

February 2022

DIGITAL PRODUCT PASSPORT

KEY MESSAGES



- 1** BusinessEurope welcomes the objective of the DPP, as a potential enabler of the circular economy. The lack of information transfer across the value chains is one of the challenges to the circular economy today, and the upcoming DPP proposal could facilitate the flow of information to improve the circularity and reparability of a product throughout its lifecycle. The DPP is also an opportunity for developing new circular markets and business services.
- 2** To be effective, the EU business community recommends the Commission to respect the following five principles when developing its DPP proposal:
 - Follow the “need to know” and “data minimisation” principles, taking into account the *costs* and *benefits* of data sharing from both a circularity and competitiveness points of view.
 - The disclosure of data should be limited to circular purposes and tailored according to specific product groups and recipients’ needs. Adequate impact assessments would inform this identification process.
 - Disclosure of sensitive and business critical information must be avoided, while data security needs to be guaranteed. Robust system for protection of the data must become part of the DPP policy to avoid its misuse and damage to value-chains.
 - A decentralised system has the potential to transfer up-to-date information along value chains. To prevent duplication and limit administrative burden, existing databases should be made interoperable.
 - The DPP should support a level playing field, including by means of effective market surveillance and incorporating the needs and peculiarities of SMEs.



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The circular economy is a paradigm shift moving away from a mere waste centred (linear) thinking towards a sustainable material use (circular) thinking. For years, European companies have embraced circularity and re-organised their production / consumption patterns acknowledging the competitive, innovative, and sustainable opportunities of a circular economy.

The upcoming Sustainable Product Initiative (SPI) represents a unique opportunity to achieve a functioning EU market for secondary raw materials and circular products. This is further expected to broadly contribute to a climate neutral future. As part of the SPI, the European Commission strives for developing a digital product passport (DPP) which could provide producers, key supply chain actors, consumers, and market surveillance authorities with relevant information regarding the sustainability of a product.

BusinessEurope welcomes the DPP as an important tool to facilitate the path to the circular economy. This paper includes concrete considerations for an effective DPP proposal which respects the boundaries for sensitive commercial information as well as Intellectual Property Rights (IPR), enables market surveillance and avoids unnecessary administrative burden.

The DPP should clearly aim to promote circular economy, while gathering information should not become an end by itself. Data collection could be useful if aimed at: a) providing more transparency on the materials to enable recycling and the re-use of products at the end of life; b) allowing customers and manufacturers to access repair services / e-commerce for spare parts more easily; c) helping the value chains to remove hazardous substances from the products at the end of life; d) helping retain critical raw materials and strategic components. That being said, we note that these objectives alone will not be sufficient to make the DPP a valuable tool to unleash the circularity and competitiveness of European companies: for usability and economic reasons, the DPP proposal should also consider the sensitivity and the costs of disclosing the information. We therefore stress that the *value* of data in the DPP should be proportionate to its *costs* (i.e. investments in knowledge-based assets, software solutions and administrative burdens) and tailored to each product group¹.

1. CONSIDERATIONS FOR SENSITIVE COMMERCIAL INFORMATION AND IPR

1.a. Follow the “need to know” principle

The collection, preparation, provision, and update of data require considerable efforts, which companies are ready to make when these clearly foster circular economy practices.

¹ It should be clear that when this paper refers to a “product approach”, we imply “product group” as further defined in session 1.c.



For this to happen, we recommend the Commission to **firstly analyse the actual needs of the potential target groups** (e.g. customers, recyclers, end users, market surveillance authorities) **and include appropriate impact assessments**. For instance, products in the consumer goods sector are already subject to comprehensive information requirements, and technical and environmentally relevant data are available in various forms and for a wide variety of addresses.

