A Digital Product Passport fit for e-commerce

As a tool digitalising product information and streamlining data flows along the entire value chain, the Digital Product Passport (DPP) represents a **unique chance for the e-commerce sector to prove its fundamental role in driving the twin transitions**. Retailers active in the EU act as intermediaries between European consumers and manufacturers from all around the world. Given their **familiarity with consumer trends in the EU** and their cooperation with local actors and authorities, even in the post-market phase, e-merchants and online marketplaces will play a central role in the roll-out of a fit-for-purpose DPP.

Ecommerce Europe has been vocal on the **need to leverage digital tools to streamline and improve consumer information** and has called on the EU policymakers to **streamline data requirements for business compliance and growth**. If properly deployed, the DPP could significantly contribute to cutting costs for businesses related today with the unalignment among different pieces of legislation drawing on data, such as the Union Customs Code, the Ecodesign for Sustainable Products Regulation or the Green Claims Directive. Further, the DPP might become the **cornerstone of future, digitalised consumer information and labelling in the EU**.

In the context of ongoing implementation workstreams, Ecommerce Europe shares its **preliminary reflections on the next steps for the roll-out of the DPP**, both in terms of procedure and contents, to bring in the perspective of e-retailers and online marketplaces and ensure that **the Digital Product Passport is fit for e-commerce**. We believe that this contribution is important as certain aspects of the DPP have not been addressed via primary legislation and will only be tackled through secondary legislation and standardisation work. Following our analysis of the relevant provisions embedded in Regulation (EU) 2024/1781, we propose our vision for a DPP that delivers for e-commerce, as well as key recommendations to fulfil each stated objective, as per below.

Our vision for the Digital Product Passport

1. A Digital Product Passport becoming the **reference tool for digital consumer products information**
2. A Digital Product Passport **adapted to the reality of omnichannel commerce**
3. A Digital Product Passport ecosystem **linking the dots on overall product compliance**

A Digital Product Passport becoming the reference tool for digital consumer products information

As this paper is written, the industry, notably the textile sector, is still in the process of co-defining relevant and workable ecodesign requirements (including information requirements) that will be part of the Digital Product Passport, for instance in the framework of the *Sevilla process* led by the European Commission's Joint Research Centre (JRC). The retail sector, which generally functions as an interface between producers and customers, will play a key role in delivering relevant information contained in the DPP to consumers. To make sure that they meet these expectations, e-retailers and online marketplaces will rely on players upstream the value chain to pass on the required information. Meanwhile concrete information requirements are conceived in the appropriate fora, we would like to point out some important elements to bear in mind during the process.

- **The DPP objective to improve consumer information should be clearly stated**. Framework Regulation (EU) 2024/1781 describes the DPP as a tool "for making information available to actors along the entire value chain" (Recital 32). In the same vein, the requirements for the DPP as laid out in Article 9, paragraph 2, must ensure that those actors can access and understand information on the DPP. Although the text seems to place "customers" under the largest concept of "actors" or "stakeholders", we believe that **this subgroup has specific needs and interests that are sometimes difficult to reconcile with those of other (professional) actors**. For instance, consumers are more prone to experience information overflow. Given that they are less informed about the EU applicable rules, consumers can have difficulties distinguishing a legal requirement from a non-mandatory information or understanding the meaning of certain mandatory labels or markings[1]. Concretely, the **format and the content of the DPP** (data carrier, type of information, including already existing information requirements to be part of the DPP as well as new ecodesign requirements, and interface) should be designed in a user-friendly way. In addition, an impact assessment should be carried out to determine **which information should be part of the DPP or should be affixed or displayed nearby it** (e.g., CE marking, applicable labels, information on EU responsible person etc.).

