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REGULATORY SCRUTINY BOARD OPINION

**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

SWD(2022) 85

SWD(2022) 86



Brussels,
RSB

Opinion

Title: Impact assessment / Empowering consumers for the green transition

Overall 2nd opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The European Green Deal sets out the need for reforms to achieve climate neutrality by 2050, and a clean and circular economy. This includes changing production and consumer behaviour. This initiative aims to empower and support European consumers to play an active role in this green transition. It tackles consumers' lack of information for choosing more environmentally sustainable products. It also strives for better protection against greenwashing, early obsolescence of consumer goods and non-transparent voluntary sustainability labels.

This impact assessment examines options for reaching these objectives through general consumer law, complementing technical or sector-specific instruments. Two related initiatives are being prepared in parallel: the Green Claims and the Sustainable Products initiatives.

(B) Summary of findings

The Board acknowledges the comprehensive revision of the report following the initial RSB opinion.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

- (1) Although this initiative intends to set the overall framework for empowering, consumers to play an active role in the green transition, the report does not explain why it does not cover all environmental sustainability issues.**
- (2) The structure of the options is not always clear. Most options do not seem to be real alternatives, but are complementary and could be combined. It is not clear why the report considers such combination of options for some problems only. The report does not propose any options to tackle the lack of reliable information on the environmental characteristics of products.**
- (3) The report does not clearly demonstrate the proportionality of the preferred option. It is not clear that the preferred option proposes the best possible**

This opinion concerns a draft impact assessment which may differ from the final version.

(C) What to improve

1. The report should justify why it complements the Green Claims initiative only for claims on durability and reparability. It should explain why it does not cover other environmental sustainability issues that are not included in the Green Claims initiative, such as recycled content, biodegradability, biodiversity, etc. As the support study only covers circular aspects of sustainability, it is not a sufficient basis to justify the chosen approach.
2. The report should better justify why it uses an environmental sustainability concept for most of the problems, while the market already uses wider sustainability concepts, including social and ethical aspects.
3. The report should clarify which options are complementary and which are mutually exclusive and why. It should explain why it proposes a combination of complementary options only for some of the problems. The report should consider possible options to address the lack of reliable information on the environmental characteristics of products. The other parallel initiatives also do not provide solutions as the Green Claims initiative only covers voluntarily provided information and the Sustainable Products initiative only covers selected product sectors. This leaves a considerable gap that is not tackled.
4. The report should clarify which role the ‘digital product passport’, as proposed in the Sustainable Products Initiative, will play for disseminating information that is required by the current initiative. It should explain how general information obligations can be implemented through a sector-specific tool, and why this is the optimal solution.
5. The report should provide a clearer justification for the choice of the preferred sub options especially when the highest ranking sub options were not selected. Given the low Benefit Cost Ratio, the report needs to strengthen its justification for why the preferred option is considered the most proportionate as well as best possible solution.
6. The impacts of options in terms of enforcement (who and how) should be clarified. Resource estimates should be clarified and made proportionate to the task. The preferred option on sustainability labels (minimum criteria) may have large impacts given the long list of criteria envisaged and the large number of sustainability labels across the EU. The ban of vague claims may be legally straightforward, but it is not clear on which criteria enforcers will be able to make distinctions between legal and illegal claims. It is also not clear what the resource requirements for authorities verifying claims are and whether it is realistic to assume that these will be provided. The report should better explain why it considers impacts on third countries as minor.
7. The report should explain why it uses the 2025-2040 appraisal period. For all quantitative estimates, which have been calculated without accounting for the Sustainable Products and Green Claims initiatives, caveats will have to be made in cases, where these would affect the outcomes.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

| | |
|---------------------|---|
| Full title | Empowering consumers for the green transition |
| Reference number | PLAN/2020/7019 |
| Submitted to RSB on | 4 August 2021 |
| Date of RSB meeting | Written procedure |

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

1. Summary of costs and benefits

All figures presented below are **for the entire period 2025-2040 for the entire EU-27**, explaining the high values.

