

Amazon position on the Ecodesign for Sustainable Products Regulation

Amazon welcomes the new European Commission's proposal for an Ecodesign for Sustainable Products Regulation (ESPR). Setting up a framework for ecodesign requirements, an EU Digital Product Passport, and introducing restrictions on unsold consumer goods, will ensure that all products placed on the EU market will increasingly become sustainable and accelerate the transition to a climate neutral, resource-efficient and circular economy.

We are committed to and invested in sustainability because it is a win all around – it is good for our customers, our communities, our planet and our business. We are continually looking for ways to make our business more sustainable as we work to meet The Climate Pledge, a commitment we co-founded with Global Optimism to reach net zero carbon by 2040 – ten years ahead of the Paris Agreement. As part of our sustainability commitments, we are already helping our customers to reuse, refurbish and recycle through Amazon Second Chance; and we help our sellers donate unsold stock to charities in countries where an enabling framework exists. To make it easy for customers to discover and shop for more sustainable products we launched Climate Pledge Friendly. Customers will see the Climate Pledge Friendly badge on more than 100,000 products in Europe to signify that the products have one or more of 31 different sustainability certifications that help preserve the natural world, such as reducing the carbon footprint of shipments to customers. Climate Pledge Friendly includes a wide range of highly regarded global certifications, including the EU Ecolabel, Blue Angel, and Nordic Swan. Climate Pledge Friendly programme also includes Amazon's own Compact by Design – an externally validated certification which encourages brands to design products that can reduce carbon emissions through increased efficiency and better packaging.

In light of Amazon's strong commitment to our customers and sustainability practices, we welcome efforts to make products increasingly recyclable, restrict single-use, and counter premature obsolescence. At the same time, we wish to highlight some aspects that we believe require further consideration by the European Parliament and the Council when adopting the final legislative text:

Recommendations

1. Ecodesign requirements should be set on a product-by-product or product category basis, taking into consideration the different hierarchies of circular economy priorities to achieve the best sustainability outcomes. Established requirements should be relevant and proportionate. Duplication and inconsistencies in requirements should be avoided.
2. Product information should be tailored and made available only to the relevant parties in the supply chain (i.e., from supplier to consumer and market surveillance authority), while protecting proprietary information, trade secrets, and intellectual property rights. A standardised 'template' could facilitate the process of information sharing. Duplication of information requirements with other EU or national requirements must be avoided. The DPP is an opportunity to streamline and facilitate access to harmonised data.
3. Ecodesign and information requirements should be developed in close collaboration with industry. Business innovation and self-regulatory measures should be further incentivised.

4. For the disclosure of destroyed unsold goods, a better distinction should be made between new vs. damaged products. Further clarity is necessary on the destruction of spare parts and different reporting obligations for counterfeit goods and products posing risks/non-compliant. Possible future prohibitions on destruction of certain types of products should take into consideration existing alternatives such as product reuse, remanufacturing and recycling. Counterfeit goods should be exempted from the ban of destruction of products.
5. The definition of “manufacturer” should be aligned with other EU product regulation and further clarity is needed on the definition of a “dealer”. Monitoring obligations imposed on online marketplaces should not go further than existing EU framework legislation provides for. Further clarity is needed on joint liability provisions, reporting obligations and content accuracy in DPPs.

1. Ecodesign Requirements

Product-specific requirements

Amazon strongly support setting ecodesign requirements on a product-by-product or product category basis, taking into consideration the different hierarchies of circular economy priorities to achieve the best sustainability outcomes. For instance, while the Ecodesign directive on energy-related products focuses on energy efficiency, plastics or textiles may on the other hand call for more focus on recyclability. Similarly, product groups will present unique trade-offs between the different proposed ecodesign parameters, and a general approach would therefore not be suitable. A focus on energy efficiency, for example, can translate into larger equipment and thus require additional resource consumption or generate more waste.

A product-by-product approach will ensure that the established requirements remain relevant and proportionate. Nonetheless, we would ask that sufficient time be granted to companies to ensure that these requirements are properly implemented over time.

We further welcome the European Commission’s intention to launch a public consultation on the categories of products to be selected under the first ESPR working plan by the end of 2022, as this will ensure that products with the highest environmental impact and potential for improvement are addressed in the first place.

Avoiding double-regulation

Amazon welcomes the fact that the legislative proposal is a framework legislation, which allows for existing and/or future product-specific regulation to take precedence. This avoids setting unnecessary or burdensome horizontal requirements for all product categories and leaves room for business innovation to address certain ecodesign-related issues. We encourage policymakers to pay close attention not to duplicate ecodesign or information requirements which are already regulated in other overarching or product-specific legislations, to avoid potential inconsistencies.