- As is, framework Regulation (EU) 2024/1781 does not set out which economic operators are subject to the obligation to create or update a DPP or introduce data in it, which will be determined in the Delegated Acts. Because information requirements will be developed in parallel to the obligations for actors to provide those, it is not only key to **tailor provisions to businesses' capabilities and position in the value chain, but also to their interest in receiving and conveying such information**, which may diverge according to the actor. In practice, e-retailers and online marketplaces, which are generally well informed on their customers' expectations, might want to display specific information on a product or give prominence to certain aspects for marketing purposes. These include sustainability-related information (e.g., material composition, reparability, labels, LCA-related information). Most likely, those pieces of information would have to be generated and substantiated upstream the value chain, gathered and transmitted by suppliers

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[1] On this point, the evaluation of the New Legislative Framework (NLF) carried out by the Commission in 2022 found that the CE marking's meaning was usually misinterpreted by consumers, who misbelieve that it indicates the origin of a product or proves that a product has been tested and approved by an authority.

and manufacturers. We thus ask the Commission to carefully consider the proven challenges and opportunities encountered by different actors cooperating with each other in the value chain, so as to **design investment-worthy requirements and workable obligations**. Overall, policymakers should carefully analyse the ability to collect mandatory information at each phase of the product lifecycle and find the right balance among diverging interests and approaches to product information transparency. The new rules must avoid at all costs causing unnecessary disruptions on well-functioning value chains.

- **Keeping a margin of flexibility when defining DPP-related obligations is key** to make the DPP future-proof and open to host other product and supply chain information as well as voluntary information, as appropriate and/or provided by other Union law or national rules. This is important given the transversal use of the DPP, expected to serve multiple policy goals, including enhanced market surveillance, and become **the reference among the EU-backed system for the digital provision of information**. There are already examples of ongoing policy files, such as the revision of the Textile Labelling Regulation and the Toy Safety Regulation, which will end up phasing in specific product information and obligations in relation to the DPP.

- The operationalisation of the exemptions for specific products from the setting of ecodesign requirements, as foreseen by Regulation (EU) 2024/1781 in its Recital 13, must be treated as a horizontal priority in the development of secondary legislation. For instance, there are products produced in very small quantities in possibly many product categories that will fall under the scope of the new ecodesign rules. We recommend that the Commission timely starts the work on this aspect, notably by **defining the thresholds for the application of the exemptions** (e.g., how to define production in very small quantity) **in collaboration with the relevant players in the industry**. Moreover, we ask the Commission to commit to stating clearly, in all secondary legislation related to the Regulation, that **handmade products and products made in small quantities are out of scope**.

- As DPP information requirements will stem from different primary or secondary legislation, **companies should be supported in tracking and making sense of the various set of rules feeding into the DPP**. The information requirements for each product-level DPP are likely to vary and cover different aspects related to product compliance (e.g., sustainability, safety, traceability, market surveillance). Most importantly, they will be mandated in the framework of different EU policies. For instance, the information requirements which are set to feed into the DPP for toys will originate partly from the Toy Safety Regulation (e.g., information on safety, substances of concern) and partly in ESPR Delegated Acts (sustainability information), with possibly further requirements adding up in the future. The same goes for the revision of the Textile Labelling Regulation, with ongoing reflections on how to split up information requirements between the DPP, the digital label and the physical label. It is important to note that the **level of scrutiny to determine whether an information requirement is to be part of the DPP may vary depending on the legal procedure** proper to the policy framework in which the requirements are developed. Therefore, we recommend that a **comparable level of scrutiny as that pursued by the *Sevilla process* is duly applied to decide on the inclusion of any information requirement in the DPP**. We also urge the Commission to maintain a high level of predictability when it comes to adding or modifying DPP information requirements as a result of a file's revision or a new legislative proposal.

- Once DPP-related obligations will be defined, we believe policymakers should allow for a **transitional period after the entry into application of a product DPP**, in which companies can proceed to technical/contractual adjustments. Where this is not possible, policymakers should provide **specific derogations or carve-out regimes for certain types of data**. Such measures can contribute to gaining a deeper understanding of concrete hurdles affecting the roll-out of the DPP and to creating obligations that are tailored to the role of each player along the value chain.

