



MWE POSITION PAPER

Commission Proposal for a Ecodesign of Sustainable Products Regulation (ESPR)

9 November 2022

On 30 March 2022 the European Commission published their proposal for a 'Regulation establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC'. The proposal was launched as part of the Circular Economy Package I, together with other relevant initiatives. We understand that the text sets out a framework of requirements within which manufacturers and other parties will have to operate addressing each product group and specificities in dedicated delegated acts, however, we find that this proposal is lacking in several areas.

For the framework requirements that this Regulation aims to set out, the text can go further than it does in this proposal to set a common baseline for all products entering the EU market whether produced within the EU or outside the EU. To illustrate: the baseline should include a ban on design practices deliberately intended to reduce the lifespan of any product or make a product unrepairable by independent providers of repair services or entirely unrepairable. This type of requirement is applicable to all and any product and therefore does not need to be left to the delegated acts. Such a ban would also ensure the prevention of waste while supporting the right to repair. The efficacy of this measure would be much increased when combined with other incentives promoting long-time leasing arrangements and other business models based on durability rather than the linear 'take-make-waste' economy.

Specific product-group requirements are relevant to the entire value chain including end-users therefore all delegated acts must be adopted by co-decision to ensure the broad consultation of all stakeholders. Continuing on the theme of transparency, the membership of the Ecodesign Forum must include waste management operators and municipalities, among other relevant actors and not only the producers of the products. In most Member States, municipalities are responsible for waste collection, including sorting for preparing-for-reuse of relevant streams that they collect and are therefore at the start of each loop of the circular value chain. Excluding municipalities from the Ecodesign Forum would undermine its ability to develop cohesive delegated acts and other measures.

We would like to draw the attention of policymakers to the Nordic Pictogram System (NPS) when tackling the obligation to inform on 'how to return or dispose of the product at end-of-life' as part of the information

requirements set out in the Commission proposal (Article 7). In order to facilitate and harmonise the sorting instructions for citizens across the EU, the NPS must be an inspiration to develop an EU-wide system.

MWE would like to propose the amendments hereunder as we seek to accelerate the achievement of a circular economy. We propose to strengthen the common requirements for all products, further support the upper steps of the waste hierarchy established by the Directive (EU) 2018/851 on waste (Waste Framework Directive), embed the right to repair in the proposal, and bring more transparency to the decision-making process.

Amendment 1 - Article 2 Definitions

Commission proposal	Amendment
	<p><i>New definition</i></p> <p><i>'providers of repair services', means any natural or legal person who provides a repair service and is different and separate to the repair service provided by the manufacturer or dealer.</i></p>

Justification:

In order to establish the legal framework for a real right to repair, the Ecodesign Regulation must ensure that the possibility to repair a product is not only addressed to manufacturers or dealers but also to consumers and repair services provided by municipalities, social enterprises or that work independently or as part of a local repair and reuse outlet or network.

Amendment 2 - Article 5 Ecodesign requirements

Commission proposal	Amendment
	<p><i>New paragraph</i></p> <p><i>Any design practice deliberately intended to make a product, component or intermediate product including assembly methods or software design,</i></p>

	<i>prematurely obsolete or unrepairable, whether placed on the market or put into service, is prohibited.</i>
--	---

Justification:

Programmed obsolescence should be explicitly forbidden as it negatively impacts not only consumers' pockets but also by contributing to unnecessary waste generation with subsequent environmental impacts and loss of critical resources. We also recommend the inclusion of the prohibition of programmed obsolescence in the Unfair Commercial Practices Directive and in the Environmental Crimes Directive. Policymakers should also ensure that repair is affordable and not prohibitively expensive to repair considering the relevant consumer legislation.

Amendment 3 - Article 5 Ecodesign requirements

Commission proposal	Amendment
	<p><i>New paragraph</i></p> <p><i>Disassembly methods that require the use of specialised tools that are not readily available on the market that disrupt repair, re-use or recycling pathways are prohibited.</i></p>

Justification:

Monopolies on repair and re-use must be prohibited in order to encourage design for re-use and recycling.

