EEB submission for the public consultation on EU product policy

24th January 2018

Towards an EU Product Policy Framework contributing to the Circular Economy

Introduction – Too slow progress on product policy

The European Commission identified the vital contribution which product policy can make to sustainable development in its Integrated Product Policy (IPP) Communication (COM/2003/302). The importance of product policy has been renewed in several strategic policy documents, including the Resource Efficiency Roadmap[1], 7th EAP[2], the Building a Single Market for Green Products Communication[3], the EU action plan for the Circular Economy[4]., European Council Conclusions, a Resolution by the European Parliament[5], and an opinion from the European Economic and Social Committee[6]. Fifteen years since the IPP communication, significant progress on reducing the life cycle impacts of products and of the economy as a whole have not been made.

Today, European consumers are still faced with many products which:

- Are not designed with enough consideration for resource efficiency;
- Are designed to be disposable or are sold in single use packaging;
- Are not durable, or easy to reuse or repair, and cannot be easily recycled at their end of life;
- Contain or rely on hazardous substances presenting a risk to public health and the environment;
- Do not provide reliable information about their environmental performance; and
- Cumulatively drive the depletion of finite natural resources and exacerbate planetary boundaries.

Even consumers who would like to reduce the footprint of their consumption, find themselves locked into purchasing linear products and as a result a linear economic model – limiting their purchasing freedoms as citizens. A recent study by DG Justice confirmed that most consumers want durable, repairable and recyclable products[7]. Ongoing initiatives from the Commission including the two consultations on product policy, the associated roadmap (Ares/2018/2409307)[8], and the study "EU Product Policy Framework Supportive of the Circular Economy"[9], further validate these observations.

The EEB and its members have actively engaged with the European Commission and stakeholders on the development the EU product policy framework over several years through different initiatives including, but not limited to: Product Environmental Footprint (PEF) and Organisation Environmental Footprint (OEF) pilots;

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0571&from=EN
[2] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013D1386&from=EN
[3] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013DC0196&from=EN
[4] https://eur-lex.europa.eu/resource.html?uri=cellar:8a8ef5e8-99a0-11e5-b3b7-01aa75ed71a1.0012.02/DOC_1&format=PDF
[5] Decision No 1386/2013/EU of the European Parliament and of the Council
[6] 10518/16 and 15811/17
[7] p10, https://ec.europa.eu/info/sites/info/files/ec_circular_economy_final_report_0.pdf
[8] https://ec.europa.eu/info/law/better-regulation/initiative/1740/publication/229338/attachment/090166e5ba8b34e5_en
[9] https://www.eunomia.co.uk/assessing-the-circular-economy-potential-of-eu-product-policy/

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the development of the EU Ecolabel; the ecodesign and energy labelling consultation forum; revisions to the waste legislation; the European Strategy for Plastics in a Circular Economy and the Single Use Plastics Directive; Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH); the Communication on options to address the interface between chemical, product and waste legislation; the JRC Repair Score System; the development of the EU GPP criteria; participation in the IPP/SCP expert group; and participation in the Steering Group of the Circular Economy Stakeholder Platform. In all instances, the EEB has endlessly pointed to the unique leverage power of product policy as the starting point of supply chains and as a key determinant for circularity.

While the various initiatives by the European Commission listed above have helped to raise the profile of this area of policy making, they have so far failed to address some of the key issues with the products which we use every day. Building on the product policy Road Map, it is expected that the current Commission will publish either a Staff Working Document or a Communication on product policy to present the next Commission with a strong mandate and clear guidelines for action.

The EEB position paper "Towards an EU Product Policy Framework contributing to the Circular Economy - EEB proposals for discussion at the EU Circular Economy Stakeholder Conference" was published in February 2018 and still provides relevant recommendations on how the EU product policy framework can be made more effective. This submission updates this briefing and supports our response to the ongoing public consultation. We stress that a more consistent and integrated approach for developing product policy is needed.