Key recommendations

- Put **customer-experience** at the heart of the DPP deployment
- Strike a fair balance in defining **DPP-related obligations** among diverging needs, capabilities and drivers
- Give visibility to the relevant actors on **which and how the information needs to be displayed**
- Empower the DPP to become the **EU reference tool for both policymakers and companies** to mandate and provide digital information on products
- Allow for a **transitional period** in the implementation process of the DPP

A Digital Product Passport adapted to the reality of omnichannel commerce

At this turning point in the EU environmental policy, companies are planning to make long-term investments to implement new rules in the most cost-efficient way, so as to partner compliance with business growth. This includes **adapting or updating inhouse stock identification systems**, which is particularly of relevance to e-commerce businesses, whose successful business model depends on strong product traceability along the distribution chain and quick identification. However, a high degree of identification and traceability is key "behind the scenes", meaning after a consumer has concluded an online transaction and bought a product, following which the order is placed and the logistics supporting e-commerce kicks off. On an online interface and for products produced in large batches, only a product model can typically be identified, as it is nearly impossible to show a potential customer the batch or unit of the product that they are likely to buy. For handmade products, such identification is even more difficult as many of these items are bespoke or handled by a shop of one.

According to Regulation (EU) 2024/1781, the level of granularity of a DPP is to be determined in the Delegated Acts, at product-group level. Ecommerce Europe acknowledges the criteria, included in the Regulation text, which can motivate the Commission's choice of a specific DPP's granularity, e.g., "[…] complexity of the value chain, the size, nature or impacts of the products considered". We also appreciate the mention, in Recital 33, that a cost-benefit analysis ought to be carried out as part of an impact assessment ahead of establishing a DPP's granularity. Yet, **we regret that other decisive elements one might think of, such as sales channels or product reparability, are missing in primary legislation**.

As mentioned above, there are proven challenges for e-commerce retailers to presenting a DPP at batch level in real time on an online interface to consumers. In fact, displaying a DPP at batch-level, would oblige retailers to have an IT system that connects in real time its inventory with its website offer, which is currently not an option for the large majority of the merchants with an online presence. Whereas displaying batch information on a B2C online interface does not have any added value, batch information can be useful for market surveillance purposes, notably for withdrawals and recalls of dangerous or non-compliant products. Hence, **we strongly appreciate the Commission's commitment to mandating only model-level DPPs for products offered online**[2] in the framework of ESPR secondary legislation (as well as Regulation (EU) 2023/1542), echoing Ecommerce Europe's asks. We are convinced that **this approach must become the standard for other product specific legislation introducing DPPs**. In order to ensure legal coherence and feasible obligations, **there should not be (indirect) requirements for e-merchants to display more granular DPPs than model-level ones**.

We understand that the Commission plans to rely on unique product identifiers which "allow the possibility to include the three different granularity levels". While the modularity of the DPP can indeed be useful for certain economic operators and for public authorities, we recommend mandating a clear granularity level for the purpose of B2C transactions. Consumers might not be enough informed about the differences between a model, a batch and a single item and this specification might confuse them. Moreover, the impact of the obligation to create a model DPP for the purpose of online sales on top of a DPP with another granularity, as mandated per Delegated Acts, must be properly assessed. **To ensure that e-commerce players can present consumers with the right DPP, it must be clear for economic operators placing products on the market that creating a model DPP is necessary**. Because the choice of the sales channel is not always known at the moment of the placing on the market, **an obligation to always produce a model DPP, on top of any other DPP's granularity, might have to be considered**.

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[2] Annex II, Commission Standardisation Request as regards digital product passports in support of the COM(2022) 142 final proposal for a Regulation.

Key recommendations

- Mandate exclusively **model DPP** for the purpose of online sales and make this a standard in DPP-related legislative procedures
- Ensure a swift implementation of model DPPs by **creating clear obligations for economic operators**

A Digital Product Passport ecosystem linking the dots on overall product compliance

For the DPP to become the reference for the digital provision of product information in Union law and to carry digitalised documents attesting to product conformity, we believe that its **regulatory framework must be compatible with Union harmonisation legislation and other Union acts regulating product compliance**. For starters, the DPP must be inserted in the New Legislative Framework (NLF). This instrument already proved useful for economic operators to become familiar with **"common reference provisions"** across EU law on product conformity. Likewise, public authorities and legislators could benefit from reduced administrative burden related to the implementation or the interpretation (and even the very design) of EU product legislation provisions. Moreover, a revamp of the NLF could also allow to **elevate legal concepts phased in for the purpose of specific policy instruments to the rang of common reference for further lawmaking**. For example, Regulation 2024/1781 introduces, for the first time in the EU law, legal definitions for concepts such as 'refurbishment', 'remanufacturing' and 'repair', which the last evaluation of the NLF found insufficiently addressed in the face of the rapidly developing digital and circular economy.

