A Comprehensive EU Product Policy Framework
DIGITALEUROPE position paper

Brussels, 24 January 2019

In the context of the consultation on a Comprehensive Product Policy Framework, DIGITALEUROPE took the opportunity to outline its views on legislating across the EU product policy landscape. The consultation constitutes the beginning of a review process that aims to clarify and streamline the purpose and objectives of the different product policy instruments in the EU.

The Circular Economy agenda has introduced a paradigm shift in environmental policy and the opportunity to re-think product policy in a more comprehensive way. It has also created new overlaps and synergies between legislations that were not addressed before.

The lifecycle of Electrical and Electronic Equipment (EEE) is subject to different pieces of legislation (see Table 1). DIGITALEUROPE members are committed to complying with each of them and in many instances have initiatives or programmes in place that go beyond compliance. In fact, significant elements of the circular economy are already a reality in the ICT sector.

	WFD	WEEE	Batteries Directive	ErP	RoHS	REACH	Consumer Legislation	Harmonized standards, GPP, Ecolabel
Longevity	X						X	X
Re-use	X	X		X				X
Repair	X			X			X	X
Recycling & management		X	X	X	X			X
Substances	X			X	X	X		

Table 1. Product Policy: Current EEE coverage of legislation by lifecycle

For manufacturers of EEE, this consultation was a good opportunity to highlight the importance of a well-aligned and balanced product policy landscape which provides incentives and regulations. This will send a strong and positive message to the market. EU legislation will be most effective when it requires and incentivises the same design and business changes across all its policy instruments. Setting conflicting policy requirements would miss the opportunity to incentivise companies to do the right thing.

Therefore, DIGITALEUROPE developed **Principles for environmental product policy legislation in the Electrical and Electronic Sector** that are outlined in this paper.

We are looking forward to further collaborate with the European Commission services and other relevant stakeholders in this important endeavour and to sharing our experiences.

PRINCIPLES FOR ENVIRONMENTAL PRODUCT POLICY LEGISLATION IN THE ELECTRICAL AND ELECTRONIC SECTOR

Five principles on the role of the current product policy vehicles and standards

1. The Energy-related Products (ErP) Directive is the principle means to determine product design requirements

The energy performance of EEE has been successfully regulated by Directive 2009/125/EC, i.e. the Energy-related Products (ErP) Directive, by setting mandatory energy efficiency requirements. It has now started to address material efficiency elements of products. DIGITALEUROPE believes that the ErP Directive should continue to be the main vehicle to advance environmental performance for products put on the market, where specific horizontal legislation (e.g. on substance restrictions via RoHS) does not exist. This extends to questions of product durability, repairability, use of recycled content, etc.

The main advantage of implementing measures within Directive 2009/125/EC is that products are addressed by vertical, product specific requirements. We consider this the most effective and robust approach to regulate environmental performance since it also ensures to avoid pitfalls of a one-size-fits-all approach to product policy. The nature of products, their use, type of user (B2B/B2C), quantities placed on the market, etc., all affect the level of environmental impact which needs to be addressed. Life cycle thinking is a crucial part and advantage of ErP methodology and should be safeguarded.

2. Use market access regulation to establish an environmental baseline & leverage incentive-based policy instruments to reward environmental frontrunners

The ErP Directive and the Restriction of Hazardous Substances Directive 2011/65/EU (RoHS) are market access regulations. Their most significant contribution to environmental protection is to prevent access of the worst performing products to the European Internal Market by defining a minimum level of environmental performance that all products in the EU have to fulfil. Other policy instruments such as modulated fees, increased transparency on environmental attributes of products, Green Public Procurement and ecolabels have their strength in rewarding environmental leadership with positive incentives. It is important to ensure that the criteria used to create further incentives offer a differentiation of the same focal areas as market access requirements. Doing so puts in place a well-aligned set of regulatory ambitions.

3. Circular Economy policies benefit from the leadership of consumer law

Longevity of products can be good for the environment and is good for consumers. Consumer policy has established rules on how faulty goods should be brought back to conformity with the sales contract (legal guarantee rules) and on repair practices (remedy mechanisms, repair or replace obligation) way before Circular Economy policy debates discovered the topic. Product policy should draw on existing consumer legislation and not be conceived in isolation. Before any environmental conclusions can be drawn for a product category on longevity, it should be looked at from a life cycle perspective. For some products, a newer product may have an overall lower impact if for example the energy use phase is the most significant impact.

