



# EPEE presentation to the Asercom Convention on the proposed Ecodesign for Sustainable Products Regulation - ESPR



20 April  
2023

- 1. A quick introduction to EPEE**
- 2. The EU coming to the rescue of the consumer, climate change and the economy???!?**
- 3. In a nutshell, what is the ESPR?**
- 4. The decision-making process and the timeline – one to watch!**
- 5. What are EPEE's Recommendations and Concerns?**
- 6. Food for Thoughts...Concluding remarks?**



## 1. EPEE

- **EPEE, European Partnership for Energy and the Environment**, was established in 2000 and represents the refrigeration, air-conditioning and heat-pump (RACHP) sector in Europe.
- **Our goals are to** improve renewable heating and cooling equipment and technologies, for greener buildings, with manufacturing sites and research and development facilities across the EU, which innovate for the global market
- **EPEE** has been advocating for a long time for sustainable solutions in order to heat and cool our buildings while complying with the new rules set by the Green deal package.
- **Heat pumps and air conditioners** are a great part of our sector and represent the most efficient solution in order to cool or heat one room.

# The voice of the RACHP sector in Europe

- Full Value Chain of **Refrigeration**, **Air Conditioning** and **Heat Pump** Industry
- Membership: Small, medium, large companies
- National and sectoral associations - **ASERCOM**
- Over **200,000 direct employees**
- **Over €30bn turnover in Europe**

Corporate members

Association members



EPEE Members, representing+ 200K jobs in Europe, make the full product range of refrigeration, air conditioning and heat pump equipment, including ...



Residential Heat Pumps, e.g. hydronic



Air/Air Heat Pumps for residential and commercial use



Large AC and heat pumps (chillers, VRFs, rooftops, ...)



Commercial Refrigeration



Industrial Refrigeration



Transport refrigeration



District Heating and Cooling



... which requires a diversity of refrigerants – HFCs, HFOs and natural refrigerants



# **The proposed Ecodesign for Sustainable Products Regulation - ESPR**

**The EU coming to the rescue of the  
consumer, climate change and  
the economy!**

- Executive Vice-President for the European Green Deal Frans Timmermans said “It’s time to end the model of ‘take, make, break and throw away’ that is so harmful for our planet, our health and our economy. Today’s proposal will ensure that only the most sustainable products are sold in Europe. They allow consumers to save energy, repair and not replace broken products, and make smart environmental choices when they are shopping for new ones. This is how we bring balance back in our relationship with nature and reduce our vulnerability to disruptions in global supply chains.
- Commissioner for the Internal Market Thierry Breton said: “European consumers rightly expect more environment-friendly and longer-lasting products. More sustainability and resource efficiency also means more resilience when a crisis disrupts our industrial supply chains. By harnessing the potential of the Single Market, making the most of digital tools and improving market surveillance, we will maximise opportunities for businesses and consumers alike. Greater resource and energy efficiency in the construction and textile sectors in particular will generate highly skilled jobs across Europe.”
- Commissioner for the environment, Oceans and Fisheries Virginijus Sinkevicius said: “Our circular economy proposals kick off an era where products will be designed in a way that brings benefits to all, respects the boundaries of our planet and protects the environment. Giving a longer lifespan to the phones we use, the clothes we wear and to many other products will save money for European consumers. And at the end of their life products will not be a source of pollution, but of new materials for the economy, decreasing the dependency of European businesses on imports”.

### 3. What is the ESPR in a nutshell?

- It's an EU **Regulation** which repeals and replaces the current Framework Ecodesign Directive 2009/125/EC with a new and ALL ENCOMPASSING Ecodesign for Sustainable Products legislation – so-called ESPR, which (1) extends the scope to a vast array of non-Energy Using Products (ErP) products and (2) requires products to be durable, reusable, repairable, recyclable (+ will increase energy efficiency)
- Starting from 2024, the Commission plans to **develop first product-specific** regulations under ESPR, to be applicable from 2026 onwards and the **2024 new Ecodesign Working Plan** will be drafted under the ESPR.
- **It's about making** (1) sustainable products the norm in the EU, (2) boost circular business models and (3) empower consumer for the green transition. The Regulations propose new rules to make almost all physical goods on the EU market more environmentally friendly and energy efficient throughout their whole lifecycle from the design phase through to daily use, repurposing and end-of-life.
- The proposal **build on the success of the EU's existing Ecodesign rules**, which have brought remarkable reductions in the EU's energy consumption and significant savings to consumers. In 2021, existing EcoDesign requirements saved consumers 120 billion euros. The rules have also led to a 10% lower annual energy consumption by the products currently in scope.
- It is estimated that by 2030, the new framework will **lead to 132 mtoe of primary energy savings**, which corresponds roughly to 150 billion cubic meters (BCM) of natural gas, equivalent to EU's import of Russian gas.
- All the regulated products will have a **Digital Product Passports** to make it easier to repair or recycle products and facilitate tracking substances of concern along the supply chain. Labelling can be introduced as well.



