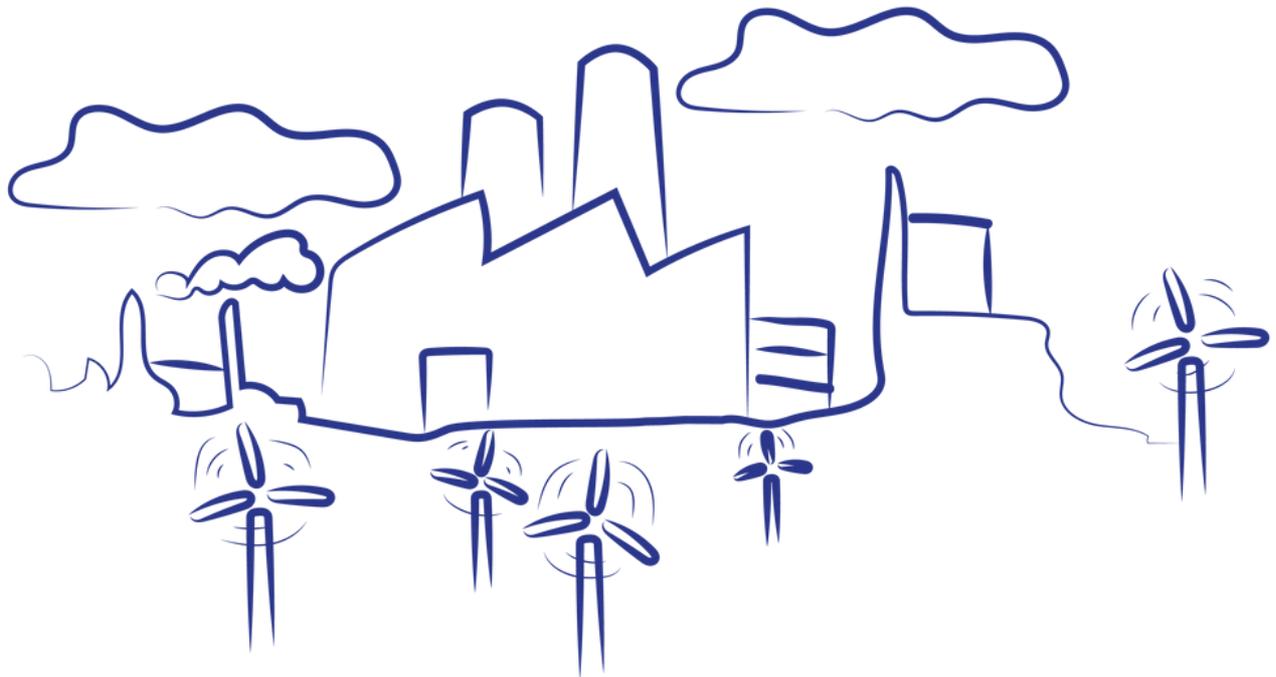


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FAST FASHION OUT OF FASHION

Eco-design for sustainable products, the European Strategy for Sustainable and Circular Textiles and the Proposal for a Regulation establishing a framework for setting eco-design requirements

Table of contents

1. Introduction

2. The SSCT

3. Objectives and scope of the Proposal

4. The main innovation of the Proposal

(a) On the eco-design requirement

(b) On the digital product passport

(c) On the disclosure obligation regarding unsold consumer products

5. Conclusion

1. Introduction

On 14.6.2023 the European Parliament's Committee on Environment, Public Health and Food Safety (ENVI) gave its green light to the text of the "*Proposal for a Regulation of the European Parliament and of the Council establishing a framework for setting eco-design requirements for sustainable products and repealing Directive 2009/125/EC*" (hereinafter "**Proposal**"). The text is now waiting to be voted by the plenary session in order to open the way for negotiations between the Institutions according to the ordinary legislative procedure of the European Union.

The Proposal falls within the general framework of the European Green Deal and of the decisions and measures adopted by the Union in the fight against "*Fast Fashion*". As a matter of fact, the textile sector is considered by the EU to be one of the main sectors that has the highest environmental impact not only due to the resources used but also considering the low percentage of recycling.

