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Towards an EU Product Policy framework contributing to the Circular Economy

APPLiA Home Appliance Europe supports the European Commission's work to examine options and actions for a more coherent product policy framework of the different strands of work related to circular economy, while preserving the single market, competition and innovation.

As it is not possible to provide full answers to the online survey, we have outlined below some more general comments to complement APPLiA's response to the European Commission's public consultation on "Towards an EU Product Policy Framework contributing to the Circular Economy." We look forward to cooperating further with the European Commission as it develops its ideas and activities in this field.

Key Messages

- APPLiA supports initiatives and policy that contribute to a more successful circular economy that brings together all societal actors. APPLiA believes that sharing best practices and using market-based incentives should be prioritised to drive a circular culture.

- While we agree the EU should set rules for products on the European market to limit their impact on the environment, product characteristics should only be regulated by law if there is actual evidence of a need for regulation with relevant requirements that can be measured accurately and reliably. Market surveillance must have the sufficient means to ensure fair competition and guarantee a high degree of legal certainty and level playing field for all actors.

- European household manufacturers are increasingly subject to a conflicting regulatory landscape. Policymakers can pursue various routes to move towards a more circular economy but need to consider the consequences of their choices, and the trade-offs these inevitably yield.

- APPLiA firmly believes that product legislation should follow the Better Regulation agenda to ensure coherence and legal certainty. Where necessary, all future legislation should be based on the New Legislative Framework. Any assessment method used as the basis for legislation should correspond to real-life conditions of use.

Introduction

APPLiA represents the home appliance industry in Europe. Home Appliance manufacturers offer better lifestyles to Europeans, investing over EUR 1.4 billion in R&D and creating nearly 1 million jobs in Europe. The growth of our industry is directly linked to our freedom to innovate for our consumers. We improve lifestyles by providing the choice of a wide range of products designed for well-being, convenience, performance, sustainability, energy efficiency, design, robustness, after-sales service, and affordability.

The Need for Coherent EU Product Policies

There are a variety of ways to drive resource efficiency and manufacture sustainable products that advance the circular economy: targeting at-source material efficiency, (i.e. reducing the quantity of material used in the creation of products), increasing the efficiency of products during use phase, using more sustainable materials, designing for durability and repair as well as for recovery.

Various EU policies already address circularity by influencing how products should be designed, produced or treated at their end-of-life. Clearer political objectives and instruments can lead the way for a continued positive development. Thus, we welcome the opportunity of the product policy consultation to discuss product legislation horizontally. This is much needed to ensure coherence between regulatory initiatives intended to underpin the circular economy in Europe. Vertical debates alone may bear the risk of stipulating incompatible goals if not derived from a holistic overall strategy, the result of which becomes more evident as European home appliance manufactures face an increasingly conflicting legal and regulatory landscape. This dilemma encompasses all stages of a product's lifecycle.

Chemical requirements for the internal market ensure environmental protection and human well-being and create trust for consumers. A rigid yet risk-based approach towards chemical regulatory tools, e.g. REACH, RoHS and POPs, warrants that products are safe. We note, however, that strict chemical requirements limit or slow down recycling and subsequent uptake of secondary plastics, a goal APPLiA members fully support in line with the stringent recycling quota set by the WEEE Directive (e.g. recovery targets under Article 11). Policymakers need to recognise the compromise between chemical legislation and circular ambitions. It is impossible to have both a rigorous chemical legislation and 100% circularity.

Achieving the overall aims of the WEEE Directive will only be possible when all quantities of WEEE are accounted for and proper disposal by the consumer is tackled. In general, there are sufficient policy instruments covering end-of-life handling but consistent implementation efforts by all actors in the waste chain, especially the market surveillance authorities, are needed to maximise recovery and combat illegal disposal and export of WEEE. APPLiA supports actions on further harmonisation towards a single market for waste and EU wide implementation of recycling standards.