- *The objective of the new proposal is to make sustainable products the norm on the EU market. The new proposal will use the successful 'ecodesign approach' to set product-level requirements that promote energy efficiency, circularity and overall reduction of environmental and climate impacts.*
- *The scope will be extended from energy-related to all physical products placed on the market.*
- *A switch is made from Directive to Regulation and a wider range of new products requirements will be covered for maximum environmental benefit.*

Reducing the environmental and climate impact of products on the EU market

Enhancing sustainability and circularity of products

Accelerating the transition to climate neutral, resource-efficient and circular economy

Reducing pollution and resource use

Increasing EU's resource independency

Fostering job creation, use leverage of the EU Market and avoid its fragmentation



Key actions for circular and sustainable products:

- Address substances of concern (e.g., tracking of substances)
- Recycled content of products

Introduce performance requirements with focus on material efficiency, resource efficiency (e.g., durability, reparability, ...), energy efficiency, environmental/carbon footprint

Enable information requirements via:

- Performance label
- Digital Products Passport
- Repairability score

Prevent or ban the destruction of unsold consumer goods

Incentivize sustainable products, enable mandatory green public criteria procurement to be set

Promote more sustainable business models. Strengthen market surveillance and enforcement, boost compliance and ensure a level-playing field

# Scope and new priority groups

## Scope – Which are the products covered by the ESPR proposal?

Any physical good placed on the market, or put into service, including components and intermediate products.

Textiles

Mattresses

Detergents

Iron, steel and aluminium

Tires

Paints and lubricants



- A preliminary assessment by the Commission has identified these product categories to have high environmental impact and potential for improvement, and may thus be suitable candidates for the first workplan. The Commission issued a Call for Evidence and public consultation (questionnaire) with a deadline on the 12<sup>th</sup> of May 2023:

- Energy Using Products are not directly mentioned, but intermediary products may impact performance of RACHP
- Horizontal measures: omnibus amendments to all Ecodesign regulation, including existing? Still unknown.
- Why these product groups? JRC performed a study on the potential impact of various product groups.

### End-us products

- Textiles and footwear; Furniture; ceramic products; Tyres; Detergents; Bed mattresses;
- Lubricants; paints and Varnishes; Cosmetic products; Toys; Fishing Nets and Gears; Absorbent; Hygiene products

### Intermediary products

- Iron and steel; Non-Ferrous Metals; Aluminium; Chemicals
- Plastic and Polymers; Paper; Pulp paper and Boards; Glass

### Horizontal measures

- Durability; Recyclability; Pots-consumer Recycled Content. (For each horizontal measure, potential provisions via which they could be applied are put forward)
- Note: Lightweight and Sustainable Sourcing are also considered, but not under the public consultation)

