

Input in EU Commission Consultation 12 July 2022

European Commission proposal COM (2022)144  
regarding the Review of the Construction Products Regulation (CPR) 305/2011  
laying down harmonised conditions for the marketing of Construction Products

### *“Revise, Repair, Complete”*

*Eurima is the European Insulation Manufacturers Association representing the interests of all major Mineral Wool (Glass and Stone Wool) insulation producers throughout Europe. Our membership consists of large and medium-sized industries that manufacture a wide range of mineral wool products for the thermal and acoustic insulation and fire protection of domestic and commercial buildings and industrial facilities.*

#### General Introduction

Eurima fully subscribes to the necessity, as identified by the European Commission, to *revise, repair and complete* the EU Construction Products Regulation (CPR, EU 305/2011). We share the spirit, intentions and objectives of the overall Commission proposal as many of its specific constituents largely reflect the subjects / areas of attention put forward by Eurima in its [contribution to the initial CPR-consultation process](#) in 2021.

At the same time, we need to acknowledge that the proposal overall remains complex and requires the necessary technical knowledge and experience to be fully assessed and understood while a number of specific elements still require further clarification. This additional consultation and the intermediate Q&A-process initiated by DG GROW prior to the further legislative procedure in Council and Parliament are helpful in this process.

The enlarged subject matter and scope of the proposal combined with the need to ensure better / simpler regulation, legal certainty and continuity between the current CPR, the transitional CPR Acquis-process and the future revision, require common understanding, continuous exchange and cooperation, good governance and continuous impact assessment ahead of and throughout the further legislative-process and subsequent implementation of the proposal.

This contribution to the European Commission consultation aims to express support but also to identify areas and points of concern / attention / clarification as input into this ongoing process.

This document in summary:

- Full support to revise, repair and complete the CPR;
- The CPR is an essential instrument for Green Deal and Green/Digital transition delivery;
- The proposal is complex and technical and needs to be coherent and consistent at all times with the surrounding EU regulatory framework to avoid overlaps and “double-regulation”;
- Standardization / technical specifications must remain the root of the CPR;
- Standardisation process needs to be improved with early involvement of EC;
- Increased use of Delegated Acts is good fall back but needs due process and transparency;
- Need for continuity between current CPR - CPR Acquis process and revised CPR;
- Support for inclusion of Sustainability / Circularity and “codifying” EPD’s and EN15804;
- Need for centralised databases to accommodate digitalisation / BIM;
- Harmonized zone is essential to avoid mushrooming of national systems / requirements;
- Reinforced Market surveillance through more stringent 3<sup>rd</sup> party AVCP system is needed;
- Reducing administrative burdens / simplified procedures should not mean less compliance;
- Specific areas / points for clarification (Annex).

Harmonized Technical Specifications as foundation while improving process

**The choice for continuity by the European Commission in safeguarding harmonized / standardized technical specifications, common technical language, and transparency in the European internal market for construction products as basis for the future CPR is the correct one.**

It is important that the system continues to be based on the current, so called, CPR-Acquis: all published harmonised standards, as well as delegated and implementing acts published in the EU Official Journal.

Knowing that the general subject matter and objectives of the CPR in the proposal have been enlarged and subsequently the ground to be covered by the standardization process, it is important to ensure that this increased work-load will not hamper the needed improvement in timing and delivered quality. From this perspective, we agree with the European Commission that there is room to improve the Construction Products Regulation standardisation process, notably by ensuring punctual delivery and promoting a consensus-based approach.

Therefore, we support:

- **Putting in place robust rules-of-procedure**, including clear structure and governance by CEN, as well as increased early guidance / involvement by the European Commission, based on clear and broadly supported standardisation requests (already pointed out in the revision of Regulation (EU) No 1025/2012 on Standardisation).
- **Strategic involvement of the European Commission** and/or HAS assessors already in the drafting process, could support improved governance and delivery and implementation of compliant standardisation and should be considered in the proposal.

To improve overall understanding and compliance, **CEN should offer support and training to convenors and secretaries** of the different Technical Committees and Working Groups.

A more balanced participation, with more third parties around the table and a fairly distributed representation from industry sectors should also be enforced in order to guarantee a level playing field and to effectively boost the standardization process.