A comprehensive and integrated approach to product policy is needed

As outlined above there are a wide range of initiatives relevant to product policy ongoing or under development at the EU level. While this is a positive development in terms of coverage of different products with diverse measures, several observations can be made:

- The product policy framework is not comprehensive, key sectors (e.g. textiles) and products (e.g. smartphones) remain unaddressed, or relevant policies are not applied to sectors (e.g. EPR for textiles and furniture).
- Some measures are weakened because they are voluntary (e.g. EU GPP criteria) or specific products are covered by weak voluntary agreements (e.g. ecodesign on, complex set top boxes)
- Some instruments have unlocked potential (e.g. fee modulation under EPR)
- Preparatory studies and review studies to develop product policy criteria are developed independently missing opportunities for synergies.
- The development of product criteria experiences long delays (e.g. televisions under ecodesign), are developed too slowly to follow technological development;
- There is a lack of available data (e.g. about substances of concern in products) or metrics to assess performance of a given policy (e.g. GPP uptake)
- There is a need to improve the effectiveness of the EU Ecolabel by expanding its scope, increasing incentives for companies to use the label, and improving synergies with other policies such as GPP[10]

[10] Please see our briefing on the Future EU Ecolabel Strategy: https://eeb.org/publications/79/resource-efficiency/97321/eeb-and-beuc-contribution-strategy-eu-ecolabel.pdf

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- The effectiveness of the EU ecolabel and other Type 1 ISO labels of excellence are limited by other (sometimes misleading) green claims.

In addition to inconsistencies between and amongst product groups, it is felt that product policies are not yet sufficiently aligned with wider policy objectives. Such as those targeting prevention of waste, detoxification of products, and consumer rights. In a circular economy it becomes increasingly important how these dimensions interact in a consistent way and how they can be preserved through multiple uses and cycling of materials. This will be critical if sharing products, repair and reuse become more widespread, as well as if refurbishment, remanufacturing and recycling practices ensure a second, third or fourth life-cycle for a certain product. In addition, horizontal legislations might have to be complemented by sector specific approaches to promote a circular economy in a more targeted way.

How to integrate the EU product policy

Based on these observations, the EEB strongly believes that a more integrated approach should be applied when developing product policy. Product policies can be developed in a more integrated manner by:

- Conducting streamlined preparatory and review studies for each product group, to address several product policy instruments in one process;
- Developing common criteria which apply to all products in a sector and are reflected in the different instruments covering those products,; and
- Creating a sliding scale of product performance and incentives for producers, with more demanding criteria for some instruments identifying the best products (such as GPP and the Ecolabel).

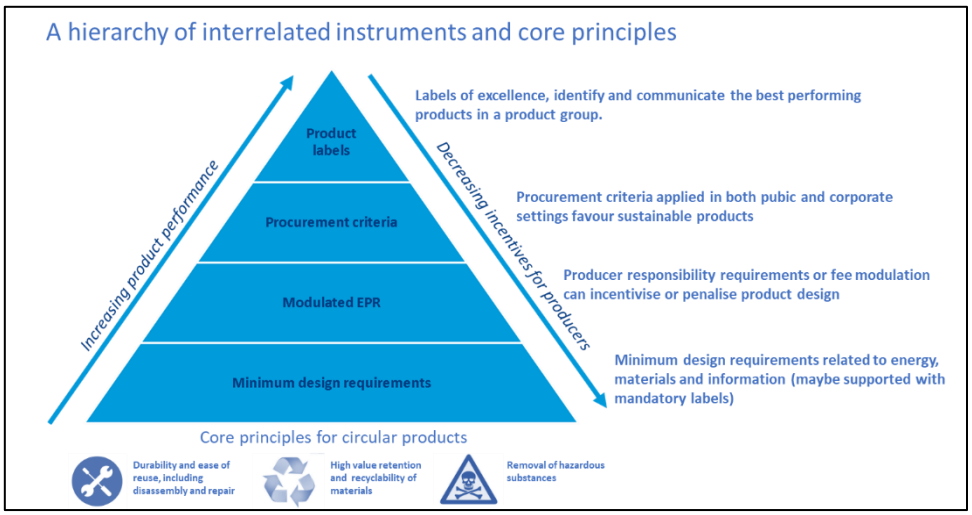

Figure 1 – Vision for an integrated product policy framework

The pyramid graph in ***Error! Reference source not found.*** distinguishes between several levels of performance of products and services in a circular economy linked to different EU instruments. Criteria should become more demanding for the instruments higher up in the pyramid. Additional economic incentives in form of reward or penalty schemes could be applied along this performance scale to accelerate further market