Amendment 4 - Article 5 Ecodesign requirements

Commission proposal	Amendment
<p>3. Ecodesign requirements shall, as appropriate, include both:</p> <p>(a) performance requirements as set out in Article 6.</p> <p>(b) information requirements as set out in Article 7.</p>	<p>3. Ecodesign requirements shall, as appropriate, include both:</p> <p>(a) performance requirements as set out in Article 6 and;</p> <p>(b) information requirements as set out in Article 7.</p>

Justification:

Information requirements should always be a part of ecodesign requirements and should not be optional. Information requirements have an important influence on consumers and waste operators and as such need to be part of the baseline ecodesign requirements.

Amendment 5 - Article 5 Ecodesign requirements

Commission proposal	Amendment
	<p><i>New Paragraph 9</i></p> <p>9. Member States shall ensure that when implementing Article 8 and 8a of the Directive 2008/98/EC referring to extended producer responsibility, the scheme is in accordance with this Regulation.</p>

Justification:

As the Directive 2008/98/EC (Waste Framework Directive) sets out the basic rules for the setup of extended producer responsibility schemes, we believe that there must be a link between this responsibility to the

Ecodesign Regulation. In particular, when eco-modulated fees are designed, the products aspects listed in Article 5 paragraph 1 should be taken into account so that EPR can be a tool that triggers waste prevention, reuse and recycling.

Amendment 6 - Article 7 Information Requirements

Commission proposal	Amendment
1. Products shall comply with information requirements related to the product aspects listed in Article 5(1), as laid down in the delegated acts adopted pursuant to Article 4.	1. Products shall comply with information requirements related to the product aspects listed in Article 5(1), as laid down in the delegated acts adopted pursuant to Article 4.

Justification:

All products that are made available in the EU market or put into service in the EU should be accompanied by the information requirements set out in Article 7 paragraph 2 for end-users, providers of repair services, preparing-for-reuse and re-use operators. We do not find any reason to restrict these requirements to only the product or product groups covered by the dedicated delegated acts referred to in Article 4.

Amendment 7 - Article 7 Information Requirements

Commission proposal	Amendment
2. The information requirements referred to in paragraph 1 shall: (a) include, as a minimum, requirements related to the product passport referred to in Chapter III and requirements related to substances of concern referred to in paragraph 5; and (b) as appropriate, require products to be accompanied by:	<i>(ii bis)</i> information for providers of repair services and preparing-for-reuse and re-use operators on how to install, use, maintain and repair the product in order to minimise its impact on the environment and to ensure optimum durability, as well as on how to return or dispose of the product at end-of-life; <i>(ii bis a)</i> information for end-users, providers of repair services, preparing-for-

<p>(i) information on the performance of the product in relation to the product parameters referred to in Annex I;</p> <p>(ii) information for consumers and other end-users on how to install, use, maintain and repair the product in order to minimise its impact on the environment and to ensure optimum durability, as well as on how to return or dispose of the product at end-of-life;</p> <p>(iii) information for treatment facilities on disassembly, recycling, or disposal at end-of-life;</p> <p>(iv) other information that may influence the way the product is handled by parties other than the manufacturer in order to improve performance in relation to product parameters referred to in Annex I.</p> <p>Where a delegated acts contains horizontal ecodesign requirements for two or more product groups as referred to in Article 5(2), second subparagraph, point (a) of this paragraph shall not apply.</p>	<p><i>reuse and re-use operators on where and how to find spare parts and for how long, information on software functionality updates, and the possibility or impossibility to remove and replace a battery;</i></p> <p><i>(ii bis b) information for end-users on where to find or how to access the repair services provided by the manufacturer or the dealer, time deadline to receive the repaired product back under the guarantee period in accordance to [the relevant consumer legislation] and if a temporary replacement is provided or not;</i></p>
---	---