CPR to leverage EU Internal Market for Construction Products and deliver on the Green Deal

A “fit-for-purpose”, well-functioning CPR will safeguard and reinforce the EU Internal Market for Construction Products while allowing construction products to unleash their full potential in delivering the objectives of the EU Green Deal, the Circular Economy Action Plan (CEAP) and the green & digital industry transitions while preserving the competitiveness of one of Europe’s most important industrial sectors creating local value and employment, largely in the SME-sector.

**The EU Green Deal’s targets and objectives will not be achievable without tapping the potential of the EU built environment and the building and construction sector.**

Increasing the EU’s energy resilience and independence from foreign imports starts with Energy Efficiency First in buildings embedded in a conducive building and construction regulatory framework incentivised by sufficient financial backing and support measures.

**Therefore, it is crucial for the EU to ensure that the revised CPR is a *coherent and consistent* piece of the policy-puzzle, well-aligned with other building and construction-related legislation (e.g. LEVELs, EED, EPBD, waste policy, Renovation Wave, REPowerEU, Chemicals for Sustainability, etc.). Eurima calls upon the European Parliament and Council to have eye for this by not “over-charging” the CPR as many intrinsic product (performance) aspects are indeed already solidly covered by other regulatory parts of the existing EU-legal framework as well as environmental obligations of the manufacturers and the reference to Best Available Techniques (BAT) as covered by the Industrial Emissions Directive (currently under review).**

The clear delimitation of what is covered by the CPR and what is not, remains essential.

One example is the definition of “construction product” which is now proposed to include the product packaging. It is difficult to imagine how this will be addressed under the CPR as other rules and regulations will cover this (Ecodesign for Sustainable Products Regulation, Packaging and Packaging Waste Directive, etc.).

Moreover, often the essential characteristics and product / producer obligations are not in reach of the construction products manufacturer thus unreasonably extending liability on DoP / DoC and CE-mark.

#### *Need for continuity between current CPR - CPR-Acquis and revised CPR*

It is important to note that the ongoing CPR legal repair issues for specific construction product-families such as Thermal Insulation Products (scheduled for Q1 2023), will start prior to the finalisation of the review of EU CPR-regulatory process.

Eurima supports the European Commission in its view that there needs to be continuity in process, content and compliance between the current CPR, the work of specific product-families in the context of the CPR-Acquis and the outcome of the CPR-revision. This should be clearly reflected in the legal text and related governance, and we would therefore highly recommend that the EC will coach and coordinate the prioritization of objectives in the Acquis-process.

#### *Completing the CPR: Life Cycle Assessment and Circularity as part of its core DNA*

The Commission proposal rightly aims to *complete* the current acquis by solidly anchoring sustainability and Life Cycle (LCA) thinking in the CPR. “Codification” of one common methodology for assessing and communicating the environmental performance characteristics of construction products is essential.

Eurima supports the EN15804+A2 (Sustainability of construction works, core rules for the product category of construction products) as the most ready and suitable methodology for the qualifying and quantifying of sustainable use of natural resources and reporting on different LCA impact categories.

**As a consequence, this completion shall be based on the well-established Environmental Product Declarations (EPDs)** which have been developed according to this European EN15804+A2 standard for most construction products by anchoring this within the legal text (Annex I.A.2).

EPDs are directly connected to and can be used in the context of the impact assessment of the buildings with the EN 15978 standard which would be meaningful for the Member States and the EC work on the decarbonisation of the building stock.

In this same context, **Eurima endorses the Commission's intention to introduce circular economy principles into the Construction Products Regulation.** Our industry is committed to continuously improving the circularity of our product and product-value chains. Circular practices minimise waste going to landfill, reducing the need for virgin raw materials.

**We share expressed concerns on the potential traffic-light-system (art 22 of Commission proposal)** which aims to express simplified environmental requirements at product level. The performance of the product and especially the environmental one is directly connected to the application of the product at the building level, hence such “simplification” has a considerable intrinsic risk of being misleading and over-restrictive towards the end-user.