transformation. It should be noted that the divisions between different measures need not necessarily be impermeable, for example GPP may use the Ecolabel to simplify and reinforce selection criteria.

Some recent efforts by the European Commission suggest that a more integrated approach to developing product criteria is beginning to be implemented (or at least tested). The 'Solar Photovoltaics' project is proposing to develop a single preparatory study on sustainable product policy instruments to assess the feasibility of applying Ecodesign, Energy Label, Ecolabel and Green Public Procurement instruments to solar photovoltaic modules, inverters and systems[11]. This project explores how different measures might be better suited to addressing different stages of a supply chain.

The European Commission have also proposed to carry out a joint study on GPP and the Ecolabel for 3 product groups, whereby a manual for authorities awarding public contracts would be based on the EU Ecolabel criteria. The products which will be covered by this initiative are still to be identified, though we feel it could be relevant for some products such as textiles, furniture and paper. In general, EU Ecolabelled products (as well as other ISO Type 1 eco-labelled products) could be better supported through public procurement across Europe – representing low hanging fruit for making EU product policies mutually reinforcing.

Why joint preparatory studies make sense for policy makers and industry

Developing product policies in an integrated manner should be viewed as an opportunity for both policy makers, with respect to the objectives of better regulation, and for industry, with respect to reducing their administrative burdens[12].

Streamlining the preparatory studies, review studies and stakeholder consultations for each product should reduce the burden of developing product criteria on all the stakeholders involved in these processes. At the EU level this would also help to minimise the number of stakeholder meetings in which the same types of discussion are repeated with reference to different policy instruments.

Once implemented, criteria and metrics which are common across different product policies should also help to reduce the administrative burden on national market surveillance authorities, as well as providing a clearer signal to product designers on how the performance of their products will be assessed and rewarded (or penalised) by different measures.

Overall, this could free resources to update the criteria more regularly or cover a wider range of products or intensify still too weak market surveillance. More initiatives like the one underway for PV cells would be welcome.

[11] http://susproc.jrc.ec.europa.eu/solar_photovoltaics/index.html

[12] https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how_en

Learning from Ecodesign and the Energy Label – the push and pull of a policy mix

The Eco-design and Energy Label are one of the EU's most successful environmental policy tools. Existing measures in these policies are expected to deliver every household in Europe a €490 energy bill cut by 2020[13]. And measures currently under development will provide an additional cut to energy consumption equivalent to 5% of the EU's electricity demand[14]. Most recently and for the first time, repair provisions were considered in the product specific requirements for several domestic appliances.