Justification:

With these amendments we would guarantee that end-users (consumers, including as it is set out in the definition of ‘end-user’), repairers, preparation-for-reuse and re-use operators have access to relevant information that would facilitate their work and contribute to reducing waste generation and, when it is the case, contribute to preparing-for-reuse. In addition, we would like to incentive the manufacturers and dealer

to provide repair services and we believe that information about these services should be clearly communicated to end-users (e.g. consumers). With ‘providers of repair services’ we means any repair service apart from the repair service offered by the manufacturer or dealer as we suggested as a new definition at the beginning of this paper.

Amendment 8 – Article 8 Product Passport

Commission proposal	Amendment
<p>2. The requirements related to the product passport laid down in the delegated acts adopted pursuant to Article 4 shall, as appropriate for the product groups covered, specify the following:</p> <p>...</p> <p>(f) the actors that shall have access to information in the product passport and to what information they shall have access, including customers, end-users, manufacturers, importers and distributors, dealers, repairers, remanufacturers, recyclers, competent national authorities, public interest organisations and the Commission, or any organisation acting on their behalf;</p> <p>(g) the actors that may introduce or update the information in the product passport, including where needed the creation of a new product passport, and what information they may introduce or update, including manufacturers, repairers, maintenance professionals, remanufacturers, recyclers, competent national authorities, and the Commission, or any organisation acting on their behalf;</p>	<p><i>2. The requirements related to the product passport laid down in the delegated acts adopted pursuant to Article 4 shall, as appropriate for the product groups covered, specify the following:</i></p> <p><i>...</i></p> <p><i>(f) the actors that shall have access to information in the product passport and to what information they shall have access, including customers, end-users, manufacturers, importers and distributors, dealers, repairers providers of repair services, remanufacturers, recyclers, competent national authorities, public interest organisations and the Commission, or any organisation acting on their behalf;</i></p> <p><i>(g) the actors that may introduce or update the information in the product passport, including where needed the creation of a new product passport, and what information they may introduce or update, including manufacturers, repairers providers of repair services, maintenance professionals, remanufacturers, recyclers, competent national authorities, and the Commission, or any organisation acting on their behalf;</i></p>

Justification:

This amendment brings coherent with our amendment 1.

Amendment 9 - Article 10 Technical design and operation of the product passport

Commission proposal	Amendment
<p><i>(b) consumers, economic operators, and other relevant actors shall have free access to the product passport based on their respective access rights set out in the applicable delegated act adopted pursuant to Article 4.</i></p>	<p><i>(b) consumers end-users, economic operators, providers of repair services, preparation-for-reuse and re-use operators, waste management operators, civil society organisations, public authorities and other relevant actors shall have free and easy access to the product passport based on their respective access rights set out in the applicable delegated act adopted pursuant to Article 4.</i></p>

Justification:

It should be a clear requirement that the product passport shall be easily and freely accessible to all the actors added to our proposed paragraph as ‘other relevant actors’ is very vague. This is of paramount importance, as these actors play an essential role in the successful implementation of the waste-related legislation while contributing, in many cases, with a social added value. In addition to that, the legal definition of ‘end-users’ (Art. 3 (21) Regulation (EU) 2019/1020 on market surveillance and compliance of products) covers not only consumers but also professional end users so we believe that the replacement of ‘consumers’ by ‘end-users’ does not undermine consumer rights, on the contrary, would expand and enhance the provision.

Amendment 10 - Article 10 Technical design and operation of the product passport

Commission proposal	Amendment
	<p><i>New 10c bis</i></p> <p><i>The providers of repair services and operators undertaking remanufacturing or preparing for reuse operations shall have access to a dedicated area within the digital passport where they may introduce information relevant to the repair service provided or the remanufacturing or preparing for reuse operation</i></p>

Justification:

Repairers other than the repair service offered by the manufacturer or dealer should have access to a dedicated area within the product passport where they may introduce information, for example, if a relevant component has been replaced. This would bring more information about the repair to the end user into the product passport.

