

## FESI ANALYSIS OF THE IA ON THE REPORTING OBLIGATIONS UNDER ESPR

February 2026

Members can find the ESPR legal text [HERE](#). The final text of the Implementing Act is available [HERE](#). Additional details can be found in [this FAQ](#) published by the Commission in September 2024.

### 1. LEGAL BASIS & DEFINITIONS

- a. Article 24(1) of Regulation (EU) 2024/1781 (Ecodesign for Sustainable Product Regulation).
- b. **Destruction:** *means the intentional damaging or discarding of a product as waste with the exception of discarding for the sole purpose of delivering the discarded product for preparing for reuse, including refurbishment or remanufacturing operations; (Art 2 (34) of the ESPR)*
- c. **Unsold consumer product:** *means any consumer product that has not been sold including surplus stock, excess inventory and deadstock and products returned by a consumer on the basis of their right of withdrawal in accordance with Article 9 of Directive 2011/83/EU or, where applicable, during any longer withdrawal period provided by the trader; (Art 2 (37) of the ESPR)*

### 2. SCOPE & PRODUCT CATEGORIES

#### a. DISCLOSURE OF INFORMATION

- i. Large and medium-sized (as of July 2030) enterprises that discard directly or have products discarded on their behalf are to disclose the info on:
  1. product category,
  2. number,
  3. weight,
  4. reason,
  5. relevant derogation (when applicable)
  6. the proportion of discarded products delivered to undergo any waste treatment operations (including preparing for reuse, recycling and other recovery including energy recovery and disposal),
  7. the measures taken and the measures planned to prevent the products' destruction.

of unsold consumer products discarded during the previous financial year (Rec 1)

- ii. Article 24(1) does not apply to micro and small enterprises.

#### b. DEROGATIONS

- i. The relevant derogations are set out in the delegated act adopted pursuant to Article 25(5) of the ESPR.
- ii. The disclosure of information on unsold consumer products does not cover donated products. (Rec 3)

### 3. DISCLOSURE OF INFORMATION

#### a. **FORMAT** (Article 2 and Annex I)

- i. Format (visual and content) shall comply with the format set out in Annex I of the Implementing Act
- ii. The information on discarded unsold consumer products may also be provided in the sustainability reporting included in the management report pursuant to Article 19a or 29a of Directive 2013/34/EU (Corporate Sustainability Reporting Directive). Economic operators bound by the Directive or that publish such or similar reports on voluntary basis and include the information on discarded products may instead of disclosing that format on the website, provide link to that report.
- iii. The type of disclosure can include: standalone disclosure or consolidated disclosure including subsidiaries or member undertaking. the subsidiaries discarding unsold consumer products shall be listed in addition to the parent undertaking.
- iv. The percentages of disclosed waste treatment operations shall be calculated on the basis of the weight of discarded unsold consumer products. Destruction is the sum of recycling, other recovery and disposal. (Annex I)
- v. Information on waste treatment operations must be received from waste treatment operators that collect unsold consumer products. Where information on the treatment cannot be obtained, treatment shall be listed as unknown.

#### b. **PRODUCT CATEGORIES** (Article 3)

- i. The product categories shall be delimited based on the first two digits of the relevant combined nomenclature (CN) codes set out in Annex I to Regulation (EEC) No 2658/873 (Art 3)
- ii. The products listed in Annex II to this Regulation shall be delimited based on the first four digits (relevant for the industry codes include among others: 4202, 4203, 4303, 6306). (Art 3 and Annex II)
- iii. The total number of units discarded during the disclosure period shall be provided for each product category. The number of units may be estimated on the basis of the accurately determined total weight of units discarded. Where estimates are used, this should be clarified by accompanying the disclosed value with '±'. (Annex I, f))