In 2020, the European Commission had already presented the Circular Economy Action Plan (CEAP) and set the initial time limits for taking the necessary actions to achieve the objectives of a "*Green Europe*". Among these actions it is possible to find a specific one that is entirely dedicated to fashion, known as the "*European Strategy for Sustainable and Circular Textiles*" (hereinafter also, "**SSCT**"), presented with a communication from the Commission of 3.3.2022 (COM (2022) 141 final).



Within the SSCT we can find, among the key actions for sustainable and circular textiles, the introduction of binding eco-design requirements, now included in the scope of the Proposal, which aim at contributing to the extension of textile products' life cycle in order to significantly reduce their impact on climate and the environment.

In this regard, the Proposal introduces some interesting innovations not only in the field of eco-compatible design but also regarding the creation of digital passports for textile and non-textile products and the introduction of a disclosure obligation regarding unsold consumer products on all the subjects defined by the Proposal as “manufacturers”, i.e. any natural or legal person who manufactures, designs and commercializes a product, or imports it from third countries in order to place it on the market.

2. The European Strategy for Sustainable and Circular Textiles

The main point of the SSCT lies in the full awareness of the EU legislator that *«as clothing comprises the largest share of EU textile consumption (81%), the trends of using garments for ever shorter periods before throwing them away contribute the most to unsustainable patterns of overproduction and overconsumption»*.

The production and consumption of textile products are indeed among the activities with the highest negative impact on the environment in terms of water and land use, as well as climate change. Furthermore, considering that the trend in recent years has been to prefer lower-quality fabrics to ensure purchases at increasingly lower prices - between 1996 and 2018, prices in the EU have actually decreased by 30% compared to inflation - it is not surprising that the final result is a strong incentivization of the so-called “fast fashion”. This trend urges consumers to buy more and more products, only to dispose of them in less time, preventing their full and effective utilization and contributing to additional negative impacts on the environment and climate resulting from the management of unsold items and the disposal of discarded products, which in the EU reach 5.8 million tons annually.

Furthermore, there is the “human” impact of the sector. The global value chain of textile products must indeed face social challenges, due to the pressures to minimize production costs in order to meet consumer demand for affordable products. Child labor (1), the challenges related to climate change, the challenges posed by Covid-19 and the Russia-Ukraine conflict require systemic solutions, in line with the ambition of the European Green Deal to achieve a sustainable, climate-neutral, energy and resource-efficient growth that is respectful of nature, based on a clean and circular economy.

For this reason, the SSCT's main goal is, by 2030, to bring to the EU market *«textile products ... that are long-lived and recyclable, to a great extent made of recycled fibers, free of hazardous substances and produced in respect of social rights and the environment»*. This in order to create *«a competitive, resilient and innovative textiles sector [in which] producers take responsibility for their products along the value chain, including when they become waste»*.

(1) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “Eu Strategy for Sustainable and Circular Textiles”, COM (2022) 141, final; ILO (2016) “How Better Work is improving garment workers' lives and boosting factory competitiveness”.

In this regard, extending the lifespan of textile products is the most effective way to significantly reduce their impact on climate and the environment. To achieve this goal, product design plays a crucial role, along with the new provisions on sustainable products and eco-design requirements that are applicable to a wide range of products.

3. Objectives and scope of the Proposal

Compared to the previous Directive 2009/125/EC (the Eco-design Directive), which had established a framework for the development of eco-design requirements only for energy-related products, the new Proposal aims to apply this design approach to the widest possible range of products by providing for a general scope of application that only makes a few exceptions and in particular for:

medicinal products for human use;	veterinary medicinal products;
food and feed;	living plants, animals and micro-organisms;
reproduction products of plants and animals;	products of human origin;

The objectives set forth by the Regulation Proposal are to: (i) reduce the negative life-cycle environmental impacts of products, and (ii) improve the functioning of the internal market.

4. The main innovations of the Proposal

Among the main innovations of the Proposal, noteworthy features include the development of eco-design requirements, the creation of the digital passport for each individual product and the establishment of a disclosure obligation regarding unsold consumer products.

(a) On the eco-design requirements

The general framework for the adoption of eco-design requirements is established under art. 5, according to which «*the Commission shall...establish eco-design requirements to improve the following product aspects*»:

durability;	reliability;
reusability;	upgradability;
reparability;	possibility of maintenance and refurbishment;
presence of substances of concern;	energy use or energy efficiency;
resource use or resource efficiency;	recycled content;
possibility of remanufacturing and recycling;	possibility of recovery of materials;
environmental impacts, including carbon footprint;	expected generation of waste materials.

