APPLIA's comments on the Draft Bill on Sustainable Consumption

APPLiA represent companies manufacturing large and small household appliances. Our members play a central role in promoting digitalisation, sustainability, innovation, and high-quality consumer services in Spain and across the European Union.

We welcome the opportunity to contribute to the TRIS procedure for the **Draft Bill on Sustainable Consumption (Anteproyecto de Ley de Consumo Sostenible)**, which seeks to transpose:

- **Directive (EU) 2024/825**, on empowering consumers for the green transition, and
- **Directive (EU) 2024/1799**, on common rules promoting the repair of goods (Right to Repair).

Our association and its members fully support the objectives of improving transparency, strengthening consumer empowerment, and promoting the repair of products.

Furthermore, it is important to emphasise that manufacturers of home appliances consider the provision of reliable, professional technical support service to be a fundamental element of consumer trust and product longevity. Companies in the sector invest heavily in authorised repair services, spare-parts availability, and diagnostic capabilities to ensure safe and effective repairs throughout a product's lifecycle. This commitment extends to ensuring that consumers and accredited independent repairers have access to the necessary spare parts, repair manuals, and diagnostic tools, in line with Article 5(1)(d) of Directive (EU) 2024/1799. The regulatory framework should recognize and support this ecosystem of professional repair —whether manufacturer-authorized or independently accredited— while safeguarding product safety and intellectual property.

General Comments

While we share the objectives of the Draft Bill, several provisions go beyond what EU law requires, introducing national obligations that could lead to:

- **over-implementation**,
- **lack of harmonisation**,
- **unique national requirements**,
- **legal uncertainty regarding the scope of information obligations for economic operators along the supply chain**, and
- **barriers to the internal market**.

In this regard, it is worth noting that **the Spanish Competition Authority (CNMC)** has also highlighted, in its extensive analytic report on this Draft Bill, the need to ensure that regulatory interventions comply with the principles of **necessity and proportionality**, warning that excessive financial or administrative burdens may distort competition and affect market efficiency.

In our view, the Draft Bill does not constitute a simple transposition of Directives (EU) 2024/825 and 2024/1799 and therefore merits detailed examination within the TRIS framework.

Legal Analysis under EU Law

From an EU law perspective, the **Treaty on the Functioning of the European Union (TFEU)** sets clear limits on the introduction of national measures in areas where harmonisation exists. In particular:

- **Free movement of goods – Articles 34–37 TFEU**

Several provisions introduce new requirements for placing goods on the Spanish market, including additional obligations on repair financing, terminology restrictions, and the use of certain commercial communication elements. These conditions may constitute measures having equivalent effect to quantitative restrictions.

Even when pursuing legitimate objectives, such measures must comply with *necessity* and *proportionality*. In this case, similar objectives could be achieved through less trade-restrictive means, already foreseen under EU law, thereby raising concerns regarding proportionality.

- **Article 193 TFEU – Stricter national measures**

The Draft Bill incorporates obligations that go beyond the minimum requirements of the EU Directives. Under Article 193 TFEU, Member States introducing stricter protective measures must notify the Commission —a step that reinforces the appropriateness of scrutiny through the TRIS procedure.

- **Article 114(4) TFEU – Harmonised fields**

Directive 2024/1799 establishes areas of full harmonisation, limiting the possibility for Member States to add obligations. Diverging national requirements may therefore conflict with harmonised rules and affect the functioning of the internal market.

These deviations from harmonised rules reinforce the need for a careful assessment within the TRIS procedure.

In line with CNMC's assessment, any regulatory intervention affecting market functioning must be duly justified and proportionate, avoiding unnecessary restrictions that could impair competition or disproportionately affect certain operators.

Where the Draft Bill Exceeds Directive (EU) 2024/1799 – Right to Repair

Directive (EU) 2024/1799 establishes a framework of **full harmonisation** (Article 3), limiting Member States' ability to introduce additional or divergent obligations for producers.

The Draft Bill introduces a **mandatory repair financing mechanism**, requiring manufacturers to contribute to the financing of repairs **beyond the legal guarantee period**, including:

- 20% during the first two years after the warranty period,
- 10% during the following year,
- 5% during the fourth year.

This requirement is **not foreseen in Directive 2024/1799**, which only requires Member States (Article 13) to adopt *at least one general promotional measure* to encourage repair, but does not authorise fixed financial obligations, cost-shifting mechanisms or national financing schemes funded by manufacturers.

It is particularly noteworthy that the Spanish government is proposing to apply this mandatory financing measure, specifically for those products (included in Annex II of the Directive) which have already and long time ago, repairability criteria through its corresponding European Eco-design Regulations, and for which this Directive has defined new additional specific requirements (Article 5 - Repair obligation criteria, and Article 6 – Repair information obligation).

