

The Confederation of Swedish Enterprise on the Sustainable Products Initiative

The Confederation of Swedish Enterprise brings together 50 industry and employer organisations and 60,000 companies and work on issues that are important to all companies, irrespective of sector and size. We support the European Commission’s Sustainable Products Initiative (SPI). It is important that the development of sustainable product policy takes place at EU-level, as national policies and regulations for circular economy run the risk of creating barriers to circular flows between countries and hamper product development. A well-functioning internal market is a prerequisite for the success of the circular economy in the EU.

Although the development of more sustainable products is already well under way more needs to be done to promote further development. Together with other societal actors along the value chain, the business community plays an important role in ensuring that the products being placed on the market are sustainable and more circular. The Swedish business community is at the forefront of developing more sustainable and circular materials and products. The transformation from linear to circular business models however involves a number of challenges which need to be addressed. We wish to contribute to the process of developing the SPI and, in this paper, we put forward the following key messages:

- The most efficient way of making products more sustainable is to have policymakers set the targets and to let the industry develop and realise the solutions.
- Information requirements must have a clear use and environmental benefit, be based on a “need-to-know” basis, be set at a product level, and safeguard company confidential information.
- The solutions for designing and producing more circular products must also take into account other aspects such as safety requirements, desired technical features and durability.
- Rules within the framework of the SPI must apply to products produced both within and outside of the EU and increased market surveillance will also be required.

Industry has the solutions in making sustainable products the norm

A circular economy aims at maintaining product value by designing products for a longer use phase and enabling recyclability at the end-of life. The prerequisites for products vary, which is why different measures and a product-by-product approach is necessary. The Swedish business community believes that the most efficient way of making products more circular is to have policymakers set the targets and the framework and allow the industry to develop and realise the required solutions.

Swedish Enterprise particularly wants to stress the importance of having a regulation that fosters technical neutrality. This is a prerequisite for innovation and technical development, and is thus crucial in enabling the EU to fulfil its commitments under the Paris Agreement. Conversely, an overly detailed level of product regulation risks having a hampering effect. In developing product policy, it is important not to lose sight of the holistic, forward-looking aspect and to formulate policy that enables technical development and innovation, including those transformations that cannot yet be foreseen. It is also instrumental that any new product requirements are verifiable, and that the industry has the mandate to specify the method of verification with standards.

Product definitions may evolve, and intellectual property rights needs to be considered

The regulations within the SPI will be applied on the basis of how the product is defined and thus categorised. Product development is rapid in many sectors, which is why Swedish Enterprise wants to highlight that the definition of a product can evolve over time. Therefore, when defining a product, it is important to consider any potential, future product developments. Furthermore, it is necessary that regulation within the SPI is aligned with rules on different intellectual property rights, such as design protection and copyright protection.

A Digital Product Passport with a clear use, environmental and safety benefit, will be valuable

The business community supports the idea of introducing a Digital Product Passport (DPP) for products produced within, and imported to, the EU. A DPP, properly designed, has the potential to facilitate communication along value chains, to promote prolonged product lifespan and recycling, and to empower the consumer to make better-informed choices. Yet, information itself does not always result in informed sustainable decisions, as other aspects, such as price, visual design features etc. can impact consumer choices. In addition, it is challenging to communicate large quantities of complex information to the consumer in a way that is easily accessible. In the process of deciding which specific information to include, it is therefore important to identify a clear use, environmental and safety benefit.

It is positive that the European Commission recognises that the duplication of both regulation and reporting should be avoided; this is something that the business community strongly supports. In order to avoid an overly onerous administrative burden for companies, particularly SMEs, information included in a DPP needs to be chosen on a ‘need-to-know’ basis rather than a ‘nice-to-know’ basis. The Swedish business community wants to contribute to the process of developing a DPP that includes an appropriate level of information. There are ongoing initiatives where the business community is already engaged, which could provide valuable experience and insights.

