TRIS Notification 2025/0336/FR

31 July 2025

EuroCommerce Position on the French TRIS Notification 2025/0336/FR

EuroCommerce would like to express its concerns about the *Proposition de loi visant à réduire l'impact environnemental de l'industrie textile* notified by France to TRIS. We believe the notification may undermine the freedom of movement of goods and potentially be in contradiction with EU law.

Article 2 provides for a modulation of the contributions paid by those placing on the market under the EPR, based on the sustainability coefficient obtained under France's specific system for the environmental cost of textile products, as well as the resulting penalty trajectory for the period 2025 to 2030.

This French legislative proposal breaches EU law. In practice, it would apply solely to products manufactured or marketed within France, while allowing numerous avenues for circumvention by the very companies it seeks to regulate. As a result, the measure is unlikely to achieve its intended objectives and would instead introduce distortions of competition detrimental to domestic market players and to the integrity of the European internal market. Furthermore, these provisions risk penalising businesses not engaged in the targeted practices and, in many cases, raise concerns regarding their compatibility with European Union law—particularly with respect to the fundamental principle of the free movement of goods and of establishment as enshrined in the EU treaties.

In addition, we believe Article 2 is in contradiction with forthcoming secondary legislation pursuant to the revised Waste Framework Directive (WFD), namely on ecomodulation of extended producer responsibility (EPR) fees, the Ecodesign for Sustainable Products Regulation (ESPR) and the overall objectives of the Single Market Strategy. The Commission will adopt implementing acts under the WFD laying down harmonised EPR fee modulation criteria, ensuring consistency with the ecodesign requirements for textiles adopted pursuant ESPR and avoiding distortion of the internal market. While we recognise the intended objective of the bill, we have serious concerns its provisions will have side effects, thus affecting European companies and not capturing B2C imports from non-EU online platforms. This approach contradicts the principles of Better Regulation and could unintentionally disadvantage businesses that adhere to EU regulations. We also see risks of Articles 3 and 8 of the French proposal E-commerce Directive, Unfair Commercial Practices Directive, and Customs Union Code.

Lastly, EuroCommerce together with the European Branded Clothing Association (EBCA) have commissioned a legal analysis from Osborne Clarke, which further supports our concerns regarding the potential breaches of EU law posed by this French bill (*see separate document Annex*).

EuroCommerce emphasises that retailers and wholesalers have been committed to the European Commission's Textiles Strategy, particularly committed to developing more sustainable products throughout their entire life cycle in alignment with the Ecodesign for Sustainable Products Regulation and fostering competitiveness of the textile ecosystem. We believe the most effective and efficient

way to develop and promote more sustainable sector is at EU level. This will improve consumer trusts and legal certainty for businesses across the EU. National initiatives should not undermine European solutions and harmonisation, and must be implemented ensuring they comply with European law.

1. Freedom of movement of goods – Article 34 of the Treaty on the Functioning of the European Union

The French bill infringes the freedom of movement of goods, imposing disproportionate fines that amount to a non-tariff barrier to trade.

The draft law introduces a mechanism for modulating extended producer responsibility (EPR) fees in France for textile products. It is based on the criterion on "coefficient of sustainability" of the French national methodology for calculating the environmental impact of textiles (ecoscore).

Although the measure applies to national and imported products, it constitutes a measure having equivalent effect to a quantitative restriction within the meaning of Article 34 of the TFEU. It conditions market access to conformity with a "coefficient of sustainability" as defined by a national methodology that is not harmonised at EU level. Moreover, it imposes additional compliance burdens—particularly on textile producers established in other Member States—who would be required to make the necessary adjustments to meet French-specific criteria. Therefore, it creates a disincentive to market textile products in France that do not conform to the national "coefficient of sustainability", thereby restricting the free movement of goods.

According to settled case law of the Court of Justice of the European Union, including C-120/78 (Cassis de Dijon) and C-110/05 (Commission v Italy – trailers), national rules which hinder intra-EU trade—even indirectly or potentially—are prohibited unless they pursue a legitimate objective and comply with the principle of proportionality.

In this case, the French proposal introduces a national environmental performance scheme that risks becoming de facto mandatory through financial incentives and penalties linked to EPR fees. As such, it imposes a market access condition based on non-harmonised national criteria, contrary to the mutual recognition principle underpinning Article 34 TFEU.