We also include ‘remanufacturing’ and ‘preparing for reuse’ as the amendment should apply to authorised preparation-for-reuse and remanufacturing operators. There are examples in the EU where a wasted item is prepared for reuse by an authorised ‘reuse centre’ that repairs or remanufactures the object making it available again for sale with a new legal guarantee period.

Amendment 11 - Article 16 Prioritisation and planning

Commission proposal	Amendment
<p>1. When prioritising products to be covered by establishing ecodesign requirements in accordance with this Regulation, the Commission shall take into account their potential contribution to achieving Union climate, environmental and energy efficiency objectives, as well as the following criteria prioritise the following products:</p> <p>(a) the potential for improving the product aspects listed in Article 5(1) without entailing disproportionate costs, taking into account in particular:</p> <p style="padding-left: 40px;">(i) the absence or insufficiency of Union law or failure of market forces or self regulation measures adopted in accordance with Article 18 to address the objective properly; and</p> <p style="padding-left: 40px;">(ii) the disparity in the performance of products available on the market with equivalent functionality in relation to the product aspects listed in Article 5(1);</p> <p>(b) the volume of sales and trade of the product within the Union;</p> <p>(c) the distribution of the environmental impacts, energy use and waste generation across the value chain, in particular whether they take place within the Union;</p>	<p><i>1. In accordance with the list of priorities product groups already given in the Circular Economy Action Plan (and its revisions) the following products would need to be treated first:</i></p> <p><i>(a) Electrical and electronic equipment, including light means of transport</i></p> <p><i>(b) ITC (Information and Communication Technology)</i></p> <p><i>(c) Textiles</i></p> <p><i>(d) Furniture</i></p> <p><i>(e) High impact intermediary products such as steel, cement and chemicals</i></p>

<p>(d) the need to regularly review and adapt delegated acts adopted pursuant to Article 4 in light of technological and market developments.</p>	
--	--

Justification:

There is already sufficient evidence to identify the type of products that should be prioritised for the establishment of mandatory ecodesign requirements. In fact, the Circular Economy Action Plan 2.0 published in 2020 had already mentioned these priorities ([page 7](#)) so we do not see any reason to avoid mentioning the prioritised type of products in the Regulation. We also suggest including the timeline for the implementation of new or revised ecodesign requirements.

Amendment 12 - Article 16 Prioritisation and planning

Commission proposal	Amendment
	<p>1. bis</p> <p>When prioritising <i>further</i> products, <i>in addition to paragraph 1 above</i>, to be covered by establishing ecodesign requirements in accordance with this Regulation, the Commission shall take into account their potential contribution to achieving Union climate, environmental and energy efficiency objectives, as well as the following criteria prioritise the following products:</p> <p>(a) the potential for improving the product aspects listed in Article 5(1) without entailing disproportionate costs, taking into account in particular:</p> <p>(i) the absence or insufficiency of Union law or failure of market forces or self-regulation</p>

	<p>measures adopted in accordance with Article 18 to address the objective properly; and</p> <p>(ii) the disparity in the performance of products available on the market with equivalent functionality in relation to the product aspects listed in Article 5(1);</p> <p>(b) the volume of sales and trade of the product within the Union;</p> <p>(c) the distribution of the environmental impacts, energy use and waste generation across the value chain, in particular whether they take place within the Union;</p> <p>(d) the need to regularly review and adapt delegated acts adopted pursuant to Article 4 in light of technological and market developments.</p>
--	--

Justification:

Following our Amendment 9, the criteria for prioritising and planning must be applied to further products to be added to the ESPR after those mentioned in our Amendment 9 have been treated as a priority.

A following priority product category would be sanitary products such as diapers and incontinence products. Approximately 8-10% of the total residual waste consists of diapers. For example in the Netherlands each year [160 million kilos](#) of diapers and incontinence materials end up in the residual waste.