The eco-design requirements (2) shall include, as appropriate: performance requirements (art. 6) and, information requirements (art. 7).

(b) On the digital product passport

The information requirements provide that products can only be placed on the market or put into service «*if a product passport is available in accordance with the applicable delegated act adopted pursuant to Article 4, 9 and 10 of the Proposal*». The requirements for the passport are numerous. Of major interest are: the information to be included; the manner in which the product passport is made accessible to customers before they are bound by a sales contract; the actors that shall have access to the passport information and the information made accessible; the actors that may introduce or update the information in the passport.

In addition, the Commission will have to establish and maintain a register in which the information of the product passports is stored, allowing businesses and consumers to make more informed choices and improve communication among the actors along the value chains.

A potential concern related to the passport is whether it can sufficiently protect the products' intellectual property or if there is a risk of information leakage regarding technical and confidential details. However, the European Commission itself has reassured that the passport will take into account the nature of the product and the market in which it will be placed. In this regard, the information to be included will be carefully examined on a case-by-case basis and will fully respect IP-rights eventually granting the possibility of limiting the data to be shared.

(c) On the disclosure obligation regarding unsold consumer products

Lastly, of particular interest is the provision outlined by art. 20 on the disclosure obligation regarding unsold consumer products. With the adoption of the Proposal, economic operators that discard unsold consumer products directly, or on behalf of another economic operator, will be required to disclose:

- i. the number, the type or category of discarded unsold consumer products;
- ii. the reasons for the discarding of products;
- iii. the delivery of discarded products to preparing for re-use, remanufacturing, recycling, energy recovery and disposal operations in accordance with the waste hierarchy as defined by Article 4 of Directive 2008/98/EC.

The economic operator will have to publish the abovementioned information on a free access website, or alternatively, make the information public through different means until an applicable delegated act for the category of discarded unsold consumer products is approved.

(2) The design specifications must meet the following criteria: **(i)** not significantly affect the functionality of the product from the user's perspective; **(ii)** not have harmful effects on the health and safety of individuals; **(iii)** not have significant negative impacts on consumers in terms of the economic accessibility of products, taking into account access to second-hand products, product durability, and the cost of the product life cycle; **(iv)** not have disproportionate negative effects on the competitiveness of economic operators, particularly SMEs; **(v)** not impose proprietary technologies on manufacturers or other economic operators; **(vi)** not generate disproportionate administrative burdens for manufacturers or other economic operators

The destruction of unsold or returned goods, including clothing items, represents both a waste of value and of resources. To discourage this practice, the Commission has proposed this transparency obligation, which requires “*manufacturers*” to disclose the number of products they discard or have decide to discard, as well as to disclose the subsequent treatment of these products for reuse, recycle, incineration, or landfill placement.

The disclosure obligation regarding unsold consumer products, along with the introduction of the digital product passport, is a key tool to efficiently combat greenwashing and address those unethical behavior of companies that, for reputational reasons, have shared misleading information on the sustainability of their products.

5. Conclusion

As many of the other European initiatives on sustainability, the Proposal aligns with the broader and ambitious goal of the European Union to become the first climate-neutral continent by 2050. Like other ambitious legislative initiatives aimed at achieving climate neutrality, the Proposal will undoubtedly have impacts on both the domestic and global markets and, indirectly, on consumer choices.

Given the objectives of the Proposal, most “*manufacturers*” (i.e., any natural or legal person who manufactures, designs, and commercializes a product, or imports it from third countries in order to place it on the market) will have to ensure that their products are designed with the sufficient attention to characteristics such as durability, reusability, energy efficiency, and recycling. This will require them to review their design standards from a new perspective of “*sustainable production*” and conduct in-depth audits on the value chains.



Contacts



B-HSE Società tra Avvocati a r.l.

Address: Corso d'Italia, 29, 00198, Roma

website: www.b-hse.law

email: info@b-hse.law

pec: b-hselaw@pec.it

cod.fisc. 15944151008

p.iva 15944151008

crea 1625132



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