2. Freedom of establishment – Article 49 of the Treaty on the Functioning of the European Union

We believe that the proposed rules may infringe the freedom of establishment, because the new rules will make it less attractive for new players to establish and for established retailers to operate in France.

For businesses that are already established in the EU and sell across Member States, the introduction of a French modulation fees based on one of the criteria of the French ecoscore could create unnecessary burdens and uncertainty – given the heavy and disproportionate fees (10 EUR by 2030 per product of up to 50% of the sales price), as well as the lack of applicable scale or product/customer segment differentiation proposed. Companies would have to adapt their product labelling or marketing strategies to comply with France's requirements. This could act as a deterrent to cross-border trade and investment, as businesses might not want to take on additional costs and complexity of adapting to local French requirements.

3. Legal uncertainty with current EU legislation or ongoing EU legislative initiatives

We call on the European Commission to ensure that voluntary and mandatory national rules are aligned with existing EU law and do not undermine future harmonisation. In particular the following below.

Waste Framework Directive (WFD) and Extended Producer Responsibility (EPR) Schemes. Pursuant the revised WFD[1], the Commission will adopt implementing acts laying down harmonised modulation criteria of the extended producer responsibility fees, to avoid distortion of the internal market and ensure consistency with the ecodesign requirements for textiles adopted pursuant to Regulation (EU) 2024/1781. The French proposal introduces EPR fee modulation criteria that potentially pre-empt upcoming harmonised criteria under EU law. This undermines harmonisation and simplification efforts by the Commission as outlined in its Single Market Strategy, leading to legal uncertainty for businesses operating across multiple Member States.

Ecoscore will be attached to French EPR ecomodulation, through the link to its of "coefficient of sustainability" criterion, de facto becoming mandatory and going against its intended voluntary nature. In its response to France's notification of the draft decree and draft order concerning textile environmental labelling[2], the European Commission approved the scheme on condition that its application is strictly voluntary. The coefficient of sustainability provided for in the bill is defined in relation to criteria developed in the French methodology for calculating the environmental cost of textile products. As this environmental score is first meant to be voluntary, it cannot be used as the basis for a financial penalty. The introduction of mandatory ecoscore risks further complicating compliance with existing and future EU waste management regulations.

The French proposal also appears to omit key concepts outlined in Article 22 of the revised WFD, which emphasises that EPR fee modulation should be based on physical durability and other product characteristics. It does not support criteria based on extrinsic or context-dependent durability measures, which are not included in the Directive and nor yet harmonised at EU level.

Moreover, the excessive nature of the fees (malus penalties) is not proportionate to the costs required for end-of-life management for textile products under the scope of EPR in France, a core principle to uphold too according to Article 8a of the WFD[3].

Overall, the French bill's approach risks complicating compliance with forthcoming EU waste legislation. Industrial and commercial practices relating to product durability and sustainability are not yet harmonised at either EU or national level. The recitals of the revised Waste Framework Directive merely outline non-binding options, most of which—aside from repair—relate to intrinsic product durability.

Ecodesign for Sustainable Products Regulation (ESPR) and delegated act on textiles. The Regulation empowers the Commission to adopt delegated acts setting out ecodesign requirements specifically for textiles, which may include aspects such as product durability, content of recycled material, or information on the presence of hazardous substances.

[1] See Recital 25 and Article 22(7) of the revised Waste Framework Directive.
[2] See Commission Comments to Notifications 2025/86/FR and 2025/87/FR, 8 May 2025.
[3] Compared to France's Producer Responsibility Organisation (Re_Fashion) standard scale, the malus penalties will represent 580 times the cost of end-of-life management costs.

If the French bill introduces EPR fees differentiation based on criteria that overlap with or contradict those being developed under the ESPR, this creates a double regulatory layer – French producers might face national requirements inconsistent with harmonised EU standards.

Such an approach risks violating Article 3 of the ESPR, which prohibits Member States from introducing unilateral national measures that restrict market access on the grounds of ecodesign requirements. The "sustainability coefficient" proposed in the French bill is not established as an EU-recognised ecodesign criteria and is instead based on national price- and volume-based calculations, rather than harmonised environmental performance metrics.