Amendment 13 - Article 17 Ecodesign Forum

Commission proposal	Amendment
<p>The Commission shall ensure that when it conducts its activities, it observes a balanced participation of Member States’ representatives and all interested parties involved with the product or product group in question, such as industry, including SMEs and craft industry, trade unions, traders, retailers, importers, environmental protection groups, and consumer organisations. These parties shall contribute in particular to preparing ecodesign requirements, examining the effectiveness of the established market surveillance mechanisms and assessing self-regulation measures.</p> <p>To that end, the Commission shall establish an expert group, in which those parties shall meet, referred to as the ‘Ecodesign Forum’.</p>	<p>The Commission shall ensure that when it conducts its activities, it observes a balanced participation of Member States’ representatives and all interested parties involved with the product or product group in question, such as industry, including SMEs and craft industry, trade unions, traders, retailers, importers, environmental protection groups, <i>social enterprises involved in re-use and recycling activities, local and regional government, public and private waste management operators, recyclers</i> and consumer organisations. These parties shall contribute in particular to preparing ecodesign requirements, examining the effectiveness of the established market surveillance mechanisms and assessing self-regulation measures.</p> <p>To that end, the Commission shall establish an expert group, in which those parties shall meet, referred to as the ‘Ecodesign Forum’.</p>

Justification:

The waste management sector, in particular public waste operators and municipalities, is obliged to deal with the waste generated and has had limited power to influence on design product so far. Waste generation and the treatment used is highly dependant on the product design. Recyclers must be also represented, as they know the challenges on recycling. Likewise, social enterprises working on preparation-for-reuse and re-use can provide a valuable input concerning design aspects that result in challenges for sorting, repair, preparation-for-reuse and durability aspects.

Amendment 14 - Article 18 Self-regulation measures

Commission proposal	Amendment
Article 18 Self-regulation measures	<i>Article 18 Economic operators' input to ecodesign requirements</i>

Justification:

We recommend policymakers to refuse the possibility to adopt voluntary agreements/self-regulation measures in replacement of mandatory regulation. Voluntary measures have proven inefficient as they do not set a common baseline for the whole sector or manufacturing branch and therefore put any front-runners at an economic disadvantage. The Commission should focus their efforts on mandatory ecodesign measures rather than spending time and resources on assessing voluntary alternatives. For this reason, we propose to switch from allowing voluntary agreements/self-regulation measures to an obligation for the Commission to consider economic operators' feedback. We develop this idea in the following amendment.

Amendment 15 - Article 18 Self-regulation measures

Commission proposal	Amendment
1. Delete all	<p><u>1. (two new paragraphs)</u></p> <p><i>1. The Commission shall consider the input provided by economic operators involved in the product or product groups, covered by the delegated acts pursuant Article 4, when developing ecodesign requirements in accordance with Article 5.</i></p> <p><i>2. The Commission shall transparently communicate and discuss the feedback gathered, pursuant to paragraph 1, to the Ecodesign Forum in accordance with Article 17.</i></p>

Justification:

We understand that economic operators should have the possibility to provide their input to the Commission by the time the Commission will be developing the ecodesign requirements for a specific product or products group. However, we do not recommend to set out the possibility of developing self-regulation measures as an alternative as justified in our previous proposed amendment. Following an exercise of transparency and in accordance with Article 17, we recommend to set out an obligation to communicate and discuss this input within the Ecodesign Forum.