European construction products database (art. 78 of Commission proposal)

We agree that the **creation of a single European product database** (including LCA-data-base) would **minimise technical differences** and harmonise aspects such as format, modelling, and data quality ahead of further integration of systems.

For example, regarding the LCA information, [ECO-Portal](#), a database that includes the majority of publicly available EPDs developed by ECO Platform (Association of Program Operators), could be a good reference for a first level of harmonization which could be further improved according to the data needs of the system.

At the same time, we need to ensure that such databases remain a tool-to-serve-a-purpose and do not translate into additional cost-, legal-, and or administrative burdens for companies.

Future harmonised CPR and DoP / DoC / CE-Mark

As said above, Eurima agrees with the Commission proposal that harmonisation, transparency, common technical language and performance communication are, and should remain, the basic principles of the internal market for construction products. This implies that initiatives that reduce the exhaustiveness of the CPR, or that encourage the inclusion of product information beyond harmonized requirements and beyond the responsibility of product manufacturers, go against the spirit of the internal market. This could lead to a mushrooming of national labelling and information systems that would weaken the CE-mark, while also increasing administrative burdens and the risk of technical barriers to trade.

**The clear establishment of the “EU Harmonized Zone” as foundation of a revised CPR is essential for its implementation, proper functioning and compliance verification.**

For this reason the **Declaration of Performance (DoP) / Declaration of Conformity (DoC) must** (continue to) **be exhaustive catalogues** of essential characteristics and product requirements based on national and EU legal requirements. The construction product manufacturer is responsible for declaring this legally required information for its intended use. Additional information requests that go beyond legal requirements, or beyond the responsibility of the construction product manufacturer, would unreasonably expand the manufacturer’s liability. Our insulation products can be used in multiple applications and should be installed by professionals and well-informed DIY. In the context of this proposal, we ask the EU Commission to clarify the responsibilities of the different actors along the value chain (producers, distributors, installers, ...).

Reinforced Market Surveillance

**Eurima welcomes the proposed increased and effective market surveillance** to rigorously check product compliance with EU standards, for instance by recommending highly effective default/standard market surveillance controls, as put in place by Member States. In this context, we recommend providing more guidance to level the quality of surveillance in Europe. As things stand, we frequently observe different interpretations of surveillance rules around the 27 EU Member States which could be further improved by a good collaboration and exchange between them.

**A more stringent Assessment and Verification of Constancy of Performance** (current AVCP, now called AVS Assessment and verification systems in the new proposal) system would lessen the burden of market surveillance for Member States, while also ensuring a higher level of compliance among products. Eurima agrees with recommendations for a stricter 3<sup>rd</sup> party verified AVCP-system in the spirit of the current Level 1. This would respond to market demand to avoid the mushrooming of national marks, intended as additional verification of performances and would in general guarantee that products deliver as expected. These national marks cause confusion among economic operators and lead to trade barriers and market distortions.

We applaud increased transparency and offering possibilities to end-users to question compliance in individual cases. We also realise that performance levels on essential characteristics and possibly product requirements / producer obligations will be difficult to verify by individual (non-professional) end-users and could therefore lead to unmanageable procedures and workload (art 68 Commission proposal).

*Reducing administrative burden and simplified procedures should not mean compromising on compliance*

In general, we believe that a revision of the CPR should aim at reducing administrative burden or at least avoiding introducing additional burdens, especially for Small- and Medium-sized businesses. As the EU definition of Small- and Medium- sized businesses is rather large and many SMEs make products with high safety values they should not be de-facto exempted from CPR-compliance.