| <i>I. Overview of Benefits of the Preferred Options for the period 2025-2040</i> | | |
|---|-------------------------------------|--|
| <i>Description</i> | <i>Amount</i> | <i>Comments</i> |
| <i>Direct benefits (present value of the total monetisable direct benefits for the period 2025-2040)</i> | | |
| <i>Option 1.2.C: Information on the existence and length of a producer's commercial guarantee of durability and on the period of time during which free software updates will be provided by manufacturers</i> | | |
| <i>Consumer welfare</i> | ~EUR 2 355 - 3 555 million | Main beneficiaries: consumers |
| <i>Reduction of CO2 emissions</i> | ~EUR 8 - 13 million | Main beneficiaries: society Emissions reduced during production, based on products lasting 1 year longer. |
| <i>Option 1.3.E: Provision of Repair Scoring Index, or other relevant repair information on a where applicable/available basis</i> | | |
| <i>Consumer welfare</i> | Not possible to assess | Main beneficiaries: consumers |
| <i>Reduction of CO2 emissions</i> | Not possible to assess | Main beneficiaries: society |
| <i>Option 2.1.B: Ban of certain identified practices associated with early obsolescence</i> | | |
| <i>Consumer welfare</i> | ~EUR 1 800 – 2 250 million | Main beneficiaries: consumers |
| <i>Reduction of CO2 emissions</i> | ~EUR 77 - 90 million | Main beneficiaries: society |
| <i>Option 2.2.C: Ban of general /vague environmental claims + Prohibition of environmental claims that do not fulfil a minimum set of criteria</i> | | |
| <i>Consumer welfare</i> | ~EUR 3 735 – 8 870 million | Main beneficiaries: consumers |
| <i>Option 2.3.B: Prohibition of sustainability labels and digital information tools not meeting minimum transparency and credibility requirements</i> | | |
| <i>Consumer welfare</i> | ~EUR 4 500 – 6 610 million | Main beneficiaries: consumers. |
| <i>Total benefits of all preferred options together</i> | | |
| <i>Consumer welfare</i> | ~EUR 12 390 – 19 285 million | |
| <i>Reduction of CO2 emissions</i> | ~EUR 80 - 103 million | |
| <i>TOTAL</i> | ~EUR 12 470 – 19 388 million | |

II. Overview of Costs of the Preferred Options for the period 2025-2040

| | | Citizens/Consumers ¹ | | Businesses ² | | Administrations ³ | |
|---|----------------|---------------------------------|-----------|---|---|--|--|
| | | One-off | Recurrent | One-off | Recurrent | One-off | Recurrent |
| Option 1.2.C: Information on the existence and length of a commercial guarantee and on the period of time during which free software updates will be provided by manufacturers | Direct costs | | | Total: ~EUR 500 - 525 million Per company: ~EUR 3219 - 3455 | Annual (average in the period 2025-2040): ~EUR 42 – 55 million Annual per company (average in the period 2025-2040): ~EUR 277 - 363 Total (present value for 2025-2040): ~490 – 645 million | Total: EUR ~0.1 million Per Member State: ~EUR 3 300 | Annual (average in the period 2025-2040): ~EUR 1.3 – 2.2 million Annual per Member State (average in the period 2025-2040): ~EUR 48 900 – 81 350 Total (present value for 2025-2040): ~15 – 27 million |
| | Indirect costs | | | - | - | - | - |
| Option 1.3.E: Provision of Repair Scoring Index, or other relevant repair information on a where applicable /available basis | Direct costs | | | Negligible, assuming full economies of scale (e.g. costs for familiarisation) | Negligible | Negligible assuming full economies of scale with the option 1.2.C (e.g. costs for familiarisation) | Negligible assuming full economies of scale with the option 1.2.C (e.g. monitoring, inspections) |
| | Indirect costs | | | - | - | - | - |
| Option 2.1.B: Ban of certain identified practices associated | Direct costs | | | Total: ~EUR 167 – 170 million Per company: ~EUR 1099 – 1119 | Annual (average in the period 2025-2040): ~EUR 88 – 125 million | Total: ~EUR 0.3 million Per Member State: ~EUR 9 870 | Annual (average in the period 2025-2040): ~EUR 8 – 9 million |

¹ Businesses may decide to pass on some of the costs linked to the initiative to consumers. However, the extent of that is not possible to quantify.

