the 1st ESPR and Energy Labelling Working Plan.

However, we would like to highlight that a meaningful exchange of information between the different actors in the value chain will improve the product life cycle footprint, from design to recycling, and therefore contribute to a circular economy. Responsibilities to provide data must be shared between the different actors in the value chain, so that the burden of providing the data is not only on the manufacturer. **We therefore welcome that data will be requested from manufacturers of intermediate products** as it will help our industries to access data from these manufacturers.

In addition, we believe that our industries will be affected by these intermediate products as:

- Users of the above-mentioned intermediate products for manufacturing our technologies/products
- Providers of equipment which further process and recycle intermediate products

We welcome the statement in the Commission discussion paper on the first ESPR and Energy Labelling Working Plan that *“the specific situation of **intermediate products** should be considered when setting ecodesign requirements. Regulating them is likely to have consequences, not only on the manufacturing of intermediate products, but also on all final products made of these intermediate products. This calls for a careful assessment of the potential impacts on relevant markets, including impacts on markets for final products, to avoid negative downstream consequences, in particular for manufacturers of final products that may rely on regulated intermediate products for their production. This calls for a careful assessment of the potential impacts on relevant markets, including potential ‘leakage’ effects leading to an increase of the imports of final*

products containing steel to circumvent the use of steel regulated only at intermediate level (a study to evaluate a similar risk is currently ongoing in relation to CBAM)". The potential negative impacts on the competitiveness of our industries producing final products made of these intermediate products must be studied very carefully in the impact assessment.

Regarding the proposed options being assessed to mitigate this risk:

- **We support the option "to consider the possibility of setting only information requirements on intermediate products".**
- **We do not support the option "to complement the requirements on intermediate products by equivalent requirements on final products incorporating these intermediate products, which could take the form of horizontal requirements on these final products".** Indeed, we believe that complying with such requirements would be very challenging for companies and market surveillance authorities for the following reasons:
 - Such requirements would apply to a wide range of product categories and be extremely difficult to implement for complex products and global supply chains. For example, a complex product may contain many components made of steel, and the same component may be provided by different suppliers.
 - Carbon footprint assessment methods for complex products are not yet fully harmonised, which may lead to unreliable assessment.

We note the statement in Annex A on steel that "Measures under ESPR are expected to complement existing environmental measures on steel products (such as CBAM), as well as climate measures on steel production (e.g. the ETS) by addressing the remaining environmental aspects and creating further market pulls on the demand side e.g. by product labelling and, potentially, green public procurement". When setting ESPR requirements for intermediate products, it is **very important for the competitiveness of our industries to avoid unnecessary and burdensome duplication of efforts, double regulation** both at horizontal and product levels, **and to ensure consistency** across different legislations. For instance, we foresee a **possible double regulation** for steel and aluminium which are already covered for example by the EU Emissions Trading System (ETS) and the Carbon Border Adjustment Mechanism (CBAM).

- The distinction and potential overlap between CBAM and iron and steel products under ESPR is not evident to us. A concrete example is the finding 3 of the takeaways from task 1 of the preparatory study which was presented during the stakeholders' workshop on 25 June which says that "While coherence with the CBAM is desirable, the categories used by the Combined Nomenclature are not suitable for clustering products for the purposes of this preparatory study". Product quality, use of alloy elements and energy requirements during different treatment process in steelmaking are not totally captured by the CN categories, but they have an influence on the specific emissions associated to the products. This means that for the same intermediate products we could have different designation/nomenclature under CBAM and ESPR. Looking from the supply-chain and user of steel perspective, this could lead to a lot of confusion and administrative burden when implementing it.
- The proposed requirements on carbon footprint of steel seem to be a double regulation with ETS.

The **added value for the environment and sustainability** must be made clearer (e.g. a "green/sustainable" steel can be used in an inefficient non-sustainable product).

There is a strong demand from our industries for the Commission and the Joint Research Center (JRC) conducting the preparatory study on iron and steel products to first define, based on a comprehensive impact assessment, **how regulating intermediate products such as steel and iron would work in practice under the ESPR and what kind of obligations** the user and/or processor of the intermediate product would have **related to the DPP** as the DPP is supposed to apply to the product over its life cycle.

Recommendations on horizontal ecodesign requirements

The proposed horizontal ecodesign requirements have the benefits of covering a wide range of products and product groups in the same delegated act in relation to reaching ESPR objectives. However, they **require early warning and a clear-cut description of scope for companies**, in particular for SMEs, to be able to implement in time. Any new requirements must also consider trade-offs.

We would welcome a description of how these requirements would work in practice. We would also welcome clarification about which products would be potentially in the scope of these horizontal requirements compared to products potentially in the scope of upcoming ESPR delegated acts and products already in the scope of existing Ecodesign measures. **Contradictions between horizontal delegated acts and product-specific delegated acts must be avoided, as well as double-regulation.** Energy-related products which will be subject to specific requirements via a delegated act should not also be subject to horizontal requirements. We would also welcome information about the progress, results and decisions based on the ongoing studies for energy-related products.