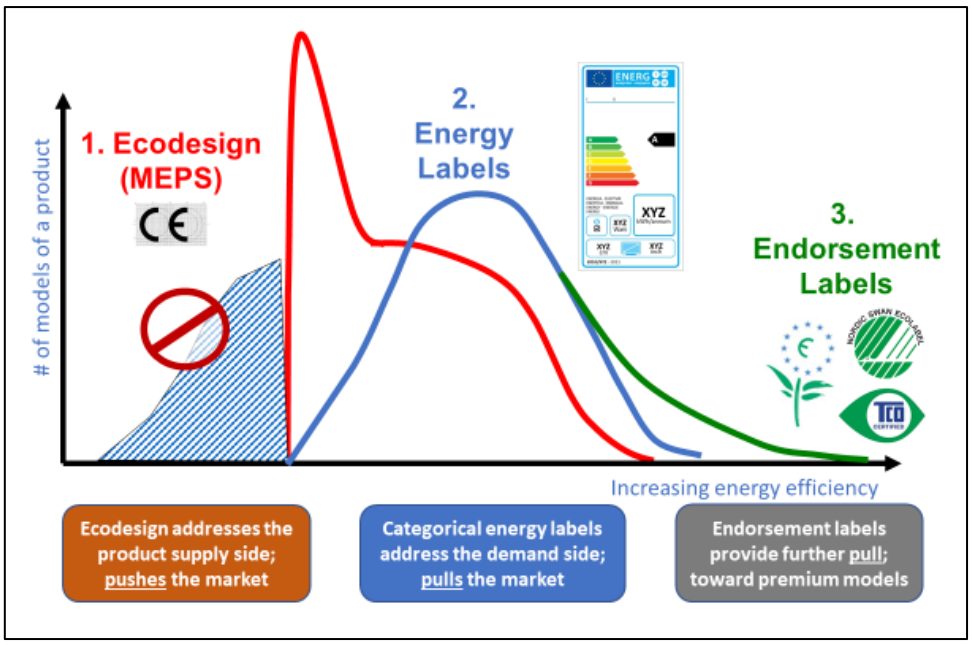

Figure 2 – Ecodesign & Energy Labels: the push of minimum design requirements and the pull of performance labels

These instruments also provide a good example of how a policy mix can be developed in a more integrated fashion, with two types of instrument being developed simultaneously to be mutually reinforcing – see *Figure 2*. The EU Ecodesign Directive sets mandatory energy performance standards (MEPS) to be fulfilled by all products being placed on the European single market. And the energy label, a mandatory labelling scheme, differentiates energy efficiency performance classes. Some EU member states provide economic incentives to buy energy efficient appliances that are only rated by the top classes, e.g. through eco-cheques. The EU Energy Efficiency Directive requires central governments to procure only products of the highest efficiency class. Top performing products are also awarded by the multi-criteria EU Ecolabel (or ISO Type 1 Ecolabels such as the Nordic Swan Label) and can be easily recognised by consumers. Multi-criteria labels of excellence integrate energy efficiency when appropriate but already go beyond energy dimension.

The ongoing inclusion of resource efficiency provisions under ecodesign and the energy label, including the repairability of products (disassembly, availability of spare parts, and repair manuals for fridges, lighting, washing machines and dishwashers); non-toxicity (such as the prohibition of halogenated flame retardants in

[13] https://www.coolproducts.eu/

[14] https://www.coolproducts.eu/news/official-europe-revives-plans-for-energy-and-resource-efficient-products-for-now-1

the cases of displays); and compatibility of connectors (in the case of the External Power Supply logo on the display energy label), demonstrates how the scope of these measures has been deepened beyond energy efficiency to support circular economy objectives. Moreover, the ongoing work of the JRC to develop a Scoring System on Reparability has the potential to complement the minimum design requirements on repair, by rewarding the most repairable products on the market[15]. Although still in its infancy, this more consistent framework of measures is expected to stimulate market wide improvements to several product categories based on multiple factors of environmental performance – see *Figure 3*.

