



OPINION

European Economic and Social Committee

Consumers and the green transition

Proposal for a Directive of the European Parliament and of the Council amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information
[COM (2022) 143 final – 2022/0092 (COD)]

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1. **Conclusions and recommendations**

- 1.1 The European Economic and Social Committee (EESC) supports the European Commission (EC)'s proposals to empower consumers to act in support of the green transition. The Committee calls on the EC to maintain a high level of ambition, as this is a project with a positive economic, social and environmental impact.
- 1.2 The EESC stresses the need to make every effort to ensure that the information concerned is systematically made available to consumers, in particular the information on spare parts and repair manuals, as well as on planned software updates.
- 1.3 The EESC urges the EC to be ambitious by putting into practice the principle of a reparability score for brown and white goods. This score's level of ambition must meet consumer expectations on both the variety of products covered and the criteria taken into account.
- 1.4 In addition to the reparability of these products, the EESC believes that the EC should push forward with the principle of simple and common labelling showing the durability of products in the coming years.
- 1.5 Training new repairers and upgrading the skills of current operators should also be encouraged, as this is essential to develop repairing, which is a major source of jobs for our continent. The EESC also calls on Europe to reduce its dependence on raw materials in order to boost its ability to repair and equip itself with spare parts. Similarly, Europe needs a serious and effective reindustrialisation policy. The recent crises have revealed weaknesses that should be seen as opportunities for recovery.
- 1.6 In addition to the need to enforce displaying the length of the legal guarantee, consumers must be better protected against confusion between legal and commercial guarantees. In terms of guarantees, the primacy of repair over replacement with a new product should also be promoted but without limiting the consumer's free choice of remedy.
- 1.7 In order to encourage longer product lifespans, the EESC supports the addition of new commercial practices to the list of actions considered misleading. However, on three points, the EESC calls on the EC to go further than the obligation to provide:
 - the techniques introduced to shorten the lifespan of a product: the EESC considers that these practices should be included as misleading commercial practices, in addition to the mere absence of information;
 - the irreparability of certain goods: here too, intentional barriers to repair, and not merely the lack of information on the matter, could be regarded as misleading commercial practices;
 - updates likely to cause malfunctions: it should be a requirement to make updates reversible.

- 1.8 These moves to empower consumers must go hand in hand with better protection against misleading advertising. In this regard, the legal framework for advertising must better integrate the aims of sustainable development.
- 1.9 Advertising must prohibit any unsubstantiated claim, such as those often seen in relation to carbon neutrality, and any mention or representation of behaviour contrary to the protection of the environment and the preservation of natural resources. Greater powers to verify environmental claims are also needed.
- 1.10 In order to avoid confusion and in view of the proliferation of environmental labels that are often self-proclaimed, the European Commission must put greater emphasis on the European eco-label and the need for certification procedures for labelling.
- 1.11 The EESC calls on the EU to strengthen protection for whistleblowers on the environmental characteristics of products, in order to raise the alarm over misleading commercial practices.
- 1.12 Finally, the EESC calls on the Commission to promote strong consumer awareness of the issues related to responsible consumption.

2. **Gist of the Commission document**

- 2.1 This proposal for a directive aims to strengthen consumer rights by amending two directives that protect consumers' interests at EU level: Directive 2005/29/EC on unfair commercial practices¹ and Directive 2011/83/EU on consumer rights². The proposal aims to contribute to a circular, clean and green EU economy by enabling consumers to take informed purchasing decisions and therefore contribute to more sustainable consumption. It also targets unfair commercial practices that mislead consumers away from sustainable consumption choices.
- 2.2 The proposal was one of the initiatives set out in the New Consumer Agenda³ and the Circular Economy Action Plan⁴ and follows up on the European Green Deal⁵.
- 2.3 The proposal includes a whole series of measures to update existing consumer law to ensure consumers are protected and can actively contribute to the green transition. The Consumer Rights Directive currently requires traders to provide consumers with information on the main characteristics of goods or services.
- 2.4 However, as there is no requirement to provide information on the absence of commercial guarantees of durability, the directive does not provide sufficient incentive for producers to provide such guarantees to consumers. Research shows that where consumer products are

¹ [OJ L 149, 11.6.2005, p. 22.](#)

² [OJ L 304, 22.11.2011, p. 64.](#)

³ COM(2020) 696 final, 13 November 2020.

⁴ COM(2020) 98 final, 11 March 2020.

⁵ COM(2019) 640 final, 11 December 2019.

offered with a commercial guarantee, the information on such commercial guarantees and the way that consumers are being charged is often unclear, imprecise or incomplete, making it difficult for consumers to compare between products and to distinguish the commercial guarantee from the (compulsory) legal guarantee⁶.

- 2.5 Furthermore, the directive does not contain specific requirements to provide information to consumers on the reparability of goods. This information, which would encourage the repair of goods and would therefore be particularly valuable in helping consumers contribute to a circular economy, is largely missing at the point of sale. Recent studies show that up to 80% of EU consumers claim to have difficulty in finding information on how easy it is to repair a product⁷.