The decision on what information is relevant to include in a product passport must be defined on product level, for example when it comes to chemical content and constituent materials. It is central for enabling circular products to include information relevant for disassembly, maintenance, and repair, and on how the product can be recycled. However, company confidential information, such as detailed technical specifications, drawings and

test results cannot be shared in a product passport in order to guarantee that companies' intellectual property rights remain protected. Thus, a balanced approach is crucial. This type of information should rather be accessed by direct contact with the original manufacturer. Swedish Enterprise also finds that including information on a product's expected lifespan may be troublesome and risks creating false expectations, as many factors - including the handling of the product - affect the lifespan.

Changes in regulations is needed to make data sharing both legal and physical possible

A well-functioning data sharing is central to achieving a successful DPP. Swedish Enterprise supports the proposal of a new Data Governance Act that aims at facilitating more voluntary data sharing with the development of trustworthy data sharing systems. Businesses need access to searchable and compatible data that can be reused.

In addition to access to data, an understanding of how data may be used is also essential. Most data usually have one or several legal regimes that applies to them – for example data protection, intellectual property rights and competition. This means that businesses are not able to share or permit access as freely as they may wish. On occasions, businesses are technically hindered from sharing or reusing data, or the costs of making data interoperable and portable constitutes a barrier that is too high to overcome. It is important to have interoperability and data portability in mind when creating data sets in order to avoid unintended lock-in effects or intended lock-in practices. There is also a need for additional tools and guidelines that encourage more efficient data use from both a legal and technical perspective. Any mandatory data-sharing rules must also take these issues into consideration.

Circular business models provide great opportunities and challenges

The business community has been applying circular business models long before the Circular Economy was an established concept. Recycling of a variety of materials, rentals and second-hand sales are only some examples of this. The majority of the business community can see new business opportunities in circular business models, and the development of circular business models is now expanding into all sectors. This is done in a range of ways, depending on each sector's specific circumstances. Depending on the type of product offered, some sectors can already perceive immense opportunities, while others face greater challenges. Implementing circular business models in many cases involves significant transformations and new challenges for enterprises. It is therefore necessary to establish a framework that facilitates a progressive transition into circular business models. Product value chains are often international, which is why free trade and international harmonisation must also be taken into consideration when developing the SPI.

If circular business models are to continue their development and expansion, they must offer long-term profitability. To promote circular business models, several measures need to be taken. For example, more research and development are needed, not only into physical material and product features but also into the administrative aspects of new business models, like new financial relationships and changes in accounting. It is also essential for the success of the circular business models that the consumer chooses to buy circular products

and services. Here, it is positive that the European Commission is emphasising the need to promote sustainable consumer choices within the EU.

Regulations, even outside the environmental field, need to be updated to enable circular business models. Currently, several existing regulations, such as the chemical legislation and product safety legislation, are not fit for promoting circular products and materials. It is therefore necessary to carry out an extensive analysis, identifying those pieces of legislation that need to be revised in order to promote circular flows.

Circular value chains build upon a number of services, such as design, repair and remanufacturing. Swedish Enterprise wants to emphasise the service sector's importance in the transition to a circular economy. The service sector's increasing importance must be followed by instruments and regulations that encourage the growth of the service market. Policy must facilitate the right to perform services across the EU in a market characterised by free competition.

Market surveillance needs to be developed and increased

For European companies, one major challenge is to compete with products produced outside the EU, where other legislation applies. Unfair competition risk hampering the development of sustainable products inside the EU. Therefore, new rules developed within the SPI must apply to both imported products and products sold via platforms. In addition, an increased market surveillance will be essential in order to verify compliance. Therefore, it is central to ensure that sufficient resources are allocated to the relevant control authorities to be able to carry out effective market surveillance in both physical and on-line sales channels. Market surveillance also needs to be coordinated between Member States to a greater extent, by developing a common approach and by deploying further digitalisation and data management.

In addition to this position paper, Swedish Enterprise has also contributed to the Open Public Consultation with an extensive response commenting on each item in the questionnaire. The response developed for the consultation can be found [here](#).

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