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4. EU RoHS is the global standard to evaluate and restrict the use of substances in electronics

DIGITALEUROPE considers that any policy initiatives on avoiding certain substances in the electronics waste streams should be directed towards RoHS, rather than ErP, and to promote harmonization of EU RoHS globally. Companies with a global footprint tend to design products to comply with this highest standard, hoping to be able to sell them globally. This approach is beneficial for the environment as well as industry since it avoids multiple, different designs and associated production chains. It is therefore important to ensure a consistent and robust substance assessment and restriction process under RoHS.

5. Standardisation is the best tool to create verifiable, enforceable measurement methods and parameters for use across all policy instruments

Standardisation efforts such as on Product Material Efficiency should provide a scientifically sound basis for measuring product material efficiency. Since those aspects differ from product group to product group, the pr EN4555x series should not be applied directly, but needs to be used as a basis for product group specific material efficiency standards. It is important to avoid that standardisation work is duplicated work in emerging legislation.

Six principles on maximizing policy effectiveness

6. To create the Circular Economy, product policy should be embedded in a systemic approach and flanked with other supporting measures

Policies are most effective if they set goals that have been conceived with concrete ideas in mind how the surrounding infrastructure, society and other market players would interact with them. Example: Depending on the material, recycled content requirements can best be scaled up when the supply of recycled material is deemed sufficient in terms quality and quantity. The availability however depends in part on advancement in sorting and recycling technology, which could be supported through R&D funding such as Horizon 2020.

7. Develop proposals that boost markets for secondary raw materials

Secondary materials must be able to compete with virgin material on quality and price. To gain acceptance and not put product compliance at risk, they ideally must, in the same way as virgin materials, comply with existing chemicals legislation. However, for economic and technical reasons, we believe it is currently needed to ensure certain time-limited derogations from rules for secondary materials. In addition, producers of secondary raw materials need to be incentivised to provide higher quality and quantity of those materials. We would not want to create policy incentives where, for manufacturers to be confident that new products comply with new chemicals legislation, they may be required to exclude recycled materials.

8. Drive transparency requirements that are meaningful and proportionate

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DIGITALEUROPE members are developing measures to achieve greater transparency on environmental attributes in products. Our members have led the way to providing more supply chain transparency (e.g. responsible sourcing of minerals) and recycling information (I4R platform). Companies already make environmental information available to consumers. For the purpose of product policy, information provision requirements should be written in such a way that they result in useful and actionable information for its target audiences, whilst being a proportionate, feasible and cost-effective requirement that respect business confidentiality. Policymakers should consider technological advances made, for instance by considering the usefulness of e-labels over physical labels.

9. Leverage the potential of professional reuse, repair, refurbishment and remanufacturing

The professional aftersales market of electronics is a significant contributor to the European Circular Economy. It should not be addressed under waste legislation in isolation. The safety and quality of the repair experience of consumers can be ensured if we recognise the trusted status of authorised repair networks and refurbishment/ remanufacturing facilities. The IP rights associated with the innovative nature of our sector even in the aftersales market need protection, e.g. with regard to license agreements and access to proprietary information.

10. Facilitate the flows of the innermost loops of the Circular economy

Inner loops of the Circular Economy are methods to prolong the life of a product (repair, refurbishment, reuse, maintenance), whereas the outer loops focus on reclaiming the materials (recycling, recovery). In pursuing repair as an inner loop, design for repairability requirements can best unfold their full potential if the products can be moved freely cross-border to centralised repair facilities. Products shipped for repair, refurbishment or remanufacturing should not be treated as waste. Nor should consumables, components and used parts shipped with the intention of reuse. The EU Waste Shipment Regulation and Waste Electrical and Electronic Equipment Directive (WEEE Directive) Annex VI can be streamlined with Circular Economy intentions. With easier shipments, millions of products can more easily get a new life, at a lower cost.

11. Ensure that all requirements and incentives put in place are scientifically sound and follow better regulation principles

To ensure that new requirements are fit for purpose, any proposals for new requirements should be preceded by detailed impact assessments. Requirements need to be measurable by market surveillance authorities to ensure a level playing field. DIGITALEUROPE considers that a one-size-fits all regulation to achieve circular economy objectives risks cause undesired effects, whereas a technology-neutral product-specific requirement harnesses the power of innovation while achieving environmental progress.

ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

DIGITALEUROPE's members include in total over 35,000 ICT Companies in Europe represented by 63 Corporate Members and 40 National Trade Associations from across Europe. Our website provides further information on our recent news and activities: http://www.digitaleurope.org

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