European companies will gladly deliver data necessary to facilitate circular economy. Hence, analysing stakeholders' needs is key to identify the type of information which is necessary to enable informed choices of the involved stakeholders and meet established environmental and safety requirements. In other words, the "what" question should be limited to the "added value" of this disclosure, and this may change according to the "recipient" of the information and the product group in question. However, any data requirements should **not lead to confidential / sensitive data disclosure obligations** for their providers. This should always be based on mutual agreements between provider and recipient of such data.

BusinessEurope therefore believes that the DPP should contain a mix of public and confidential data. Information for consumers could be public, whilst information for economic operators along the value chain should be limited to the respective economic operators / authorities only, on a need-to-know basis and for circularity purposes only. This would allow maintaining confidentiality of business data, protect competitiveness, respect competition law, enable circularity and ultimately increase valuable transparency in the value chain.

1.b. Follow the "data minimisation" principle

Transparency is a valuable principle in itself and is key in supporting circular solutions. However, it needs to be tempered by considerations of what is considered useful and how to avoid disclosure of sensitive and business critical information. For instance, the names of customers fall into this last category as they are subject to confidentiality agreements, whilst this disclosure does not contribute towards more circularity. Instead, in some cases, the static data about the material breakdown and dismantling guidance would be enough for the end-of-life treatment.

Within global value chains, the availability of data cannot be taken for granted. Accordingly, **it is important to limit data to what can actually be collected** based on the legal requirements contained in EU legislation (e.g. presence of SVHCs in a product when it was put on the market) and with a reasonable level of scope (e.g. recycled content for each material in a product would be an unreasonable request). Companies have major problems obtaining data from their upstream suppliers. We therefore stress that product-related data must be meaningful, easy to understand, purpose oriented, comparable and verifiable.

While the general principle of setting information requirements must be that the information sufficiently contributes to facilitating the circularity of the respective product, **the DPP should also take into account economic and competitiveness considerations**. For instance, while it may be useful to include information on disassembly / technical drawings of products or product recipes to facilitate repair or remanufacturing, we observe that this also makes original equipment manufacturers (OEMs) vulnerable from an intellectual property perspective and creates an administrative burden to develop the necessary



documentation. Vice-versa, data on patented inventions can be shared since the information is already in the public domain.

All in all, the EU business community strongly advises that the DPP avoids including confidential information and requiring companies to share information that breaches IPR or trade secrets.

1.c. A format reflecting the content

The value in the DPP for the circular economy lies in knowing the materials and use of a product from all market operators. **Setting the format** (i.e. data standards) – deciding the units, the measuring methods, the background data – **is essential** to the success of this process. Data standards would also allow the DPP **to ensure data quality and verifiability** against the risks of providing misleading information and uneven playing field between products. The questions regarding the format of the DPP (e.g. data format, static / real time information) should again **be compared to value for circularity and the cost of administration, data systems and access rights**.

With the objective of better reflecting on the specific product characteristics (e.g. complexity, longevity / durability of articles), we recommend the DPP takes a **“product by product” approach**² to define the relevant information and format which a product should report in order to prolong its lifespan and to facilitate its recycling. In this context, we propose prioritising the granularity of the data considering its relevance. Hence, the Commission should aim to limit the administrative burden of possible new requirements, as well as necessary implementation periods; this strongly depends on the individual industry and if it has a history of collecting this data.

Overall, we note that several standards and systems for data sharing exist already at different levels (i.e. harmonised standards, legislations, tools such as environmental product declarations). Hence, it is important to **avoid double reporting but streamline reporting processes** and, by setting standards for data, adopt an approach where data is only entered once. This is particularly relevant, if parts of the supply chain are located outside the EU (the SCIP and EPREL databases created an unnecessary administrative burden for EU-based manufacturers by preventing non-EU-based suppliers from entering data).

With this objective, we recommend the Commission to establish a **decentralised system** to manage the data and ensure a harmonised approach at EU level for the governance of such a system (incl. providing guidelines regarding processes, data nomenclature, choice of technology, etc.). A central system would be of limited added value for the circular economy and create the risk of undermining IPR and sensitive information. Instead, the decentralisation of information would be useful for the actor to share up-to-date information with another actor in the value chain in an efficient way, irrespective of his/her location.