We recommend that the following key principles are respected when developing possible horizontal requirements on repairability (including scoring):

- Requirements must be harmonised at EU level to secure the functioning of the internal market. We are very concerned about different national initiatives on the reparability score (e.g. in France, Belgium and Austria). They fragment the internal market and do not offer credibility to consumers when the same product can have different scoring with different methodologies in the various Member States.
- An impact assessment must be conducted to ensure that the implementation of the new requirements for a European reparability score will be workable, proportionate, enforceable and contribute to a circular economy. Requirements must be proportionate; i.e. the reparability index needs to be developed after an impact assessment has been done on the selected product categories which can achieve the most improvement in their environmental impact.
- Horizontal measures for repairability do not take product-specific characteristics into account. Instead, a horizontal framework in the sense of overarching principles should be combined with product-specific delegated acts.

We recommend that the following key principles are respected when considering developing possible durability requirements under the horizontal measure on repairability:

- We emphasise again the importance of the product-by-product approach to take into account individual characteristics and specificities of products. This includes specific functionality of products within the same product category as well as differences between business-to-consumer (B2C) and business-to-business (B2B) products, and the information that is relevant to them. Requirements on durability will depend on the type of products and also on the services offered in conjunction with the products.
- Europe's technology industries, whose competitiveness depends on their long-term reputation and credibility, avoid designing products of short durability. Planned ageing is not, and cannot be, a long-term sustainable business model.
- The durability of a product is a complex concept that depends on its design, 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 product, etc.
- As durability alone is a complex concept, we are concerned that the proposed horizontal measure on durability will also incorporate provisions related to reliability, reparability, reusability and upgradability.

- 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.
- To note that for Energy Related Products (ErPs), the following ecodesign assessment standards have been given:
 - EN 45552 General method for assessment of the durability of ErP (2020)
 - EN 45553 General method for assessing the ability of an ErP to be remanufactured (2020)
 - EN 45554 General method for the assessment of the ability to repair, reuse, upgrade ErP (2020)
 - EN 45555 General method for assessing the recyclability and recoverability of ErP (2019)
 - EN 45556 General method for assessing the proportion of reused components in ErP (2019)
 - EN 45557 General method for assessing the proportion of recycled materials content in (2020)
 - EN 45558 General method to declare the use of critical raw materials (CRM) in ErP (2019)
 - EN 45559 Methods for providing information relating to material efficiency aspects of ErP (2019)
 - These are general assessment standards and need to be specified/defined for each product/product group separately in a standard for that product. These standards cannot be used for other products than ErPs. It would be interesting to ascertain if these standards have already been used for assessment requirements of ErPs.

In addition, there is a technical report on terms used in the standards: TR 45550 Terms and definitions related to material efficiency.

We recommend that the following key principles are respected when developing possible horizontal requirements on recyclability and recycled content of Electric and Electronic Equipment:

- **On recyclability:**
 - We emphasise again the importance of applying a product-by-product approach to consider individual characteristics and specificities of products including specific functionality of products within the same product category as well as differences between business-to-consumer (B2C) and business-to-business (B2B) products, and the information that is relevant to them.
 - Recyclability can be calculated and there is already a standard; EN4555 General methods for assessing the recyclability and recoverability of energy-related products. However, it is important that the measure on recyclability is proportionate. There must be proven environmental benefits that exceed the efforts necessary by industry.
 - The recyclability should not be assessed for the whole product but only for the most relevant materials (probably only for 1-3 main materials if necessary).
- **On recycled content of Electric and Electronic Equipment:**
 - We emphasise again the importance of applying a product-by-product approach to take into account individual characteristics and specificities of products including specific functionality of products within the same product category as well as differences between business-to-consumer (B2C) and business-to-business (B2B) products, and the information that is relevant to them. Not all product groups can incorporate the same percentage of recycled content. There are many applications where the use of recyclates is not feasible due to restricting requirements, e.g. safety-related products, products in contact with food or drinking water, medical devices etc. Rules on recycled content could in some applications be contradictory and prevent innovation and design. For instance, instead of using xx% recycled materials there might be better options where other materials can be used, or the total amount of recycled material reduced etc.
 - There is still a lack of harmonised standards for the sufficient and reliable quality of plastic recyclates. There is no guarantee that corresponding recyclates can be offered in sufficient quantities on the market, and at competitive prices, as there will be increased competition for recycled materials,

especially plastics, in the near future. The standard EN 45557 only includes assessment of some materials' recyclability (e.g. metals, glass and plastics).

- Furthermore, it is very challenging to provide proof of the recyclates used in products, which is of great importance for imports from non-EU countries and necessitates corresponding market monitoring.

We would welcome information explaining why the Commission and the Joint Research Center are referring to post-consumer recycled content instead of recycled content. The differentiation between post-consumer and post-industrial is an important point with regard to the recycled content targets. We would welcome clarity about which types of material will finally be accepted as "recycled content". We recommend that both post-consumer recyclates and post-industrial recyclates be accepted in order to achieve recycled content targets.

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