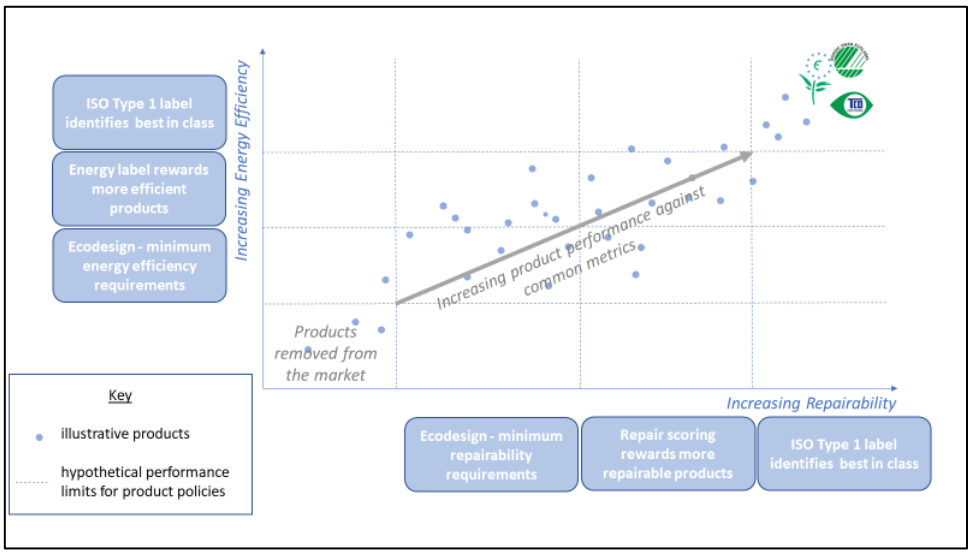

Figure 3 – Illustrating a multi-criteria product policy framework for energy efficiency and resource efficiency

Crucially, electrical and electronic equipment include minimum performance criteria and a mandatory label which are applied to all products which are given access to the EU market. This contrasts with most other non-energy product groups, where much scarcer and weaker product policy instruments are applied. If the Commission is truly committed to the circular economy transition, comparably comprehensive instruments as Ecodesign and labelling will need to be applied to non-energy related products. This does not necessarily mean that the scope of the Ecodesign and Energy Labelling regulations should be widened to include non-energy related products, but rather that an integrated policy mix should be developed based on common criteria for those products, with a similar push and pull mechanism.

Prioritisation vs. market coverage – addressing the gaps

Considering the diversity and large number of non-energy related products available on the globalised market as well as the resources required to develop effective instruments, a clear challenge in developing product policies is to identify which products should be addressed first.

Prioritising which products should be addressed by product policy rules first is a logical approach to maximise the effectiveness of those policies (in terms of their environmental impact). However, prioritisation should

[15] http://susproc.jrc.ec.europa.eu/ScoringSystemOnReparability/index.html

not be an excuse to leave products unaddressed for long periods of time or lead to situations where delays in one product group stall the development of other policies.

Some product groups have experienced long delays in implementing measures (up to 6 years in the case of requirements for televisions). Such delays undermine the resources which have gone into developing measures, as with time innovation changes the market, data sets become outdated, and the effectiveness of product criteria can quickly become obsolete.

Additionally, a number of critical products remain unaddressed by any measures. This is notably the case for smart phones and other ICT products such as gateways. Work on these products as well as others identified in the 2016-2019 ecodesign work plan should be accelerated by the next Commission[16].

When identifying which products should be addressed by product policies a degree of pragmatism is needed. For instance, it might not make sense to develop Ecolabel for food products as this could undermine or confuse the EU organic label.

Some minimum requirements on products may be introduced horizontally without looking in detail at every product group. Issues around toxicity present a clear opportunity for this. For instance, chemicals banned under the Stockholm Convention on Persistent Organic Pollutants should not be allowed in any products without exemptions. Toxicity is relevant from an environmental and public health perspective, as well as being a determinant on how a product's materials can be used at their end of life.

Lastly, work on expanding the product scope of the ecolabel could be accelerated. The EU Ecolabel is available across the EU. In terms of demand it is the relevant label for countries that do not have strong national/regional Type 1 Ecolabels. It is also of interest for companies which are based in countries with national/regional strong ecolabels but wish to sell their products in other markets (because of requirements from retailers, consumers demand or GPP requirements). The Commission should investigate how we can make use of criteria sets that are already available in other regional/national ecolabels and not yet covered by the EU Ecolabel. The EU Ecolabel Regulation already enables this possibility, but this option has not been used yet.