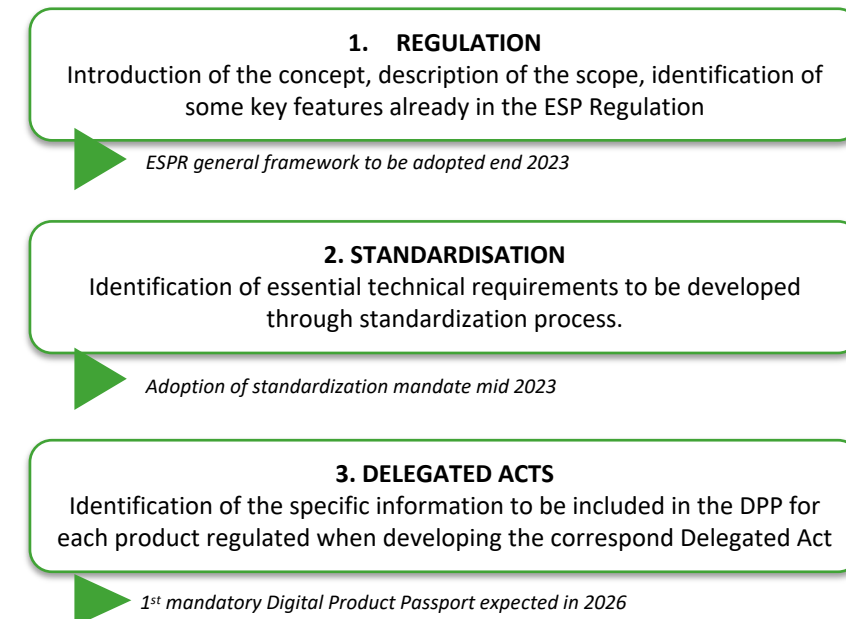
# The Digital Products Passport (DPP): Aim and milestones

It a tool to create transparency and unlock circularity proposed by the European Commission (EC) that will share product information across the entire value chain, including data on raw material extraction, production, recycling.

## Aims of the Digital Product Passport



## Milestones ahead of the full operationalization of the DPP



Source: DPP workshop Commission December 2022



# ESPR – A decision-making process/timeline – one to watch!

Commission  
proposal  
30 Mar 2022

Deadline Call for  
Evidence  
22 Jun 2022

Public  
consultation  
12 May 2023

EP First Reading  
and Council  
General Approach  
June-September

Trilogues Start  
September 2023

Adoption  
End 2023

Next  
steps :

**Next steps:** aim to finalise the revisions and developments by end-2023, before its start of application

- 12 May 2023: public consultation on priority product groups for ESPR
- 5 Jun 2023 (TBC): ENVI vote
- 10 July 2023 (TBC): Plenary vote
- Unclear when Council will adopt position But likely Summer

## What are EPEE's Recommendations and Concerns?

- EPEE has always been a **supporter of the Ecodesign instruments** and fully **supports the new legislative tool of a regulation** instead of a directive, aiming to avoid national inconsistencies and prevent national deviations in implementation. EPEE recommends Member States to **avoid developing additional national measures** on sustainable products that impair the functioning of the internal market.
- EPEE is **concerned about the risk that the proposal could bypass the standardisation procedures** to impose requirements that would potentially disregard the stakeholders' expertise.
- With respect to the opportunity of **setting up ecodesign provisions based on a 'product-by-product' principle, EPEE believes that it is going in general into the right direction** and believes that such an approach may become necessary for the RACHP sector to ensure the functioning of the market.

## EPEE has highlighted the loopholes where the proposal “may fall short in the future implementation”:

1. Assess requirements on a **product-by-product approach** by applying the **proportionality principle** in setting product specific requirements ensuring they are **measurable and verifiable**.
2. Ensure a consistent approach with existing EU legislations by **aligning definitions** to avoid loopholes/overlaps.
3. Consider the **expertise of standardisation** bodies to avoid the introduction of inconsistencies among the different policy areas and legislation.
4. **Streamline information requirements** and clarify the reference to the performance levels and the Digital Products Passport’s provisions.
5. Support **e-labelling** as a more sustainable alternative to providing physical paper-based information.
6. Assess the **introduction of a performance label on case-by-case basis**, to avoid an overlap with the products that are already in scope of the Energy Labelling Regulation.
7. Avoid one-size-fits-all and **maintain specific considerations for ErP groups**.
8. Consider the **risks of disclosing competitively sensitive information** on unsold goods.
9. **Support market surveillance authorities** by including customs into the surveillance systems and ensure unnecessary duplication of data.