**Annex - Specific areas/ Points for clarification**

Specific areas	Points for clarification
<b>CPR Acquis process vs. CPR-Review</b>	Realising that the work on the CPR-Acquis is starting / ongoing and that specific product families will be addressing this before the end of the CPR-review regulatory process, Eurima would like the confirmation that for this Acquis-process the legal reference base will still be the current CPR and that, if so, there will be guidance on how and to what extent the CPR-Acquis work should / can pre-empt possible outcomes of the revision process avoiding further possible need for amendment once the revised CPR is adopted.
<b>Extended scope</b>	<p>Clarification is needed on the coverage of “packaging” by the definition of “<i>construction product</i>”: “any formed or formless physical item, including its packaging and instructions for use, or a kit or assembly combining such items, that is placed on the market .....” (art. 3 of Commission proposal). Also in Annex I part “Products shall be designed, manufactured, and packaged in such a way that the following inherent product safety risks are addressed in accordance with the state of the art. This point needs clarification on intention, purpose, proportionality also regarding the extended liability of producers related to DoP/DoC and CE-Marking.</p> <p>Art 3 (25): The <i>intended use</i> should be specified further. This needs further clarification as to the level of granularity intended as this can differ considerably per product family. For mineral wool insulation for example it could apply at the level of: 1) insulation for roof? 2) Insulation for pitched roof? 3) insulation for pitched roof between rafters? Are the different TC’s meant to identify the granularity of the construction levels? Is there the plan to build taxonomy of “constructions” across different constructions products?</p> <p>Art 3 (31): Today any variation of e.g. dimensions can lead to a different <i>product type</i>. The proposed definition is confusing when compared with recital (37) “manufacturers should be prohibited from creating ever new product types where the products in question are, in view of the crucial characteristics, identical”. Further clarification is therefore needed if different product families are meant to identify these “crucial characteristics”? Is for example “thickness” a parameter to determine different product types?</p> <p>Annex I part B, C, D: Further clarification is needed whether part B and C characteristics will be selected per product- family according to relevance for the product. Will Part D be mandatory as such? In the case of inherent product characteristics, how and by whom these characteristics will be defined? Is there a plan in case of misuse or wrong installation of the products?</p>
<b>Governance and Delegated Acts</b>	<p>At many different points in the proposal the Commission reserves itself the right to supplement the regulation by means of Delegated Acts. How will the Commission guarantee that the decision to launch such a Delegated Act in specific cases will be the result of due process guaranteeing transparency, objective criteria and provide regulatory certainty / proportionality?</p> <p>Which committee / structure within EU will handle the delegated &amp; implementation acts?</p> <p>How will Member-states / stakeholders be involved /consulted in this process?</p> <p>How far do the EC &amp; new CPR harmonize also today’s ‘building regulations’ as part of the subsidiarity rules? Is it still expected that all product related performances will handle the complete design &amp; installation of products, with other words, as for end-use performance on fire, design load exposure (e.g. stability, wind, seismic,... and other), life time LCA-building elements, etc? Are the member states obliged to set &amp; respect EU requirements &amp; criteria?</p> <p>How can the EC ensure that the member states represent their unified position? e.g. in some countries, several levels of policy making (e.g. regions) are involved and also responsibilities are differently organized.</p>
<b>Additional environmental obligations of manufacturers</b>	Article 22 (2). Unless product safety or the safety of construction works is thereby negatively impacted, the manufacturer has the following obligations: (j) <u>accept to regain</u> , directly or via their importers and distributors, <u>ownership of surplus and unsold products</u> that are <b>in a state equivalent</b> to the one in which they were placed on the market. Further clarification is needed what is meant by “in a state equivalent”.

<b>Article 22</b>	Article 22 (6) The potential traffic light system at product level requirements mentioned in the context of the DAs presents significant concerns. The performance of the products and especially the environmental one is directly connected with the application at the building level and such system could be misleading and restrictive on the performance of a construction product.
<b>EU Construction Products Database or system Article 78</b>	Further clarification is needed on the development and governance of the product database. How is it expected to be managed (access, fee, ownership and maintenance)? Will it be necessary to upload all documents in the database (DoP, DoC, SDS...)? Related to this, will the digital product passport for construction products mentioned be the combination of the DoP and DoC? Will the content of product passports be part of mandates (standardisation request/mandates)?
<b>Complaint Portal Article 68</b>	How it will be ensured that this complaint route will remain fit-for-purpose and can actually be applied by any natural person knowing that compliance with many of the essential characteristics is difficult to verify?
<b>Overlapping legislation</b>	Many of the product requirements and producer obligations are touching upon areas covered by other EU legislation (Climate / Energy / Health & Safety / Chemicals). How will double-work be avoided and a coherent, consistent and implementable regulatory framework will be available that can still be regarded as better-, simpler regulation?