[16] https://ec.europa.eu/energy/sites/ener/files/documents/com_2016_773.en_.pdf

Developing a common multicriteria approach supported by life cycle data

As illustrated by provisions on energy efficiency and repairability under ecodesign shown in *Figure 3*, product policies can be developed according to more than one variable of environmental performance. In this case, only two "axis" of environmental performance are explicitly addressed. In a perfect product policy framework, multiple axis of performance would be considered in order to ensure a more holistic approach to product sustainability – see *Figure 4*. Relevant variables might include:

- Better material utilisation (e.g. non-toxic, reused & recycled content)
- Extended product lifetime (e.g. maintenance, repair, upgrades)
- Value retention (e.g. take back, reuse, refurbish, remanufacture, and product service systems)
- Sustainability check (e.g. carbon balance, health and safety aspects)

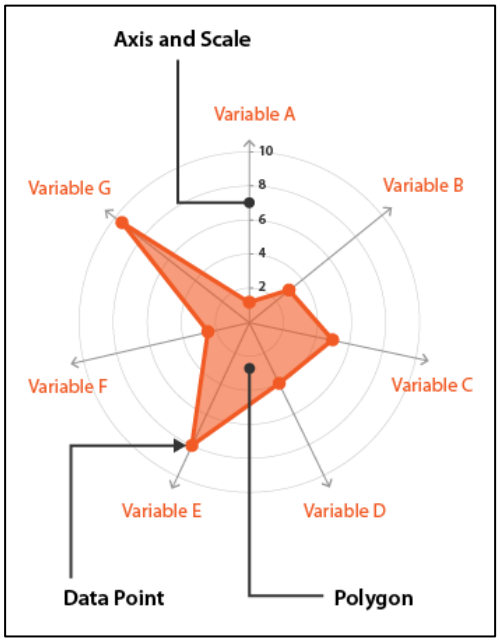

Figure 4 – A multi-criteria approach

According to the product group certain variables may be more relevant than others and we should aim at limiting the number of variables to keep the system simple. However, it would be important to assure that improvements in one variable would not result in poor performance in another. A well-designed system could allow for a minimum performance across multiple variables, giving flexibility to producers but also defining cut-off points for each variable, becoming more stringent over time. Consideration should also be given for system and business model changes, such as product service systems which may not be easily quantified.

Various methodologies applied in environmental management already consider several factors of environmental performance. Life Cycle Assessment data is already widely used in the private sector to assess product performance across a number of environmental impact categories through the stages of a product's life. The Product Environmental Footprint (PEF) and Organisation Environmental Footprint (OEF) pilots, have identified the need to harmonise the methodologies being applied when addressing product performance and have illustrated how Life Cycle Assessment data can identify specific "hot spots" in the life of products. However, it should be stressed that the implementation of the PEF pilots have important limitations which we have outlined in a briefing on PEF[17], as well as our submission to the stakeholder consultation on PEF in December 2018[18]. In general, LCA data must be supplemented with additional methodologies to develop more comprehensive analysis of product performance. This is particularly the case where variables such as land use, biodiversity and toxicity are critical as these are poorly captured in LCA data. For these reasons, PEF

[17] http://eeb.org/publications/80/product-policy/89544/briefing-on-the-eu-product-environmental-footprint-methodology.pdf
[18] Add links!

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and other LCA methods should not be the sole basis for developing product criteria in the EU product policy framework.

Future proofing and flexibility in product policy

A key challenge when developing product policies is that for some products, and notably for information technology, innovation can evolve quickly. In the context of the transition to a circular economy, product criteria also need to become increasingly ambitious over time.