A revision of the NLF could also help harness the surge in mandatory information requirements introduced by multiple legislation adopted throughout the 2019-2024 mandate in a variety of topics (sustainability, product composition, repairability, safety etc.). An updated NLF could possibly include the "safety net" provisions introduced by Regulation (EU) 2023/988 (General Product Safety Regulation, short GPSR), specifically listed in Recital 8, which will apply to Union harmonisation legislation in case such provisions are not covered, in addition to the provisions detailing the Safety Gate and its functioning. To support companies in their compliance journey, **we invite the Commission to produce an overview of the information requirement obligations placed on the traders**, including as a result of the introduction of DPP-related provisions. We also encourage the Commission to take account of the requirements mandated by other Union law which could be part of the DPP, for instance the EU responsible person, to further define DPP-related obligations.

More widely, the last evaluation of the NLF pointed out that more **digitalisation in the field of product compliance** could lead to the "simplification of administrative obligations related to product information

requirements and CE marking". First, the possibility to create a direct, technical link between a product and its digital representation, based on common standards and specifications for the content and format of the required product information, could **ease issues related to product identification for the purposes of compliance checks**. Second, the **DPP would facilitate updating information and recording events related to a product, such as repair, maintenance or modification**. From the moment a product is placed on the market, its performance or components can change throughout its lifecycle. However, the whole EU regulatory framework for product compliance and safety still relies on concepts such as 'placing on the market', triggering a set of obligations for the relevant economic operator.

A Digital Product Passport Web Portal that works for all *actors*

Both questions of purpose and granularity of the DPP are key to further define the function of the DPP Web portal as mandated by Article 14 ESPR of Regulation (EU) 2024/1781, and the portal's relation to overlapping product databases and systems aimed at informing economic operators and customers. For instance, EPREL (European Product Registry for Energy Labelling) collects all product *models* in the scope of the energy labelling legislation. EPREL and other databases such as SCIP (Substances of Concern In articles as such or in complex objects (Products)) are not only likely to diverge from the DPP in terms of underlying information requirements, but also in terms of product identification (standards, identifier, granularity). The **multiplication of codes and identifiers poses challenges for different players**, not least because actors downstream the value chain must verify that all relevant information has been communicated**.** For instance, online marketplaces depend on sellers or manufacturers to obtain product identifiers and have to organise their interface for this information to be provided. However, there is so far no legal requirement for suppliers to pass on certain information, such as the EPREL model registration number, to online marketplaces. This has made linking EPREL via API difficult for certain players.

In addition, Ecommerce Europe requests **more clarity on the scope of the Web Portal to search and compare information on Digital Product Passports**. It is unclear whether the portal will have a similar function as EPREL or SCIP databases, whose frameworks unambiguously provide for their role in informing consumers and set out economic players' obligations. Given that these systems are expected to co-exist, as suggested by Recital 34, we recommend clarifying, in the Delegated Act, the **interplay between the different systems, identifying possible hierarchies** (e.g., information requirements uploaded to EPREL to be part of performance requirements) and **laying out exemptions wherever relevant (e.g., products produced in very small quantities as mentioned in Recital 13)**. This is even more pressing as the risk of requirements duplication between SCIP and the DPP was already raised in the evaluation Report of SCIP published in May 2022.

In the analysis of an integration of SCIP and the DPP system, particular attention should be given to the **obligations to provide information digitally**, such as those related to displaying labels. It is essential to clarify which visual information (e.g., marking, label, data sheets) **must be affixed nearby the data carrier or being showed only after scanning the DPP**. If policymakers do not consider this aspect from a global perspective, information overflow might occur.