This approach should build on existing industry's initiatives and databases, make them interoperable and **ensure adequate data protection** (e.g. setting liability rules in case of data losses and relying on adequate technologies, like encryption, QR or bar codes, temporary or restricted access, blockchain) to avoid any breach or misuse. Ultimately,

² A “product by product” approach does not refer to individual articles. For a better uptake of the DPP, the unit of reference should be established based on the “nature” of the specific product. For instance, for articles under the scope of EU harmonised legislation, the default unit of reference may be the product model, as defined by existing legislation (e.g. NLF legislation).

sensitive information needs to be treated with care and therefore this information needs to be managed by the data / IPR owner.

2. CONSIDERATIONS FOR MARKET SURVEILLANCE

Although the DPP will be about sustainability / circularity, we expect the DPP may also contribute towards a better compliance of products (incl. of imported products) as it will imply conformity with existing legislation and set out a communication channel with authorities. This will enable a level playing field.

2.a. Enable effective market surveillance

For the DPP to deliver on this objective, the EU business community suggests introducing and developing an effective market surveillance of the information provided in the DPP. Market surveillance of DPP needs to be co-ordinated and conducted in a systematic and equivalent manner throughout the Union. To enable authorities' control, practical methodologies and harmonised products / test standards must be developed, while data flow and adequate resources should be secured. In this context, we recommend the Commission to immediately establish a dialogue with Member States and major EU's trading partners to address this issue.

It should be clear that the DPP has to **promote information efficiency** and support the compliance of the EU legal framework **without creating additional burdens** (e.g. by re-creating the same information twice in slightly different formats or systems). Also, to prevent possible market fragmentations and avoid double registration, the DPP should be **in line with the New Legislative Framework (NLF) system and Declaration of Conformity (DoC)** used by companies. Due consideration should be particularly given to SMEs, considering their limited resources and their potential for sustainability and competitiveness.

3. FURTHER CONSIDERATIONS FOR SMES

It is vital that the requirements for product passport reporting are established at a reasonable and manageable level. This is particularly true for SMEs: collecting, administering, and making available large amounts of information is demanding for all companies but special consideration must be given to SMEs' limited resources. Information to be included in the DPP needs therefore to be selected carefully and justified from a sustainability point of view, see section 2.

To facilitate the DPP uptake and enable SMEs' circular potentials, we recommend the Commission to **providing SMEs with special guidance**, and support them in **skills development**, and access to **administrative tools**. These special considerations would be key for SMEs to effectively manage and administer information without adversely affecting their competitiveness.

Even today, we notice that the burden is high for many smaller companies to meet and report according to environmental and sustainability requirements. In the long term, the

focus on sustainability strengthens companies' competitiveness, but requirements must be manageable, realistic and contribute to more sustainable development. A balance needs to be struck between environmental costs and benefits so that the competitiveness of SMEs is not eroded but their potential is enabled.

CONCLUSION

The business community believes that the considerations raised in this paper should be addressed in the finalisation of the DPP proposal. These are essential for an effective DPP, which delivers on circularity and enhances the competitiveness of European companies.

Data sharing is a tool to enhance circularity, but it needs to be scoped down to a point where circular values are captured and IPRs, patents and design specifications for maintenance respected. This paper provides concrete proposals for the DPP to be released without conflicting with competition and to deliver a EU's circular economy.

To make this working in practice, BusinessEurope stresses that the content and access to the DPP follows the "need to know" and "data minimisation" principles (both from a sustainability and competitiveness perspective). Lastly, the DPP should take a decentralised "product by product" approach and consider the global value chains. This would require the Commission to carry individual impact assessments, evaluating the benefits and costs of a requirement for a given product.

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