Recommendations:

- Ecodesign requirements should be set on a product-by-product or product category basis, taking into consideration the different hierarchies of circular economy priorities to achieve the best sustainability outcomes. Established requirements should be relevant and proportionate. Duplication and inconsistencies in requirements across different piece of EU legislation should be avoided.

2. Information Requirements & Digital Product Passports

Relevant and proportionate information

Information on product performance, reparability or maintenance, and presence of substances, may help in prolonging the life of products, making it easier to repair, to refurbish or eventually to recycle. These requirements should be relevant and proportionate for the product and/or product category in question and relevant to the objective of making them more sustainable. Some products, such as a rubber band, will not require as detailed information as would for instance a cell phone.

Protecting trade secrets and Intellectual Property Rights

We would encourage any forthcoming information requirements in Delegated Acts to have clear standards for information security and confidentiality, including clear limitations on what information is made public, who has access to what types of information, and a clear definition of “confidential business information” that will not be made available to the public. This should be done in consultation with industry to determine what information is relevant to consumers and what information should not be shared with competitors.

All information should be hosted centrally by the European Commission, through a common registry, and kept confidential to protect proprietary information, trade secrets, and intellectual property rights. Stakeholders should only be able to access the information relevant for them on a need-to-know basis.

B2B information requirements shared along the supply chain should only be limited to information necessary for value chain operators to fulfil their respective compliance and reporting obligations. Similarly, we would caution against introducing any requirements to display unique identified, batch and serial numbers on the Detail Page, as these will not be helpful to consumers. If necessary, e-labelling solutions could be used instead.

Standardisation of information

Amazon would support introducing a single standardised ‘template’ for the sharing of eco-design information between relevant stakeholders in the value chain as it facilitates selling partner compliance and reduces Member State variations. A simplified digital product passport could be adopted for simple products (e.g., a rubber band) or those that are only traded in low quantities. Language requirements should also be standardised to support multi-market sales of stocks. Manufacturers and traders should additionally have the freedom to choose the most suitable form to provide information to consumers. Similarly, we would welcome a template for a standardised way to share information through online marketplaces, so as to ensure consistency across the webpage interface.

We would also ask that there are no overlapping requirements (i.e., duplication with existing reporting obligations) or parallel systems for entering the information. As such, further clarity would be welcomed on what existing obligations Digital Product Passports (DPPs) are expected to replace.

Ideally, the DPP should deliver administrative relief to companies, making compliance easier. New requirements for the DPP should complement/supersede existing requirements at national level. The data format could be designed to be applicable for different legislations, and could be interoperable with existing requirements, to avoid duplication of information and duplication of data itself.

Recommendations:

- Product information should be tailored and made available only to the relevant parties in the supply chain (i.e., from supplier to consumer and market surveillance authority), while protecting proprietary information, trade secrets, and intellectual property rights.
- A standardised ‘template’ could facilitate the process of information sharing.
- Duplication of information requirements with other EU or national requirements must be avoided. The DPP is an opportunity to streamline and facilitate access to harmonised data.

3. Ecodesign Forum

Industry participation

Amazon strongly supports industry’s participation in the future Ecodesign Forum and the possibility to contribute to the development of ecodesign and information requirements. Ecodesign and information requirements should be developed in close consultation with industry as they have the knowledge and expertise to ensure that these requirements will work in practice. Manufacturers are also best placed to know what information is relevant to consumers and what information should not be shared with competitors.

Further clarifications are needed on the timing for the release of guidelines on Circular Business Models (CBM) supported by an EU-wide hub, as well as how the “80% of the market” threshold for establishing ecodesign requirements through self-regulation would be measured (i.e., for specific products or overall share of market). We would also welcome clarity on whether the goal of achieving ecodesign targets at a “lower cost” through self-regulation, rather than Delegated Acts, would refer to the cost to businesses as a result of achieving the ecodesign goals, or the cost passed to consumers.

We encourage policymakers to further support and incentivise industry-led innovation and self-regulatory measures, as they increase competition in the single market and promote the development of more resource-efficient and circular products.

Recommendations:

- Ecodesign and information requirements should be developed in close collaboration with industry. Business innovation and self-regulatory measures should be further incentivised.

4. Unsold consumer goods

Taking into account the different reasons for discarding goods

Amazon supports the disclosure requirements on the destruction of unsold goods, though we would ask that these requirements allow for a distinction to be made between new vs. used and/or damaged unsold goods when reporting on the reasons for discarding them. This distinction should also be applied should the Commission consider banning their destruction. It should also be clarified that reporting on the destruction of counterfeit goods, or products posing risks (suppressed/recalled) or not compliant with applicable legislations should also be accounted for separately.