While the WEEE Directive establishes an important regime awarding financial responsibility for the end-of-life treatment of EEE products, manufacturers, recyclers and waste treatment operators should be fully engaged and incentivised to develop and apply innovative state-of-the art technologies to recycle materials coming from WEEE. Taking the example of recycled plastics, new technologies such as Chemical or Feedstock Recycling would need to be implemented to ensure that clean and safe recycled plastics can be re-used downstream.

For companies using recycled materials in their products, a key concern is understandably that materials meet the right technical criteria in terms of performance, robustness and safety, next to their availability in sufficient quantities at a competitive price. Even though recyclers have made technical progress in the past few years, it is still not easy to source sufficient supply of high-quality post-consumer recycled plastics that meet the same level as virgin plastics. In consequence, using recycled plastic can have adverse impacts on a product's quality.

Extending a product's lifetime so as to reduce resource consumption and waste is another central element of Europe's approach towards circularity. Creating products for easy repair may require trade-offs with regard to robust and durable product design (e.g. fused vs. plugged parts) and encouraging consumers to self-repair electronic products may compromise their safety, manufacturers' intellectual property rights and European jobs. Politicians need to accept the technical nature and physical boundaries of product design, including current plastic recycling capabilities.

APPLiA members are subject to an ever-growing number of regulatory requirements addressing these different policy spheres. Policymakers should understand that there are many different routes leading towards more circularity, each one involving trade-offs and consequences for other product considerations. Politicians identifying a need to drive markets towards circularity will have to decide which path to take, assessing and acknowledging the different consequences.

Better Regulation

All regulatory activities must be based on a clear impact assessment and follow the Better Regulation agenda to ensure coherence and legal certainty. There must be careful calibration between the merits of regulation and market-based approaches and, where necessary, for all future legislation to be based on the New Legislative Framework. Standardisation is a prerequisite to any policy discussion on material/energy efficiency aspects of products. Only a solid standardisation base can secure reproducible, repeatable, reliable and enforceable product requirements. But depending on the nature of requirement it has its limitations.

The Energy Labelling Framework legislation has established an EU-wide regulation and labelling system for energy-related products which reduces the environmental impact of many energy-related products. The Energy Label informs the consumer on product environmental impact during its use phase, where it is at its greatest. Similarly, ecodesign measures have been effective because they too have regulated measurable, verifiable parameters of the product on the basis of a clear and transparent methodology. In this respect, both of these two prominent examples differ from the Product Environmental Footprint (PEF) initiative. As such, APPLiA considers its potential as a voluntary tool for internal company assessments but not as a basis for legislative requirements and as a reference for external communication.

We furthermore observe other legislative requirements being discussed that would deviate from these principles by introducing measures that are either technically difficult/impossible to verify or are targeted at the future. Some examples:

- At the material level, recycled plastics cannot be distinguished from virgin plastics. This means that any claim on the recycled content cannot be physically and reliably verified or enforced.

- Regarding the availability of spare parts, such time-related requirements for provision of spare parts for a future number of years go beyond what can be verified on the product itself at the time of placing on the market.
- Currently there is no methodology in place which would allow a reliable assessment of the durability of products while being economically feasible and not overly time consuming (It is estimated the durability testing for large household appliances could take more than a year[1]). Durability of products is highly influenced by usage patterns of consumers (place of installation, frequency of use, maintenance, misuse etc.)

In addition, over the past few years, the European Commission has proposed more and more burdensome regulations, often establishing double or cascading ecodesign requirements on a single product category. Such double legislation impedes the ability of industry players to innovate while increasing the cost of products without creating additional environmental benefit. It also makes measurement, verification and enforcement more complex. There have also been some recent examples where ecodesign product requirements are regulating hazardous substances which could lead to potential incoherence with waste and chemicals legislation.

In striving for a circular economy, there needs to be a balanced approach - taking into account material efficiency, energy efficiency, citizen welfare, consumer choice and affordability.

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[1] JRC Technical report- Durability assessment of products: analysis and testing of washing machines - deemed the testing procedure much too long and ways to shorten the testing time would be needed – i.e via accelerated life testing methods. Reference - https://ec.europa.eu/jrc/en/publication/durability-assessment-products-analysis-and-testing-washing-machines