# Thank you for your attention.

Russell Patten, Director-General

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The Voice of the Refrigeration, Air Conditioning and Heat Pump Industry in Europe

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# Annex

# Food for thoughts...concluding remarks

- We are about to enter the so-called Trilogues which means negotiations between the 3 EU Institutions behind closed doors – will industry have a say? Very little...
- Between now and the Trilogues, we can influence in Brussels but also and especially in Member States – the bottom up approach and calling upon member companies on the ground in country.
- Within EPEE, the Working Group on Eco-Design has never been so busy with an increasing number of Lots and this is likely to continue but negotiations have been to date with the Commission – one institutions which overall gets the technical aspects...
- The ESPR will go through the so-called normal legislative process with the Council and the Parliament in the driving seat which focus on the politics and not the technical detail. Your narrative will need to change...
- Going forward, we will be increasingly impacted by the ESPR and will need to live with it = but if we get it right we will be winners...



# The scope

- **Scope:** EPEE recommends **aligning definitions with existing legislation** to ensure seamless compliance and avoid unnecessary overlaps or contradicting requirements. Providing the extensive scope of the draft proposal, there will inevitably be numerous areas of overlap with other existing EU legislation (e.g., WEEE Directive, REACH Regulation, EU taxonomy, Empowering Consumers Initiative, etc.).
- By way of example, with respect to chemicals and the ESPR's overlap with REACH, the European Commission provides that REACH rules will apply to health and environmental concerns, whereas ESPR would address sustainability. However, such distinction is not so neat and straightforward, especially if definitions are not well aligned and the interplay among the different pieces of legislation is left to secondary law.

## Confidentiality aspects

- **Confidentiality aspects:** To speed up and facilitate the verification of **compliance of products** placed on the market, the Commission would be empowered through delegated acts to require operators to make specific parts of the technical documentation “digitally available” to both the Commission and national competent authorities. This can be done through the Digital Products Passport (DPP) initiative or via direct inclusion on the company’s websites.
- The proposed ESPR as a legal instrument aiming to ensure products sustainability and environmentally related information sharing, the proposed text should ensure that **all data is adequately treated** in compliance with the EU legislation, in relation to the confidentiality, reliability and ownership of data, as well as right to access and manage (e.g., delete and modify, where needed) the information, including industrial secrets, intellectual property (IP) and know-how protection.

# Clarifications on the Digital Product Passport (DPP):

- EPEE supports the inclusion of provisions for Digital Product Passport (DPP), whilst concerned about the information burden for industry in combination with the existing (and expanding) obligations under the EPREL and SCIP databases. The **relation between the DPP and the already existing databases** is currently unclear. Therefore, whether the DPP is to be considered as a standalone system or whether it is to be linked to the existing databases should be clarified.
- EPEE supports measures that would further extend the access to EPREL and SCIP entries in a centralised manner, as this would be facilitated via the DPP, through a data carrier connected to a unique product identifier.
- In this respect, the proposed Art. 8(4) can also be considered as a possible exemption for product groups that are already covered by other databases, such as EPREL and SCIP. However, it is unclear whether products registered on either tool, or both systems would be exempt from the requirement for a DPP. As EPREL and SCIP do not cover the full range of aspects on which ecodesign requirements are set, clarifications in this respect would be more than welcome.
- Additionally, it seems that whereas the exact scope and application of the DPP is still under discussion, it is unclear whether the new requirements of the DPP would apply to product models, batches, or item of products. In this respect, EPEE members are concerned about the **administrative burdens** and **the expected respective costs**, especially **if the DPP is applied at the individual item level**, together with the combination of the list of requirements established in the proposed Art. 31.



- It must be ensured that all stakeholders in the value chain are consulted during the definition of the digital architecture and framework development of the DPP. This would be essential to **adequately consider how the DPP can be adapted for the various industries (both ErP vs non-ErP)**. For example, access rights to the DPP should be differentiated for various categories of data-user, i.e., the customer, a professional repairer, or a market surveillance authority. Their respective access should be determined on a need-to-know basis in order to protect confidential business information. It is paramount that, as provided for in the proposal, access rights are delimited in product-specific ecodesign implementing acts and not in generic one-size-fits all horizontal implementing acts.
- With respect to the proposed Art. 7(6)(f), which allows the e-labelling via a data carrier connected to a unique product identifier, (e.g., through a QR-code), it seems that the product information requirements are grouped in the context of the DPP. If this is the case, EPEE members understand that, depending on the product group, either e-labelling or the DPP can actually be the suitable method in which product information is made available. Therefore, EPEE strongly supports **e-labelling as a more sustainable alternative** to providing physical paper-based information, and we also urge to combine the e-label with the DPP.