² Administrative burdens for the two first measures and compliance costs for the three last ones.

³ Enforcement costs.

| | | | | | | | |
|---|-----------------------|--|--|--|---|--|---|
| <i>with early obsolescence</i> | | | | | Annual per company (average in the period 2025-2040): ~EUR 528 - 825 Total (present value for 2025-2040): ~1 023 – 1 460 million | | Annual per Member State (average in the period 2025-2040): EUR 0.33 – 0.34 million Total (present value for 2025-2040): ~103 – 104 million |
| | <i>Indirect costs</i> | | | - | - | - | - |
| Option 2.2.C: Ban of general /vague environmental claims + Prohibition of environmental claims that do not fulfil a minimum set of criteria | <i>Direct costs</i> | | | Total: ~EUR 2 2 625 – 2 680 million Per company: ~EUR 373 – 380 | Annual (average in the period 2025-2040): ~EUR 58 – 70 million Annual per company (average in the period 2025-2040): ~EUR 8 – 10 Total (present value for 2025-2040): ~675 – 820 million | Total: ~EUR 0.12 million Per Member State: ~EUR 4 270 | Annual (average in the period 2025-2040): ~EUR 0.43 – 0.74 million Annual per Member State (average in the period 2025-2040): ~EUR 16 000 – 27 200 Total (present value for 2025-2040): ~EUR 7 – 12 million |
| | <i>Indirect costs</i> | | | - | - | - | |
| Option 2.3.B: Prohibition of sustainability labels and digital information tools not meeting minimum transparency and credibility requirements | <i>Direct costs</i> | | | Total: ~EUR 618 - 620 million Per company: ~EUR 87 – 88 | Annual (average in the period 2025-2040): EUR ~260 – 300 million Annual per company (average in the period 2025-2040): ~EUR 37 – 43 Total (present value for 2025-2040): ~EUR 3 022 – 3 500 million | Total: ~EUR 0.13 million Per Member State: ~EUR 4 450 | Annual (average in the period 2025-2040): ~EUR 1.2 – 1.29 million Annual per Member State (average in the period 2025-2040): ~EUR 44 500 – 47 677 Total (present value for 2025-2040): 14 – 15 million |
| | <i>Indirect costs</i> | | | - | - | - | - |
| Total costs for | Direct costs | | | Total: ~EUR 3 910 – | Annual (average in the | Total: ~EUR 0.62 | Annual (average in |

| | | | | | | | |
|--|--|--|--|--|---|---|---|
| <p><i>all preferred options together</i></p> | | | | <p>3 995 million</p> <p><u>Per company:</u> ~EUR 556 – 568</p> | <p>period 2025-2040): ~EUR 447 – 551 million</p> <p><u>Annual per company</u> (average in the period 2025-2040): ~EUR 64 – 79</p> <p><u>Total</u> (present value for 2025-2040): ~EUR 5 210 – 6 425 million</p> | <p>million</p> <p><u>Per Member State:</u> EUR 21 900</p> | <p>the period 2025-2040): EUR 12 – 13.5 million</p> <p><u>Annual per Member State</u> (average in the period 2025-2040): EUR 441 800 – 502 200</p> <p><u>Total</u> (present value for 2025-2040): EUR 139 – 158 million</p> |
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Brussels,
RSB

Opinion

Title: Impact assessment / Empowering consumers for the green transition

Overall opinion: NEGATIVE

(A) Policy context

The European Green Deal sets out the need for reforms to achieve climate neutrality by 2050, and a clean and circular economy. This includes changing production and consumer behaviour. This initiative aims to empower and support European consumers to play an active role in this green transition. It tackles consumers' lack of information for choosing more environmentally sustainable products. It also strives for better protection against greenwashing, early obsolescence of consumer goods and non-transparent voluntary sustainability labels.