Spain already requires manufacturers and resellers to cover repairs under a 3-year statutory warranty – one year longer than the EU baseline, with an extended burden of proof period of 2-years – also one year longer than the EU baseline, both extensions introduced in 2022 specifically to promote durability and repairability. Manufacturers operating in Spain are therefore already absorbing an additional year of warranty costs that their counterparts in other EU countries do not face. Imposing

a further mandatory co-financing obligation for out-of-warranty repair over an additional 4-year period compounds this burden significantly, ultimately impacting affordability for consumers.

This raises concerns because:

- such obligations are **not foreseen** in the Directive,
- they may conflict with the **full harmonisation** principle,
- they introduce **significant unpredictability** in costs, and
- they could create **unique national requirements** not present in other Member States.

These concerns are **fully aligned with the conclusions of the CNMC**, which explicitly notes that the Draft Bill transforms a promotional mechanism for repair into an **obligatory economic burden for producers**, not envisaged in the Directive. The CNMC further highlights that this approach may generate **market fragmentation, disproportionate impacts (particularly on SMEs), and additional regulatory burdens**, recommending the consideration of **alternative incentive-based mechanisms** instead.

For this matter, other EU countries have implemented repair incentives through **public funding or tax measures**, which avoid fragmentation and remain fully aligned with EU law. The introduction of such mechanism should be removed.

Where the Draft Bill Exceeds Directive (EU) 2024/825 – Environmental claims and commercial communication

Directive (EU) 2024/825 provides a **targeted and proportionate** framework for the use of environmental claims and sustainability-related information.

The Draft Bill, however, introduces new prohibitions and restrictions that exceed the scope of the Directive, notably:

A. Prohibitions on trademarks, brand names, or wording such as "eco", "green", "sustainable"

The Directive does **not** prohibit the use of these terms in trademarks or brand identities. It regulates their use within *commercial communication* to prevent misleading claims. The national ban envisaged in the Draft Bill would:

- invalidate or restrict existing trademarks,
- conflict with the EU Trade Mark Regulation,
- create legal uncertainty for operators active across several Member States.

In addition, the CNMC has stressed the importance of ensuring **legal clarity and alignment with the Directive's scope**, particularly regarding environmental claims, recommending that such provisions be more precisely linked to **commercial communication contexts** in order to avoid legal uncertainty.

B. Additional prohibitions unrelated to EU law

The Draft Bill also restricts the use of certain environmental imagery, colours, or symbolism, regardless of context. Such prohibitions go beyond EU law and may constitute **gold-plating**, undermining the Directive's harmonised approach.

Matters Outside the Scope of the Transposition

The Draft Bill also includes provisions unrelated to the Directives it aims to transpose, such as:

- rules on *shrinkflation*,
- the so-called *fear-based advertising*, and
- price regulation in emergency situations.

These topics fall **outside** the harmonised scope of Directives 2024/825 and 2024/1799 and therefore require particular caution, as their inclusion may broaden the regulatory framework beyond what EU law requires.

The CNMC similarly underlines that regulatory interventions in these areas should be carefully assessed to ensure they remain **justified, proportionate and consistent with competition principles**, particularly when they introduce constraints not directly required by EU law.

Risks to the Internal Market

Taken together, the measures contained in the Draft Bill introduce unique national obligations that may lead to:

- barriers to the **free movement of goods** (Article 34 TFEU),
- differentiated treatment of producers operating in Spain,
- legal fragmentation,
- additional administrative and compliance burdens (including verification processes, repair financing unpredictability, and increased bureaucracy).

These effects undermine the objective of harmonisation that both EU Directives seek to achieve. Besides, these factors contribute to reduced legal certainty and may discourage investment and innovation. These risks are also highlighted by the CNMC, which warns that regulatory measures imposing **heterogeneous national obligations** may affect the **efficient functioning of markets, reduce legal certainty and disproportionately impact certain operators**, particularly SMEs.

In light of the above, APPLiA ESPAÑA requests that the European Commission carefully assess the provisions of the Draft Bill that exceed the scope of Directives (EU) 2024/825 and 2024/1799, and consider issuing a detailed opinion under Article 6(2) of Directive (EU) 2015/1535 to the extent that:

- the mandatory repair co-financing mechanism introduces obligations not foreseen in the fully harmonized framework of Directive 2024/1799; and
- the restrictions on sustainability-related terminology in trademarks and brand names conflict with the EU Trade Mark Regulation;

We remain available to provide further technical input and to engage constructively with the Commission and the Spanish authorities to ensure that the final legislation achieves its sustainability objectives while respecting the principles of harmonization, proportionality, and the integrity of the Single Market.

APPLiA ESPAÑA
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