# Tracing of chemical substances in the supply chain

- **Tracing of chemical substances in the supply chain:** it is important that the ESPR does not create unnecessary overlaps and interconnections (or even conflicts) with REACH, RoHS, and other chemicals legislation. Therefore, a consistent approach should always be ensured with respect to the existing regulatory framework. More specifically, we recommend that the definition of the proposed Article 2(28)(c) on substances of concern is removed from the proposed ESPR text. The proposed new definition of “substances of concern” creates unnecessary confusion with the current REACH framework regulation that is to address substances of concern at the EU level.
- In this respect, EPEE recommends that **the tracking of substances is determined by a qualified entity** with expertise on the subject matter. An example of such entities that could determine whether a substance should be tracked is the REACH Risk Assessment Committee (RAC). Nonetheless, it is unclear if and how such entities can fulfil the enormous administrative work related to the requirements and the assessment of the feasibility and relevance of tracking specific substances in respect to a product group. **To avoid double regulation** on this issue and on the chemical tracing of substances, EPEE **recommends maintaining the REACH framework** as the lead legal tool on the substances of concerns and to not regulate them under Ecodesign. This would avoid any possible redundancies and inconsistencies in both policy frameworks.

# Avoid the introduction of a performance label by default

- **Avoid the introduction of a performance label by default:** EPEE is concerned as per the introduction of a mandatory performance label for the products that are already in scope of energy labelling framework as a performance label may raise confusion when placed alongside the energy label. The proliferation of labels and databases to be adopted for all sectors by default risks to create unnecessary duplication of information requirements and, therefore, it should be carefully considered.
- Notwithstanding that, EPEE recommends assessing **the need for a performance label on ‘case-by-case’ basis** per product group. The reason is that the supply chains, energy efficiency and performance, material and resource characteristics differ between various product groups. The differences are not only regarding ErP vs non-ErP but can be traced also between different ErPs of the same sector. In the context of the Energy Efficiency First principle and from a total lifecycle impact, the **most important sustainability aspect for the RACHP sector remains the energy efficiency.**

## Avoid one size-fits-all and maintain specific considerations for ErP groups

- **Avoid one-size-fits-all and maintain specific considerations for ErP groups:** EPEE is pleased to see that the EU Legislator intends to continue stakeholder consultations through the proposed Ecodesign Forum. However, EPEE would like to highlight that such an Ecodesign Forum will not be the same as current Consultation Forum due to the increased scope and membership, both vertically and horizontally. To improve the quality of feedback that the Commission receives, EPEE strongly urges the European Commission to create an **ErP subgroup** in analogy to the current Consultation Forum on Ecodesign and Energy Labelling.

# Risks of disclosing sensitive information on unsold goods

- **Risks of disclosing competitively sensitive information on unsold goods:** EPEE considers the possible unintended repercussions arising from the proposed Articles 20, 21, and 30. According to the proposed text, economic operators would be required to report information, including the number of the discarded unsold goods per each year, on a freely accessible website or through other means to make it publicly available. However, **sensitive information needs to be properly protected.**
- EPEE recommends the Commission to consider that in some cases there are already similar provisions in place, such as in the context of WEEE Directive. Manufacturers of electrical and electronic equipment are, for example, required to dispose waste equipment via Producer Responsibility Organisations (PROs) under the national provisions implementing the WEEE Directive. As such, manufacturers of waste electrical and electronic equipment are **required to deliver unsold electrical and electronic equipment** to a PRO, which will then handle the unsold products, which includes reuse and recycling. EPEE believes that such elements should be duly considered during the decision-making process.