We would welcome additional clarity on whether the disclosure requirements would also apply to the destruction of spare parts. The legislation should also specify the different reporting obligations between a company and marketplace as a whole, vs. reporting by different business segments and units manufacturing different products.

When considering possible prohibitions on destruction of certain types of products, Amazon would encourage policymakers to take into consideration existing alternatives such as product reuse, remanufacturing, and recycling. It is important that all measures prioritise solutions that follow the waste hierarchy.

An exemption to the ban on destruction of unsold goods should also be made for counterfeit items, as these cannot be legally put back into circulation. It should be clarified that the exemption on safety and health already included in the draft text also covers destruction of products posing risk (suppressed/recalled) or not compliant.

Amazon would also strongly encourage policymakers to continue addressing the issue of overstock in other policy areas, such as through adopting rules that allow VAT reliefs on donations.

Recommendations:

- For the disclosure of destroyed unsold goods, a better distinction should be made between new vs. damaged products. Further clarity is necessary on the destruction of spare parts and different reporting obligations for counterfeit goods and products posing risks/non-compliant.
- Possible future prohibitions on destruction of certain types of products should take into consideration existing alternatives such as product reuse, remanufacturing and recycling. Counterfeit goods should be exempted from the ban of destruction of products.

5. Stakeholder obligations

Clear definitions

We would welcome further clarity on how a “dealer” is distinguished from distributor, importer, or online marketplace.

We would recommend revising the definition of “manufacturer” to be consistent with other EU product regulations (e.g., Ecodesign Directive for Energy-Related Products) and to better align with the obligations placed on this category of economic actor under the proposal.

Joint liability

Monitoring obligations imposed on online marketplaces should not go further than existing EU framework legislation provides for. Online marketplaces should therefore not be required to proactively ensure compliance with all the products sold by third-party sellers on its marketplace. Online marketplaces can however provide third-party sellers with the means to comply (e.g., by displaying product attributes) and take down listings when notified of non-compliance.

Additionally, we would caution against joint liability provisions that apply to all EU Economic Operators (e.g., for labelling requirements, or display of batch/serial numbers) as they create uncertainty and a risk of joint liability amongst Economic Operators. Instead, we encourage policymakers to introduce clear obligations on individual Economic Operators to avoid a situation whereby the entire supply chain is carrying out similar due diligence. As an alternative, we would suggest using the concept of an EU-based Responsible Person, as introduced in the EU Market Surveillance Regulation 2019, who would be appointed by the manufacturer to fulfil such requirements.

We would further ask for an EU Authorised Representative, rather than the importer, to be held liable for the provision of spare parts, as is the case under the existing Ecodesign Directive. Holding the importer liable for supplying spare parts is unjustified as Authorised Representatives come second to the manufacturer in the waterfall of liability for Economic Operators.

Reporting requirements

We would welcome further clarity on the frequency and depth of information required for online marketplaces and search engines to provide market surveillance authorities “information on offers that have been removed; allow authorities’ online tools to access their interfaces to identify any non-compliant products; and allow authorities to scrape data from their online interfaces for product compliance purposes”. A request/approval process could be introduced to ensure online marketplaces manage traffic appropriately.

Further clarification is also needed on which party is responsible for content accuracy of the DPP. Similar to the above, manufacturers and Authorised Representatives should be the ones liable. In this regard, manufacturers should also be responsible for providing importers with the right data.

With regards to obligation on supply chain to provide upon request, manufacturers, notified bodies and competent national authorities with available information related to their supplies or services that is relevant in order to verify compliance with ecodesign requirements, Amazon believes it should be clarified that this obligation is limited to retrieving information from first Tier selling partners. Providing information at present beyond first Tier partners is practically impossible and would require significant resource investment throughout supply chain in data gathering and in protection of proprietary information. If supply chain information is required, that could only be achieved through a stacked implementation and long lead times for each stage.

Recommendations:

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- Monitoring obligations imposed on online marketplaces should not go further than existing EU framework legislation provides for. Further clarity is needed on joint liability provisions, reporting obligations and content accuracy in DPPs.

About Amazon

Amazon is guided by four principles: customer obsession rather than competitor focus, passion for invention, commitment to operational excellence, and long-term thinking. Amazon strives to be Earth’s Most Customer-Centric Company, Earth’s Best Employer, and Earth’s Safest Place to Work. Customer reviews, 1-Click shopping, personalized recommendations, Prime, Fulfillment by Amazon, AWS, Kindle Direct Publishing, Kindle, Career Choice, Fire tablets, Fire TV, Amazon Echo, Alexa, Just Walk Out technology, Amazon Studios, and The Climate Pledge are some of the things pioneered by Amazon. For more information, visit amazon.com/about and follow @AmazonNews.