This impact assessment examines options for reaching these objectives through general consumer law, complementing technical or sector-specific instruments. Two related initiatives are being prepared in parallel: the Green Claims and the Sustainable Products initiatives.

(B) Summary of findings

The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.

However, the Board gives a negative opinion, because the report contains the following significant shortcomings:

- (1) It is unclear how this initiative relates to existing consumer legislation and forthcoming proposals on environmentally sustainable products. It does not sufficiently explain how these measures will complement each other and how overlaps will be avoided.**
- (2) The report does not sufficiently demonstrate the size of the problem and its relation to sustainability objectives. The scope of concerned products is unclear.**
- (3) The report is not sufficiently precise on the content and foreseen functioning of the options. The justification for favouring some options over others is not always clear.**
- (4) The analysis fails to draw clear conclusions for political decision-making.**

(C) What to improve

(1) The report should better situate this initiative in relation to the policy framework for sustainable products and relevant consumer legislation. It should describe its links with existing legislation and upcoming initiatives, in particular the green claims and sustainable products initiatives, and initiatives on food sustainability. The report should clearly demonstrate how these measures complement each other, that there is no risk of overlap, and that this initiative does not prejudice upcoming proposals.

(2) The report should better explain and justify the scope of the initiative. It should specify which products are covered, and how the initiative links to *lex specialis* rules. It should clarify why it focuses on some aspects of sustainability, such as durability and reparability, but not recycling. It should clarify how the narrowing down of the scope of the preferred option to durability and reparability avoids overlap with other initiatives like the Sustainable Products Initiative.. The report should justify why it uses different definitions for sustainability within the initiative, which in their turn differ from definitions that are likely to be used by other related initiatives. This seems in contradiction with the intention to reduce the proliferation of sustainability claims.

(3) The report should better demonstrate the size of the problem. It should explain how the evidence from consumer surveys and behavioural insights justifies the intervention and makes the case that better information can actually change consumer behaviour. For instance, why is there a need to regulate sustainability labels if only few consumers identified this as an obstacle to adopting more sustainable consumer behaviour? How is enhanced consumer information expected to be effective if the perceived higher price of environmentally-friendly products is the main obstacle that prevents consumers from adopting more sustainable behaviours? The report should overall be clearer on how the problems relate to sustainability objectives (e.g. lifespans, repair, software updates).

(4) The report should better describe the options, setting out their relevant scope. It should consider a broader set of options, including self-regulation. The report should clarify to what extent the options are mutually exclusive or complementary. It should be transparent about the extent to which some of the options are reliant on what will be decided in the other initiatives and how coherence will be ensured. It should explain if any alternative combinations of measures were considered, and, if so, why they were discarded.

(5) The report should expand on how the options cover green attributes, durability and reparability for a broad and evolving set of products, given the wide scope of general consumer law. Illustrative examples would be welcome. The options should be more specific on what, where and when information is to be provided, or explain why this is not possible.

(6) The report should be clearer on how sustainability labels will be designed and the links to the green claims initiative. It should indicate how crucial requirements will be identified, and how more relevant and user-friendly labels will be ensured. It should explain how information obligations will be enforced and misrepresentation of product information sanctioned.

(7) The report should better justify the proportionality of the options and why some are retained over others, especially where estimates point to lower net benefits. It should provide clear explanations of the quantitative estimates.

(8) The report should draw clear, well-argued conclusions, either by presenting a preferred option, or a set of clearly defined alternative policy packages, on which basis policy makers can take an informed decision.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.

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|---------------------|---|
| Full title | Empowering consumers for the green transition |
| Reference number | PLAN/2020/7019 |
| Submitted to RSB on | 6 January 2021 |
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