Amendment 16 - Article 20 Destruction of unsold consumer products

Commission proposal	Amendment
<p>3. The Commission shall be empowered to adopt delegated acts in accordance with Article 66 to supplement this Regulation by prohibiting economic operators to destroy unsold consumer products in the Union, where the destruction of unsold consumer products falling within a certain product group has significant environmental impact.</p> <p>In the delegated acts adopted pursuant to the first subparagraph, the Commission shall set out certain exemptions to those prohibitions where it is appropriate in view of:</p> <p>(a) health and safety concerns;</p> <p>(b) damage to products as a result of their handling or detected after a product has been returned by a consumer;</p> <p>(c) fitness of the product for the purpose for which it is intended, taking into account, where applicable, Union and national law and technical standards;</p>	<p>3. The Commission shall be empowered to adopt delegated acts in accordance with Article 66 to supplement this Regulation by prohibiting economic operators to destroy unsold consumer products in the Union, where the destruction of unsold consumer products falling within a certain product group has significant environmental impact.</p> <p>In the delegated acts adopted pursuant to the first subparagraph, the Commission shall set out certain exemptions to those prohibitions where it is appropriate in view of: The destruction of unsold consumer products by economic operators is prohibited with the exception of justified reasons in view of:</p> <p>(a) health and safety concerns;</p> <p>(b) damage to products as a result of their handling or detected after a product has been returned by an consumer end-user;</p>

<p>(d) refusal of products for donation, preparing for re-use or remanufacturing.</p>	<p><i>(c) fitness of the product for the purpose for which it is intended, taking into account, where applicable, Union and national law and technical standards;</i></p> <p><i>(d) refusal of products for donation, preparing for re-use or remanufacturing.</i></p>
---	--

Justification:

Considering resource efficiency, the waste hierarchy and the circular economy principles, any intentional damaging or discarding of a product should not be allowed and thus, prohibition should be set out for all products and not leave this responsibility up to delegated acts.

Amendment 17 - Article 20 Destruction of unsold consumer products

Commission proposal	Amendment
<p>6. This Article shall not apply to SMEs.</p> <p>However, the Commission may, in the delegated acts adopted pursuant to paragraph 3, provide that the prohibition to destroy unsold consumer products referred to in paragraph 3 or the disclosure obligation referred to in paragraph 4 shall apply to:</p> <p>(a) medium-sized enterprises, where there is sufficient evidence that they account for a substantial proportion of unsold consumer products being destroyed;</p> <p>(b) microenterprises, small enterprises or medium-sized enterprises, where there is sufficient evidence that they may be used to circumvent the prohibition to destroy unsold consumer products referred to in</p>	<p>6. This Article shall not apply to SMEs.</p> <p>6. However, the Commission may, in the delegated acts adopted pursuant to paragraph 3, provide that the prohibition to destroy unsold consumer products referred to in paragraph 3 or the disclosure obligation referred to in paragraph 4 shall apply to:</p> <p>(a) medium-sized enterprises, where there is sufficient evidence that they account for a substantial proportion of unsold consumer products being destroyed;</p> <p>(b) microenterprises, small enterprises or medium-sized enterprises, where there is sufficient evidence that they may be used to circumvent the prohibition to destroy unsold consumer products referred to in</p>

paragraph 3 or the disclosure obligation referred to in paragraph 4.	paragraph 3 or the disclosure obligation referred to in paragraph 4.
--	--

Justification:

In correspondence with our previous proposed amendment, the destruction of unsold consumer goods should be prohibited, with the established exemptions in paragraph 1, for any economic operators, regardless the size. We would like to prevent waste and we believe this amendment would help to do so. However, the Commission should simplify the requirements for the disclose of the information required for SMEs when an unsold consumer product has been destroyed.

Amendment 18 - Article 21 Obligations of manufacturers

Commission proposal	Amendment
7. Manufacturers shall ensure that that a product covered by a delegated act adopted pursuant to Article 4 is accompanied by instructions that enable consumers and other end-users to safely assemble, install, operate, store, maintain, repair and dispose of the product in a language that can be easily understood by consumers and other end- users, as determined by the Member State concerned. Such instructions shall be clear, understandable and legible and include at least the information specified in the delegated acts adopted pursuant to Article 4 and pursuant to Article 7(2)(b), point (ii).	7. Manufacturers shall ensure that that a product covered by a delegated act adopted pursuant to Article 4 is accompanied by instructions that enable consumers and other end-users to safely assemble, install, operate, store, maintain, repair and dispose of the product in a language that can be easily understood by consumers and other end- users, as determined by the Member State concerned. Such instructions shall be clear, understandable and legible and include at least the information specified in the delegated acts adopted pursuant to Article 4 and pursuant to Article 7(2)(b), point (ii).