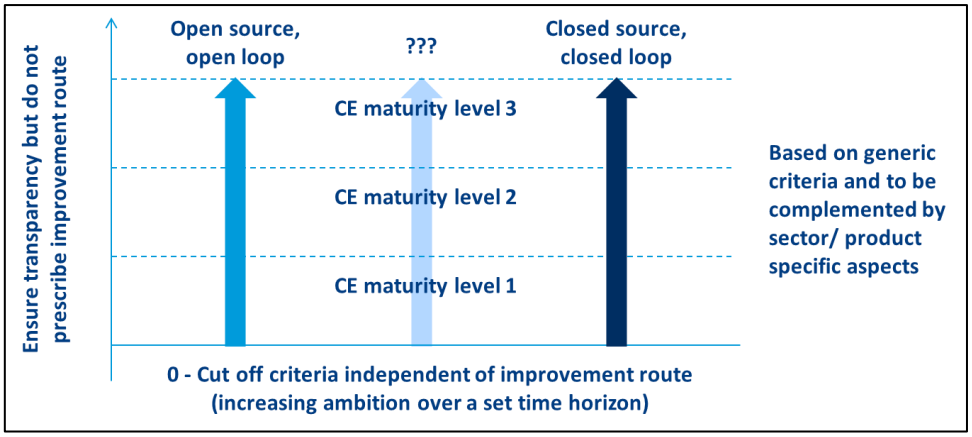

Figure 5 – Vision for future proof, flexible product criteria

This can make it difficult to define product criteria which remain effective until the criteria can be updated. Particularly, as product criteria may not be updated for several years pending the political processes which define them.

Building on the previous discussion, product policies which are based on a multi-criteria approach should also aim not to be overly prescriptive and should allow a degree of flexibility to producers in how they attain different levels of performance. This is because environmental performance can be achieved through different product designs and business models – see *Figure 5*. Likewise, policies should not favour or penalise specific actors, materials or geographies with respect to a level playing field for producers.

It may not be straight forward to entirely anticipate the market, but efforts could be made to develop reasonable but progressive targets which become more ambitious over an appropriate time horizon. Referring to *Figure 5* this would involve gradually increasing the "cut off criteria" as the market becomes more mature. Cut off criteria would apply to all products on the market – with flexibility permitted to industry beyond these criteria.

Progressive improvements could also be introduced through the implementation of policies. For example, public procurement contracts could include clauses for incremental improvements in environmental performance over time (e.g. in the % of organic food sold in a hospital). Such approaches might be applied when the market is not yet ready for a certain level of performance, but policies can nevertheless help to provide a steer in the right direction.

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EU Harmonised product information systems

An additional and critical gap in the EU product policy framework is the lack of a harmonised information system. The need for harmonised information systems was already identified in the EEB briefing on product policy[19], and in the EEB position paper the interface between chemicals, products and waste[20]. Such a system is needed to provide reliable information about products and the materials they contain. This is a question on one hand of supporting compliance with environmental and chemical legislation, and on the other of unlocking the potential of the circular economy, allowing the value of resources and energy embedded in products to be identified and retained by different actors in value chains.

Products already have to comply with different pieces of EU legislation that demand mandatory disclosure of specific information from manufacturers who want to sell their products and services on the European single market. These include the implementing measures under the Ecodesign and Energy Labelling Directives, Article 15 WEEE (Waste Electrical and Electronic Equipment) Directive and Article 33 of the REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) Regulation. An EU harmonised product information system would go one step further in combining these single bits of different environmental information into a standard digital format and making them more easily accessible for distinctly defined target groups. Such a system should be developed based on a number of different principles:

- Developing an interoperable system of information where data provided through different channels or distributed technologies can be consulted through one public interface
- Using a centralised point of access for the information, providing a link between multiple databases (rather than a unique centralised database)
- Focusing initially on the information which companies are already legally obliged to disclose; e.g. providing a legally binding tracking system for substances of concern as required by Art 33 REACH
- Using digital tools, such as QR or barcodes, to allow different actors in the supply chain to easily identify products and their information
- Defining information access for different actors in the supply chain (e.g. market surveillance authorities, recyclers and waste handlers, professional repairers, public procurers, civil society and consumers)
- Define a minimum level of information transparency for access to EU the market
- Rewarding additional voluntary transparency through modulation of EPR fees or product policy criteria – e.g. GPP and Ecolabel
- Define clear formats and standards, to ensure the information is meaningful, comparable and enforceable
- Reduce the administrative costs for businesses through the principle of 'report once and use several times.'