3. **General comments**

- 3.1 Currently, most European consumers complain that there is a lack of information on the environmental impacts of consumption. This was confirmed by the public consultation organised by the EC. In 2012, the Eurobarometer on European consumers' behaviour and attitudes towards green products showed that 92% of European respondents were in favour of information being provided on the lifespan of products.

- 3.2 This lack of information is harmful because clear and comprehensible information is conducive to behavioural change. This has been confirmed by the EESC, in a study it carried out involving 3 000 European consumers. This involved a simulation whereby information was provided on the lifespan of everyday consumer products on an online shopping site. The study found that providing this information would see a 56% increase in sales for products with a long lifespan.

- 3.3 This lack of consumer information is of major social significance. The current difficulties surrounding purchasing power make it even more important to support the middle classes and the disadvantaged in moving towards repair and more responsible consumption. Improving consumer information by taking simple steps is therefore one way of helping to put responsible consumption within the grasp of the most vulnerable.

- 3.4 Improving consumer information will help to strengthen the business model of European businesses. Given the risks of dumping with imports of cheap products, micro-enterprises and SMEs, as well as their clients, are likely to gain a higher profile among consumers, enabling them to promote the quality of products designed in Europe.

- 3.5 Bricks-and-mortar retailers in the EU can also take a positive view of these upcoming legislative developments, as these changes are likely to increase their comparative advantage over online outlets. On top of the advice provided by the sales assistant, the consumer will also have access to this new information. Such developments are conducive to strengthening employment in the

⁶ European Commission, *Consumer market study on the functioning of Legal and Commercial Guarantees for consumers in the EU*, 2015. Impact Assessment supporting study: *Study on Empowering Consumers Towards the Green Transition*, July 2021. *Commercial warranties: are they worth the money?* ECC-Net, April 2019.

⁷ European Commission, *Behavioural study on Consumers' engagement in the circular economy*, 2018, p. 81.

EU. To do this, Europe needs the right human resources: the EESC calls on the Commission to support businesses, in particular SMEs, in providing training.

- 3.6 While appropriate environmental information needs to be provided, it is important to ensure that all environmental impacts are taken into account. Climate impacts, measured in the form of greenhouse gas emissions, are central to the public debate, but they constitute only one part of the environmental impact. Product life cycle analyses show that the bulk of the environmental impact for most consumer goods comes from the extraction of resources and the manufacturing of the products. It must therefore be an environmental priority to extend the lifespan of products.
- 3.7 However, in all these aspects, the average European's consumption is not environmentally sustainable. For example, ecological footprint calculations have shown that the way of life of an average European is now equivalent to 2.8 planets.
- 3.8 In many cases, the way a product is designed shortens its lifespan, be it through technical processes, barriers to repair or software techniques. The resulting premature obsolescence is one of the main issues that fuels consumer dissatisfaction, as they are disadvantaged by considerable information asymmetry.
- 3.9 Finally, the EESC notes that the war in Ukraine makes it even more imperative to strengthen Europe's strategic autonomy. From this point of view, initiatives that contribute to a better product lifespan, in particular those relating to strategic metals, should be encouraged.

4. **Specific comments**

4.1 **Providing additional consumer information on the durability of goods**

- 4.1.1 Given the importance of product lifespan issues, consumer information should be improved. In this regard, the Commission's proposal is welcome as it aims to mainstream the provision of information on the availability of spare parts, on user manuals and on the period covered by software updates.
- 4.1.2 It should be noted that while a lack of information is harmful, excessive or overly technical information is almost just as bad.
- 4.1.3 The EESC warns the European Commission about the potential drawbacks of providing new information through e-labels or QR codes. As well as the additional environmental impact of the digital technology involved in these methods, it is worth bearing in mind that any extra steps (needing to take out a smartphone, clicking, scanning etc.) are a further barrier to responsible consumption.
- 4.1.4 The Commission's proposal is a step in the right direction, as it links the communication issues with those of early product obsolescence. As a first step in the process of improving consumer information, a reparability score should be introduced for as many products as possible, as has

been done in France since 2021. Reparability is one of the most easily measurable aspects of product durability.