# Supporting market surveillance authorities without duplication data

- **Supporting market surveillance authorities without duplication of data:** Market surveillance is essential to foster compliance and the enforcement of ecodesign requirements amongst the economic operators. To support an effective market surveillance, the technical data that economic operators are to provide to MSAs should be shared in a clear manner and the **duplication of information must be avoided** to reduce the additional administrative burden on both MSAs and economic operators.
- EPEE asks further clarifications on the proposal of gathering ‘real-life data’ from the use of product, in particular regarding the collection and reporting of this data to the Commission. It is not clear how such a requirement could be implemented in a realistic, cost-efficient, fair, and meaningful manner. In this respect, the collection, storage, and transfer of data must be defined in a manner that ensures compliance with the intellectual property and data protection requirements, taking into account the latest cybersecurity and data privacy standards. Data storage costs are also a significant factor in driving increased energy consumption in data centres that would have negative implications for the EU’s climate neutrality objective.
- EPEE would like to **welcome the proposed anti-circumvention clause** (Art. 33). Circumvention and software updates’ provisions have been increasingly incorporated in the revisions of Ecodesign product regulations, such as ENER Lot 5 (displays), ENER Lot 12 (commercial refrigeration), or ENER Lot 30 (motors). Ongoing revisions of Ecodesign implementing regulations are following this path and EPEE members believe that this should remain the approach for products covered by the ESPR.



# Support market surveillance by including customs into the surveillance system

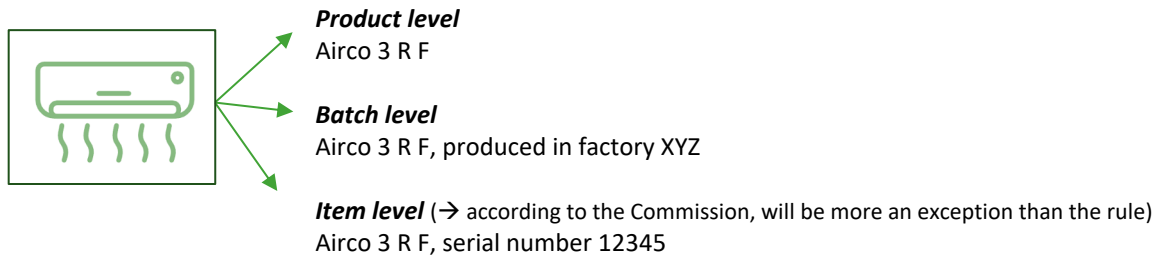
- **Support market surveillance by including customs into the surveillance systems:**
- EPEE welcomes the initiative to improve ecodesign market surveillance and believes that the proposal can be further improved by including customs in the national market surveillance plans. The reason is that market surveillance does not only cover enforcement on internal activities, but also the flows of goods and services from the territorial borders. As such, customs surveillance is a vital part of the effective enforcement, as recognised in the 2019 Market Surveillance Regulation.

# Key DPP features in the ESPR

## REGULATION

Introduction of the concept, description of the scope, identification of some key features already in the ESP Regulation