A Digital Product Passport Registry streamlining customs procedure

As a digitalised, uniform tool to convey information relating to a product's compliance with EU legislation, the **DPP can naturally become an asset for both market surveillance and customs authorities to increase product safety**. Nevertheless, the benefits that can be drawn from easier customs processes should not exceed the related administrative costs, neither for companies nor for the public sector. Costs are not limited to gathering, processing or verifying an increasing number of data, but also encompass the operation and use of underlying systems, as developed below. In fact, the EU customs landscape is already greatly constelled by numerous and partially overlapping systems, requiring different data points and fulfilling different EU policy objectives. **The introduction of yet another portal, as is the DPP Registry, must be preceded by a mapping exercise of existing solutions and initiatives in the field of customs, and must be well fitted in the overall hierarchy of the existing infrastructure**. There are two main elements that need to be explored in this process – first, the (mis)alignment in the legal concepts used in Union harmonisation legislation, on the one hand, and customs legislation, on the other hand. Second, the harmonisation and hierarchisation of existing customs IT infrastructure and the role of the DPP Registry.

As regards the first point raised, we are concerned that the sets of obligations laid out in Regulation (EU) 2024/1781 related to **customs might not be fully aligned with those set in customs legislation**, not least because of mismatched definitions being employed in each respective policy field (e.g., "economic operator" versus "authorised economic operator"). In fact, ESPR sets out obligations for economic operators to ensure that a DPP is *available* for products covered by the obligation to display a DPP, whereas it leaves it to secondary legislation to specify the actors that will be responsible for creating or updating the DPP. This uncertainty has an impact on the allocation of responsibilities on the supply chain as regards the DPP provisions for customs purposes. In fact, while "a person intending to place a product […] under the customs procedure 'release for free circulation'" (Article 15) has to provide the unique registration identifier generated by the DPP Registry after the submission of the product, operator and facility identifiers, that person might not be in the position to comply with this duty. As per the Regulation, an economic operator is responsible for creating or updating the DPP, including uploading data such as unique identifiers or requesting these to be generated if they are unavailable. Therefore, if the "person" of Article 15 is not an economic operator, the possible consequence would be a loophole in which they would not be able to input - nor to request the creation of (missing) – unique identifiers and consequently be unable to get (and provide) the unique registration identifier. To avoid this situation**, we recommend the Commission to clarify the tasks and actors that are subject to the rules under this Regulation in light of the existing obligations and definitions in parallel and applicable customs rules**.

Concerning the customs IT infrastructure, we are concerned about the multitude of portals and systems, entirely managed or co-led by the European Commission, whose purpose is at least partly to clear customs formalities. Examples are the Single Window Environment for Customs (CERTEX), the Import One-Stop Shop (IOSS), the electronic Freight and Transport Information scheme (eFTI), the Import Control System 2 (ICS2) and the proposed Data Hub. Each of these systems streamline the electronic exchange of documents and information required for the goods clearance process. The systems require a number of different data points and formats which operate within each respective system from either a fiscal or safety and security perspective. Also, obligations are distributed differently across the value chain as provided in the given legislation establishing the portals. Moreover, the **lack of technical interoperability between the systems, and the general absence of an overarching vision on the complementarity of those**

systems as well as the content and objectives of fit-for-purpose customs procedures, results in multiple data submissions by relevant actors in order to comply with different duties. To reduce the administrative burden on operators, we suggest exploring three solutions. The first potential fix would be to use EU primary legislation to **streamline existing, complementary and overlapping portals and data points required for customs purposes**. Alternatively, we encourage exploiting EU secondary legislation to create technical **interconnections among portals**. In any case, we ask the Commission to **produce exhaustive guidance for stakeholders to navigate the variety of portals and data points required for customs purposes**

Key recommendations

- Make the DPP framework as laid out in ESPR a **"common reference provision" in the NLF**
- **Define the purpose of the DPP Web Portal** in light of and learning from existing, comparable product databases
- **Create synergies and interconnections among customs IT infrastructure and systems,** including the **DPP Registry**, to streamline customs formalities