#### c. **TIMELINES FOR DISCLOSURE**

- i. Economic operators are to annually disclose the information on unsold consumer products discarded during the preceding financial year. (Rec 8)
- ii. The details and format apply to products discarded in each financial year as from the first full financial year after the date of application of this Regulation (July 2024). (Art 1)
- iii. Economic operators shall disclose that information within 12 months after the end of that financial year. (Art 1)

#### d. **OBLIGATION TO KEEP INFORMATION**

- i. Economic operators shall keep information and documentation, including statements on the reception and treatment of discarded unsold products received by economic operators from waste treatment operators for five years after the disclosure of information on such products. (Art 4)

#### 4. VERIFICATION (Annex III)

- a. The economic operators shall, at the request of the Commission or a competent national authority, provide all the information and documentation necessary to demonstrate the delivery and reception of the discarded products in paper or electronic form within 30 days of receipt of the request. (Art 24 (2) of the ESPR)
- b. Competent authorities verifying compliance shall apply principles and procedures laid down in Annex III:
  - i. Competent national authorities may use any information, document, finding, statement or any intelligence as evidence for the purpose of their investigations.
  - ii. Competent national authorities shall organise and conduct verification following a risk-based approach, considering the following criteria:
    - 1. No disclosure or unusually low numbers disclosed
    - 2. The economic operator's past record of non-compliance
    - 3. A high percentage of unknown waste treatment operations of discarded unsold consumer products
    - 4. The size and nature of activities and operations
    - 5. Information from other sources, leading to suspicion that the number or weight of discarded products is higher than the disclosed number or weight.
- c. **PROCEDURE (Annex III):**
  - i. Compliance is verified whether the information has been disclosed on an easily accessible page, or if a link is provided on a website to a report
  - ii. Compliance is verified whether the information has been disclosed in the format set out in Annex I of the Implementing Act
  - iii. Requesting documentation demonstrating the delivery of unsold consumer products to waste treatment operators per financial year as required to be disclosed. The difference between the disclosed number/weight and the number calculated from the documentation needs to be less than 10% to be considered complaint.
  - iv. Verification by comparing the disclosed waste treatment operation to treatment operations carried out by the waste treatment operator that received the unsold products.
  - v. Derogations are presumed to be applicable when documentation required under the DA adopted pursuant to Article 25(2) of the ESPR regulation is made available by the economic operator and complies with requirements set out in therein.
- d. **NON-COMPLIANCE**
  - i. When competent national authorities consider that non-compliance is relevant for one or more other Member States, they shall inform the competent national authorities of those Member States. (Art 5)
  - ii. Article 74 of the ESPR specifies the type of penalties for non-compliance with the Regulation.

#### 5. TIMELINES

- a. The date of application of the Implementing Act with the details and format will be 12 months after its entry into force, meaning 2<sup>nd</sup> of March 2027 (deferred date of application).

The Implementing Act will apply to the first full financial year of the operator after this date of application.

- b. The format shall apply to products discarded in each financial year. Economic operators shall disclose that information within **12 months after the end of that financial year**. (Art 1)
- c. **Large companies:** The first disclosure, without the template and format established under the Implementing Act, shall cover unsold consumer products discarded during the first full financial year during which this Regulation is in force. (Art 24 (1) of the ESPR)
- d. **Medium-size companies:** July 2030 (Art 24(1) of the ESPR)
- e. The Commission is empowered to revise the Implementing Act in terms of the details and format for the disclosure set out in Annex I or product types set out in Annex II at the latest 5 years after entry into force of the IA, meaning before the 2<sup>nd</sup> of March 2031.

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### **About FESI**

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Founded in 1960 FESI - the Federation of the European Sporting Goods Industry represents the interests of approximately 1.800 sporting goods manufacturers (85% of the European market) through its National Sporting Goods Industry Federations and its directly affiliated member companies. 70-75% of FESI's membership is made up of Small and Medium Sized Enterprises. In total, the European Sporting Goods Industry employs over 700.000 EU citizens and has an annual turnover of some 81 billion euro.

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