Justification:

Language correction.

Amendment 19 – Article 21 *Obligations of manufacturers*

Commission proposal	Amendment
	<p><u>New paragraph 7 bis</u></p> <p><i>Manufacturers shall make available any spare parts and components needed to repair a product within a product group covered by a delegated act, adopted pursuant to Article 4, at a reasonable price, never exceeding the price of the product as new. Such spare parts and components will be available on the market indefinitely for providers of repair services and end-users.</i></p>

Justification:

Setting an explicit obligation on the availability on the market of the spare parts is critical to ensure repair.

Amendment 20 - Article 23 *Obligations of importers*

Commission proposal	Amendment
<p>2. Before placing a product covered by a delegated act adopted pursuant to Article 4 on the market, importers shall ensure that:</p> <p>(a) the appropriate conformity assessment procedure has been carried out by the manufacturer and that the manufacturer has drawn up the technical documentation;</p> <p>(b) products are accompanied by the information required by the Article 7 and the delegated acts adopted pursuant to Article 4;</p>	<p><u>(Paragraph 2, new subparagraph d)</u></p> <p><i>(d new) Spare parts and components needed to repair any imported product covered by this Article are available in accordance to Article 21.7 (a)</i></p>

(c) a product passport is available in accordance with Article 8 and the delegated acts adopted pursuant to Article 4.	
--	--

Justification:

Importers must ensure that the imported product is placed on the EU market together with the spare parts and components needed for repair. Setting an explicit obligation on the availability on the market of the spare parts is critical to ensure repair.

Amendment 21 - Article 25.3 Obligations of dealers

Commission proposal	Amendment
<p>3. Dealers shall:</p> <p>(a) display to customers, in a visible manner, including for online distance selling, labels provided in accordance with Article 26(2) or (3);</p> <p>(b) make reference to the information included in labels provided in accordance with Article 26(2) or (3) in visual advertisements or in technical promotional material for a specific model, in accordance with delegated acts adopted pursuant to Article 4 by which the product is covered;</p> <p>(c) not provide or display other labels, marks, symbols or inscriptions that are likely to mislead or confuse customers with respect to the information included on the label.</p>	<p>3. Dealers shall:</p> <p><i>(d new) make available any spare parts and components needed to repair a product within a product group covered by a delegated act, adopted pursuant to Article 4, at a reasonable price, never exceeding the price of the product as new. Such spare parts and components will be available on the market indefinitely for providers of repair services and end-users.</i></p>

Justification:

Importers and dealers must ensure that the imported product is placed on the EU market together with the spare parts and components needed for repair.

Amendment 22 - Annex I Product parameters

Commission proposal	Amendment
<p><i>(b) ease of repair and maintenance as expressed through: characteristics, availability and delivery time of spare parts, modularity, compatibility with commonly available spare parts, availability of repair and maintenance instructions, number of materials and components used, use of standard components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, ease of non-destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed;</i></p>	<p><i>(b) ease of repair and maintenance as expressed through: presence of substances of concern as defined in Article 1.28(c), characteristics, availability and delivery time of spare parts, modularity, compatibility with commonly available spare parts, availability of repair and maintenance instructions and any associated tools, number of materials and components used, use of standard components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, ease of non-destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed;</i></p>

Justification:

The mention of ‘substances of concern’, as defined in Article 2 (28) in the Commission proposal is noticeably absent here. Substances of concern that hinder repair and, as a consequence, re-use must be considered (e.g the use of sealed/glued components together prevent devices from being opened to remove a defective battery or repair a bad electric contact, or prevent shoes from being repaired in a shoemaker’s).