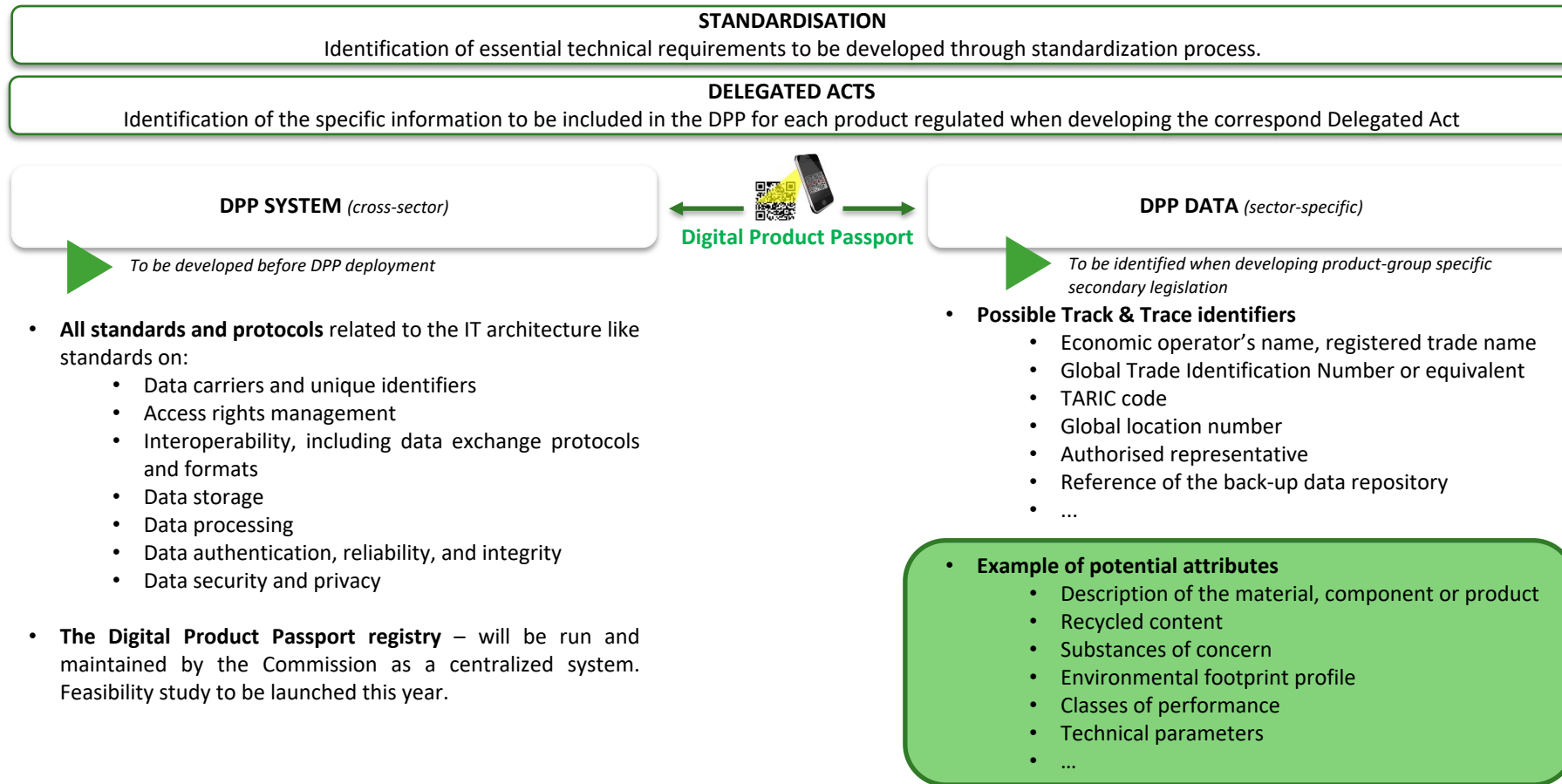
- **No proprietary solutions:** All information included in the product passport shall be written in an open, standard, inter-operable format and shall be machine-readable, structured, and searchable in accordance with the essential requirements included in Article 9
- **Granularity:** The information included in the product passport shall refer to the product model, batch, or item as specified in the applicable delegate act referred to in Article 5 (1).



- **Access rights:** the access to information included in the passport shall be regulated in accordance with the essential requirements included in Article 9. The specific access rights at product group level will be identified in the applicable delegated act referred to in Article 5(1).
- **Liability:** the economic operator placing the product on the market is responsible for making available the EU DPP and for the information included therein
- **Track and tracing:** Article 11 specifies that unique operator identifiers and unique facility identifiers may be requested. These are key information component to allow the track and tracing of information along the supply chain.