- 4.1.5 To meet the challenges, the reparability score must be designed ambitiously, on at least two fronts: On the one hand, it must cover as many electrical and electronic products and household appliances as possible. Secondly, all aspects of reparability must be incorporated, including by taking into account the repair costs (cost of spare parts), the availability of replacement parts and the conditions of software support.
- 4.1.6 In the EESC's view, an ambitious consumer information policy should not stop at reparability. Consumers' expectations are mainly concerned with whether products last over time, not whether they are repairable. The EESC has already commented on this point⁸. The EU needs to have a simple product durability index, which incorporates reparability, but also the product's robustness and its potential to be upgraded, which will indirectly support reindustrialisation in Europe. This principle must be included in the Commission's proposals, to avoid neglecting a key consumer expectation, although its implementation must be gradual and its implementing provisions agreed with stakeholders.
- 4.1.7 Further work on guarantees is needed to improve consumer information. First of all, the EC must reaffirm a simple principle: the existence and the duration of the guarantee of conformity (Directive 2019/771) must be displayed everywhere, in both bricks-and-mortar shops and online sales outlets, for all goods concerned. The priority must be to enforce the existing law, before adding new rights.
- 4.1.8 The EESC welcomes the fact that account has been taken of the difficulties that consumers may encounter in distinguishing between commercial guarantees and legal guarantees. It is therefore positive that the EC is seeking to ensure that these commercial guarantees do not create confusion.
- 4.1.9 In order to boost its positive effects on environmental protection, the guarantee could promote a repair of the product, and not replacement with a new product. The EU could promote the concept of giving repair priority over replacement, in the event the product breaks down, by making repair easier, quicker and more convenient choice for consumers.
- 4.1.10 In conjunction with these provisions, raising awareness among citizens could contribute to an even greater extent to this shift in consumption. Campaigns on good responsible consumption habits to adopt (information, second hand, repair, product maintenance) must be promoted or even initiated by the EU, especially with the support of organised civil society, which could play a critical role in this proposal.

4.2 **Strengthening the provisions by going beyond the obligation to inform**

- 4.2.1 By only penalising a lack of information, the EU would pave the way for the legalisation of certain practices that are not compatible with consumer and environmental protection. The EU

⁸ [OJ C 67, 6.3.2014, p. 23.](#)

cannot settle for prohibiting a lack of information on a technique aimed at limiting the lifespan of a product, it must ban this practice itself. In simple terms, it would not make sense for the EU to send the message that planned obsolescence is allowed as long as it is accompanied by consumer information. The provision must give a clear signal to manufacturers that, in Europe, products cannot be designed to break down prematurely.

4.2.2 Similarly, other wordings in the directive risk failing to provide sufficient protection for consumers. It is not enough to require the manufacturer to inform the consumer that goods are not repairable. The actual practice of intentionally making products that cannot be repaired must be banned in its own right.

4.2.3 As the EESC and the EC know, software updates often come from memory- and energy-intensive software that reduces the lifespan of connected equipment. The legislation should not solely require the manufacturer to inform the consumer about the adverse effects of an update. Once again, it is easy to imagine how this information could be buried in the middle of a flood of positive information on the update, leading the consumer to accept it.

4.3 **Regulating and penalising practices that disempower consumers**

4.3.1 As the Commission rightly points out, greenwashing practices are one of the main obstacles to consumer information in support of the green transition. The draft directive rightly points out the need to penalise unsubstantiated generic environmental claims that are not verifiable.

4.3.2 The EESC welcomes the ban on displaying sustainability labels which are not based on a certification scheme. The gradual and coordinated development of a European index, as proposed in this opinion, would address this issue.

4.3.3 Other environmental claims frequently undermine good consumer information. It is right to ban giving particular emphasis to an aspect of environmental performance when it only concerns one aspect of the product or when it merely concerns the implementation of legal obligations or is actually a common practice.

4.3.4 Encouraging responsible consumption also involves improving labelling systems that certify genuine environmental measures. In this regard, the European Ecolabel is still underused today, despite the progress it has seen. Consideration should be given to providing support to make this label more accessible, and to rolling out a suitable communication campaign.

4.3.5 In keeping with these points, the legal framework on advertising must better incorporate the principles of sustainable development, including by robustly regulating the advertising of the most polluting products – in line with the EESC's position in its recent opinion on this issue⁹.

4.3.6 In the same vein, while advertising must avoid applying environmental claims to the whole product when they only concern certain aspects of the product, it must also ban all unsubstantiated claims, such as those too often seen in relation to carbon neutrality, and any

⁹ [OJ C 105, 4.3.2022, p. 6.](#)

mention or representation of behaviour contrary to the protection of the environment and the preservation of natural resources. In addition, advertising must prohibit any representation likely to trivialise or promote practices or ideas contrary to the Sustainable Development Goals.

4.3.7 In order to provide early warnings about misleading marketing practices, information is often needed from those placing products on the market themselves. However, today, few whistleblowers in this area come forward, for fear of reprisals. It must be possible to apply the whistleblowing procedure referred to in Directive 2019/1937 to those blowing the whistle in such cases.

All of these provisions will only be fully effective if they are coordinated with the economic stakeholders representing both large and small and medium-sized enterprises, as well as with the social partners, consumer associations and civil society more broadly. The EESC considers this to be a key policy, as it underpins a competitive market model that is adapted to environmental issues, is consumer-friendly and mindful of the competitiveness of European economic operators, and is compatible with the issues of Europe's strategic autonomy.

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