[19] http://eeb.org/publications/79/resource-efficiency/89942/briefing-on-the-eu-product-policy-framework.pdf
[20] https://eeb.org/wp-admin/admin-ajax.php?juwpfisadmin=false&action=wpfd&task=file.download&wpfd_category_id=31&wpfd_file_id=95500&token=60e036c07c9654bed9af9ca7452c444c&preview=1

An illustrated example: textiles

Textiles drive significant environmental impacts, including greenhouse gas emissions, water, soil and air pollution. There is also growing awareness around issues linked to toxicity in fibres, the release of microfibres into the marine environment, and social phenomena of fast fashion which drives growing levels of waste from the sector[21]. Although textiles are covered by the Textiles and Clothing Regulation[22], which addresses fibre labelling, textiles are weakly addressed by European product policy framework. This section illustrates what an ideal product policy framework *might* look like for textiles.

Common performance criteria	Assessment criteria	Multicriteria assessment: Uses PEF to identifying hotspots on key variables (e.g. GHG emissions), complimented with assessments on other variables (e.g. on toxicity and land use), as well as using available product information (e.g. ECHA database).
Regulatory	Minimum design requirements	Set minimum performance (test standards) on key criteria: durability, toxicity, and microfibre release. Consider certification or third party verification of claims for other performance variables: GHG emissions and freshwater use.
Market based	EPR scheme	Supports full cost coverage for externalities – including separate collection, re-use/recycling infrastructure, WWT plant technology. Modulated fees reward product performance with respect to durability, microfibre release, low toxicity, and recyclability or recycled content.
	GPP	Establish core (minimum) and comprehensive (most ambitious) criteria for products to qualify for green procurement. Includes criteria for uniforms bought for public authorities. Rewards the purchase of second hand, repaired or refurbished garments, including takeback schemes and product service models.
Information	Harmonised information systems	Centralised point of access for the information. Product specific information accessed using digital tools. Clear information on materials and performances (according to common performance criteria) and public disclosure of substances of concern.
	Mandatory label	In addition to the information provided through the Clothing Regulation further environmental performance would be available to consumers on a physical label or using a QR code providing access to harmonised information system.
	Ecolabel	Identifies the best performing products on the market across all criteria.
Additional measures	- Fiscal incentives for second hand clothing and textile repair could be considered via the VAT directive - Microfibre release may be addressed via ecodesign on washing machines and through the UWWTD - BREFS in the industrial emission directive minimise the chemicals used in production	

[21] http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/633143/EPRS_BRI(2019)633143_EN.pdf
[22] https://ec.europa.eu/growth/sectors/fashion/textiles-clothing/legislation_en

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Key Messages: Towards an EU Product Policy Framework contributing to the Circular Economy

Despite high level acknowledgement that **the EU product policy framework is essential to addressing the environmental impact of the economy and supporting circular economy objectives** limited progress has been made. Environmental impacts, products groups or sectors remain unaddressed by policies; measures remain out of date because criteria development or updates face long delays; producers are not given enough incentive to change the design of their products; and policies are not developed in an efficient or mutually reinforcing manner.

A **comprehensive and integrated approach to product policy is needed** in which:

- Preparatory and review studies for each product group are streamlined to address several product policy instruments in one process, saving resources for policy makers, market surveillance authorities and manufacturers;
- Common criteria are developed to apply to all products in a sector and are reflected across the different instruments covering those products.
- A sliding scale of product performance and incentives for producers is created, with more demanding criteria for some instruments identifying the best products (such as GPP and the Ecolabel). A reinforcing policy mix is formed which both pushes and pulls the market.

An **ideal policy mix should be considered for each product group** and should be based on:

- Harmonised product information systems
- Minimum design requirements
- EPR systems with fees modulated according to product design
- Mandatory labels on product performance
- GPP criteria (with GPP becoming the default for all public procurement)
- Labels of excellence (ISO Type 1 ecolabels)
- BREFs for manufacturing and waste related processes

Criteria should be based on a multi-criteria methodology utilising but not depending on PEF/LCA data - acknowledging the limitations of life cycle assessment, particularly for specific impact categories.

Product policy development should be prioritised for the most critical products; however, prioritisation should not excuse long delays in ensuring market coverage. **Policies should allow flexibility to manufacturers** in different criteria, but nevertheless be **future proofed to ensure improving market performance over time** with clearly defined cut-off criteria.

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