Source: DPP workshop Commission December 2022

# Design of DPP

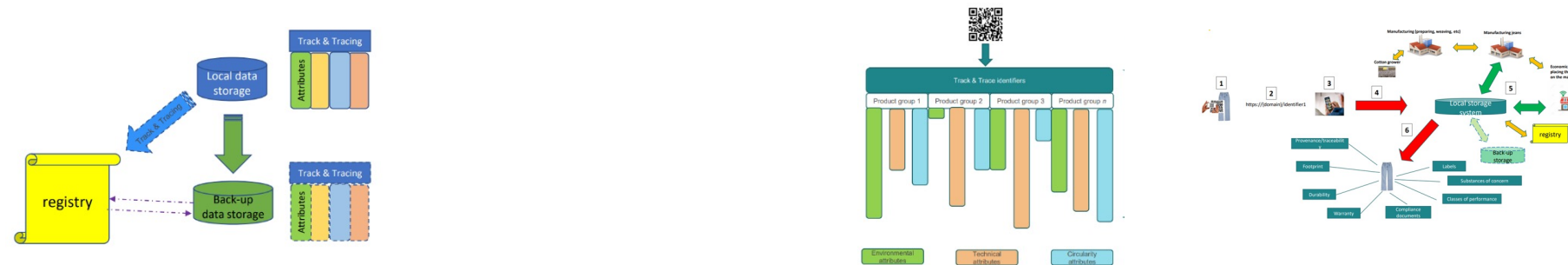
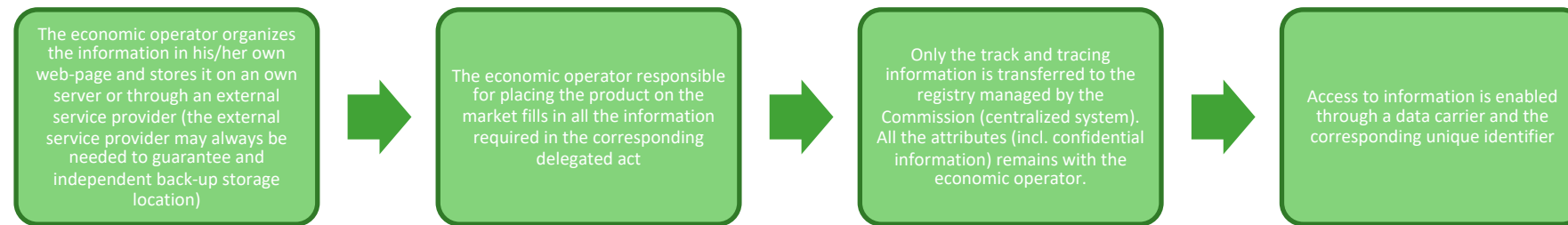


Source: DPP workshop Commission December 2022

→ Expect big information flow

# Working principles

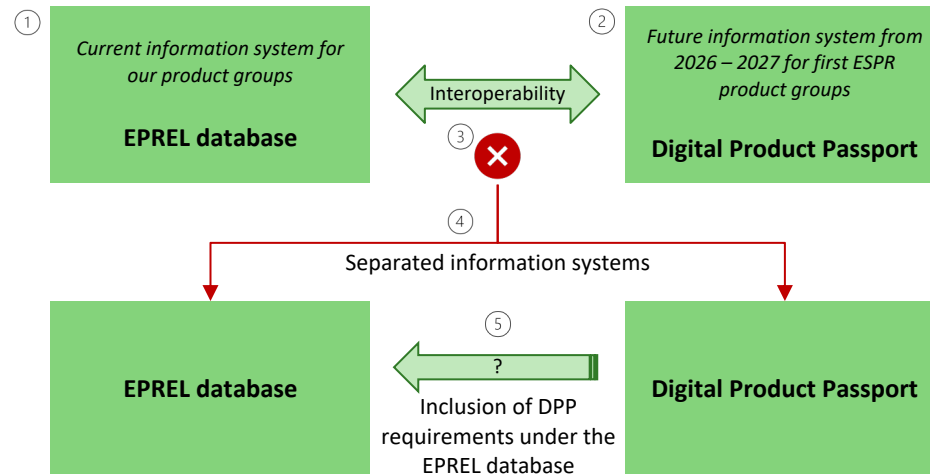
## Working principles



Based on information shared by the Commission, it is not possible from an IT perspective to link the DPP with the EPREL database. Product groups falling under the EPREL database might therefore be exempted having a DPP, since EPREL is similar information system as the future DPP. In order to cover the same information requirements, it could be that the EPREL database would be expanded to include DPP specific requirements.

# Situation for EPREL product groups

## Information systems



① Products with an energy label are registered and can be consulted for information and comparison in the European Product Registry for Energy Labelling (**EPREL database**). Product groups without an energy label do not fall under the EPREL database.

② The **digital product passport** is a structured collection of product related data with predefined scope and agreed data ownership and access rights conveyed through an unique identifier. The first DPP are expected in 2026 – 2027 for product groups which have a delegated act under the ESP Regulation.

③ BUT, from an IT point of view it is **technically not possible** to link the EPREL database with the DPP.

④ As a result, a **separation between the DPP and EPREL database** is highly likely to happen whereas product groups under EPREL will remain under EPREL, while product groups without Energy Label/EPREL will have a DPP.

⑤ In order to ensure comparability between the information systems, the Commission proposes as solution to **expand the EPREL database by including DPP requirements under it**.