

Position paper on Circular Economy

Ecommerce Europe strongly believes in the twin digital and green transition and welcomes the European Commission's reflection on the role consumers can play in this transition. We also welcome the European Commission's ambition laid down in the European Green Deal, the New Circular Economy Action Plan and the Farm-to-Fork Strategy, and the recognition that a holistic, multi-faceted approach is the key to our transition to a sustainable economy.

We welcome the European Commission's objective to develop complementary and coherent proposals to address the EU's ambition. The present position paper highlights Ecommerce Europe's key considerations in relation to the European Commission's upcoming proposal for empowering consumers in the green transition, and the ongoing consultation on a potential legislative proposal on substantiating green claims.

Empowering consumers in the green transition

Consumers have a key role to play in the transition to a greener economy in the choices they make when purchasing products and services, but also more broadly in adopting responsible behaviour (even in relation to recycling, sorting of waste and so on).

Any information meant to empower consumers needs to be accessible, understandable, but also comprehensive. This means that any initiative in relation to information to consumers needs to consider the risk of over-burdening obligatory information streams that in effect do not inform at all.

It is also important to consider how consumers access this information and take full advantage of the tools that are available to them. For example, a constantly increasing part of e-commerce now takes place on mobile, which means that new information should be displayable in various formats and for various channels like voice. E-commerce allows for new solutions to access information, for example through sustainability filters, use of data to communicate information throughout the product's lifecycle¹, or access to digitalised information (for example, information on reparability in online manuals).

The digital age makes it possible to provide clear and easily understandable information to all consumers at the point of sale. Our members and other industry actors are working to develop new information tools to grasp this opportunity, taking into account the evolving technological landscape and understanding of consumer preferences. We encourage the Commission to consider the importance of a flexible approach to sustainability information, to enable industry-led innovation of this kind.

The focus should be on advancing and promoting voluntary best practices, rather than modifying legislation that is generally considered as fit for purpose. Information on "green" features of a product or service should therefore not be regulated by introducing overall information obligations on durability, reparability, circularity etc. but rather by voluntary information consumers ask for. Consumers enjoy a high-level of protection from existing and soon to be implemented legislation. For example, greenwashing is already de facto regulated through the UCPD, and information about the product's "green" main features will have their effect in assessment of non-compliance and non-conformity, as regulated in the CRD and the Sales of

¹ [Ecommerce Europe's Collaborative Report on Sustainability and e-Commerce](#), p 11

Goods Directive. Upcoming horizontal, principle-based legislation on the sales of goods already covers sustainable aspects of products. Greater transparency and reliability of logos or labels can be achieved without changes to existing consumer law.

Horizontal information requirements across product groups is not the solution to provide the right level or type of information. The diversity and characteristics of products that new environmental labels could apply to should be acknowledged. Harmonization of definitions at EU level to ensure that businesses know how to appropriately communicate to consumers, regardless of the market they operate in, could be helpful. This could include, for example, guidance at EU level on concepts such as greenwashing, repairability and expected lifespan.

Ensuring adequate communication on environmental information on products and services or companies

Ecommerce Europe believes that adequate communication on environmental information on products (including services) or companies is key towards transitioning to a fairer and more sustainable economy.

Ecommerce Europe values the possibility for market actors to prove environmental claims through the method of their choice. However, due to a proliferation of labelling and information requirements, it is crucial to streamline these obligations to ensure a coherent approach and avoid counter-productive situation where information available becomes too confusing. It is also important to explore the possibility of developing harmonized - yet flexible – European criteria for information to consumers on environmental performance, as well as other types of information linked to the sustainable aspects of a product.

Communication on environmental information on products (including services) or companies is different whether it takes place in a Business-to-business (B2B) environment or in a business-to-consumer (B2C) environment. The methods, information and display of that information cannot be the same whether it is received by businesses throughout the supply-chain, or by a consumer. Product Environmental Footprint could, for example, be used as a voluntary communication tool in B2B relationships and in the dialogue with stakeholders and decision makers. In turns, flexibility in B2C environment could allow the use of consumer-friendly information and labels, on consumer-friendly digital solutions.

Creating positive incentives and legal certainty for sustainable markets

The promotion of best practices of proportional and effective information on the availability of spare parts and the expansion of repair services should be prioritised over developing repair “scorecards” or labels that will likely confuse customers and create additional burdens.

European waste legislation should allow for and incentivise reuse, refurbishment, and remanufacturing. The status of “waste” can represent a barrier to the development of those reuse models.

In view of adapting existing legislation to the growing market and demand for second-hand and refurbished goods, there is a need to provide clear and harmonized guidance on the definition of basic concepts such as second-hand goods and/or refurbished goods, in cooperation with stakeholders. This is above all the most important aspect since the Sales of Goods directive opens the door to fragmentation, leaving the choice to Member States to allow for the seller and the consumer to agree on a shorter legal guarantee period for second-hand goods in their national legislation (Art. 10.6 sale of goods directive).

Additionally, and taking into consideration the discussion around substantiating environmental claims for products, there needs to be additional clarity on the type of information that should be attached to second-hand and refurbished goods. Certain sellers, that would for example acquire old devices, ensure they are in perfect working condition and resell them, face difficulty in determining the information that should be displayed, when the manufacturer was not, or no longer is, in a position to provide the necessary input (for example if said label did not exist at the time the product was manufactured).

Incentivising sustainable markets would also lead to more affordable sustainable options. Information on product sustainability is an important component of incentives to stimulate those markets. Other complementary solutions, such as the role of lower VAT for sustainable alternatives could also be explored. As the European Commission mentions in the consultation on empowering consumers in the green transition, price-quality ratio is the most important driver for consumer engagement.

Ensure legal protection of the value chain

Sellers are the first contact point for consumers and offering a high level of consumer protection to their customer is of utmost importance to them. However, liability and responsibility in relation to consumer protection should be assigned to the operator in control of the issue, through a balanced application of responsibility throughout the chain. As consumers increasingly expect to be comprehensively informed on a product's environmental qualities, legislation should remain clearly aimed at the operator in control of these elements. This is of course also crucial to keep in mind when discussing the substantiating of green claims for products. This information and the method used to substantiate those claims is the responsibility of the manufacturer, that then has the obligation to convey that information throughout the supply chain.

In the event of a consumer dispute, a seller should therefore benefit from a legal protection against a manufacturer (or supplier / distributor) having provided inaccurate or incomplete product information. The legal fragmentation and vagueness of the principle and concept of redress, for sellers or their providers in case the consumer has addressed his claim to the seller, creates uncertainty for sellers and makes the legal protection in the form of redress difficult to apply in practice.

Most online resellers are SMEs with little capacity to engage in legal conflicts with manufacturers. Policymakers should support SMEs against harm from inaccurate product information, for example by providing specialized B2B mediators. The European Commission could also assess the need for harmonized and clear redress models when consumers address sellers in cases of "green" non-compliance and non-conformity.

Enforcement of consumer protection legislation

In order to ensure the appropriate enforcement of existing legal framework on consumer protection, national enforcement authorities need sufficient resources and funding. The current regulatory framework is fit for purpose and provides the authorities with the necessary framework to address today's challenges. However, the authorities often lack resources and staff to meet the objectives that are assigned to them. In that perspective, the efficiency of the current regulatory framework could be substantially enhanced by providing the enforcement authorities with sufficient resources to fulfil their task.

Better cooperation of enforcement authorities based on uniform interpretation of the European legal framework on consumer protection would also contribute to such effectiveness.