Without taking into account the need for commonly available tools we may facilitate a scenario where we have available parts but no tools to repair. Disassembly and repair must be done with common available tools in order to facilitate repair not only by the repair services run by manufacturers and dealers but also by end-users, providers of repair operators as defined in our Amendment 1, preparing-for-reuse and re-use operators.

Amendment 23 - Annex I Product parameters

Commission proposal	Amendment
<p>(c) ease of upgrading, re-use, remanufacturing and refurbishment as expressed through: number of materials and components used, use of standard components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, ease of non- destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed, conditions of access to test protocols or not commonly available testing equipment, availability of guarantees specific to remanufactured or refurbished products, conditions for access to or use of technologies protected by intellectual property rights, modularity;</p>	<p>(c) ease of upgrading, re-use, remanufacturing and refurbishment as expressed through: presence of substances of concern as defined in Article 1.28(c), number of materials and components used, use of standard components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, ease of non-destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed, conditions of access to test protocols or not commonly available testing equipment, availability of guarantees specific to remanufactured or refurbished products, conditions for access to or use of technologies protected by intellectual property rights, modularity;</p>

Justification:

Again, ‘substances of concern’, as defined in Article 2 (28) in the Commission proposal are missing in the Commission proposal.

Amendment 24 - Annex I Product parameters

Commission proposal	Amendment
<p>(d) ease and quality of recycling as expressed through: use of easily recyclable materials, safe, easy and non-destructive access to recyclable components and materials or components and materials containing hazardous substances, material composition and homogeneity, possibility for high-purity sorting, number of materials and components used, use of standard components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, ease of non-destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed;</p>	<p>(d) ease and quality of recycling as expressed through: <i>presence of substances of concern as defined in Article 1.28(c)</i>, use of easily recyclable materials, safe, easy and non-destructive access to recyclable components and materials or components and materials containing hazardous substances, material composition and homogeneity, possibility for high-purity sorting, number of materials and components used, use of standard components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, ease of non-destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed;</p>

Justification:

We do not find any reason to avoid mentioning ‘substances of concern’, as defined in Article 2 (28) in the Commission proposal.

Amendment 25 - Annex I Product parameters

Commission proposal	Amendment
(h) use or content of recycled materials;	(h) use or content of recycled materials, <i>prioritising recycling within the same product group, for example bottle-to-bottle recycling rather than bottle-to-textile recycling.</i>

Justification:

We would like to call for attention to recycled content issues. Recycled content itself does not necessarily bring a positive impact on the environment and does not mean that the product is better designed in accordance with the waste hierarchy. Moreover, bringing recycled content from a particular type of product to a different product can undermine the achievement of recycled content targets for the first one.

For example, bringing recycled PET packaging into clothing does not neither solve the problem of microplastic release nor make clothing necessarily more recyclable. Further to that, it may impose competition problems for the material and place the food grade packaging industry away from achieving recycled content targets and making them too dependant on virgin materials. So priorities in recycled content materials must be developed.

Amendment 26 - Annex I Product parameters

Commission proposal	Amendment
	<i>(r bis) Release of substances of concern into the environment</i>

Justification:

The release of 'substances of concern', as defined in Article 2 (28), into the environment should be also mentioned explicitly in the list of product parameters as they may have negative impact on human health and the environment.



Thanking you in advance for your consideration of the above,

Vanya Veras
Secretary General
Municipal Waste Europe
vanya.veras@municipalwasteurope.eu

Municipal Waste Europe Secretariat:
info@municipalwasteurope.eu

Municipal Waste Europe is the European umbrella association representing public responsibility for waste. Our members are national public waste associations and similar national or regional associations or municipalities. MWE is committed to sustainable waste management and has an active role on promoting the waste hierarchy, resource efficiency and best practices on waste collection and treatment across the EU. Municipal Waste Europe also advocates waste management as an indispensable service of public interest.