This fragmentation will create legal uncertainty and uniformity of the internal market; and it will preclude full effect of the ESPR objectives by undermining the Commission's role in setting uniform standards.

Single Market Strategy. The Commission's Single Market Strategy prioritises reducing fragmentation, promoting harmonised environmental policies, enhancing the free movement of goods and cross-border trade and facilitating SME access to all Member State markets.

The French proposal risks undermining these objectives by introducing national, product-specific measures—such as differentiated EPR fees—that amount to technical barriers to trade. These measures may fragment the internal market, create compliance burdens for cross-border operators, and discourage market participation, particularly for SMEs. By acting unilaterally in an area subject to EU harmonisation efforts, the proposal conflicts with the overarching aim of ensuring a coherent and predictable regulatory environment across the Union.

The French bill undermines the effectiveness of EU law and creates technical barriers to free trade between Member States creating legal uncertainty for businesses and distorting the single market. It thereby contravenes the objectives of the Commission's Single Market Strategy.

E-commerce Directive, Unfair Commercial Practices Directive. We believe the advertising ban provided for in Article 3 of the bill constitutes a disproportionate restriction on the freedoms guaranteed by European Union law. In particular, according to Article 3 §2 of Directive 2000/31/EC (E-commerce Directive), Member States may not restrict the freedom to provide information society services (including advertising) from another Member State. Derogations are possible but with strict conditions as defined in Article 3 §4 (public policy, protection of public health, public security, protection of consumers) which are not fulfilled in the case of the French bill.

Furthermore, Directive 2005/29/EC (Unfair Commercial Practices Directive) sets out an exhaustive list of commercial practices that can be prohibited in all circumstances. This list, known as the "blacklist", has been revised many times since then. The latest revision, namely the proposal for a Directive amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition, aims to integrate environmental and social characteristics and circularity aspects (such as sustainability, reparability, and recyclability) in unfair commercial practices. The issues addressed by the French bill are therefore already covered at EU level. Finally, the European "blacklist" is fully harmonised, and Member States cannot add to it. This national measure is therefore illegal.

Customs Union Code. The introduction of a national taxation of small parcels from third countries, as provided for in Article 8 of the bill, is not legally possible and contradicts rules of the Union Customs Code.

Furthermore, a similar draft measure is currently being developed at the European level, a project initiated and supported by France. This work must keep going, as only EU law can provide a secure legal framework and enable action to be taken at the relevant level of the European Union.

For these reasons, the rapporteur in the Senate and the government both invited the authors of the amendment to withdraw their proposal and, failing that, issued an unfavourable opinion. Amendment No. 113 rectified quater was therefore adopted in the Senate against the opinion of the rapporteur and that of the government.

The Commission cannot ignore either the rule of law or the facts mentioned above and must call for the withdrawal of Article 8 while making every effort to ensure that the draft measure under discussion at EU level is adopted quickly.

We are at your disposal for further information.

EuroCommerce *is the principal European organisation representing the retail and wholesale sector. It embraces national associations in 28 countries and 5 million companies, including leading global players and many small businesses. Over a billion times a day, retailers and wholesalers distribute goods and provide an essential service to millions of business and individual customers. The sector generates 1 in 7 jobs, offering a varied career to 26 million Europeans, many of them young people. It also supports millions of further jobs throughout the supply chain, from small local suppliers to international businesses. EuroCommerce is the recognised European social partner for the retail and wholesale sector. For more information, please visit our website.*

Annex

Submission of the European Branded Clothing Association (EBCA) and EuroCommerce on the Bill aimed at reducing the environmental impact of the textile industry
Notification No. 2025/0336/FR

This submission demonstrates that Article 2, paragraphs 11 to 20, of the proposed legislation aimed at reducing the environmental impact of the textile industry (hereinafter to as the **"Bill"**) is contrary to European Union law.

Executive summary

The Bill constitutes a quantitative and discriminatory barrier to entry into the French market, obstructing the free movement of goods and violating Directive 2008/98/EC on Waste by diverting the Extended Producer Responsibility (hereinafter to as the "EPR") financial contribution mechanism from its intended function (I), and because it endangers the environmental ambitions set by the EU and related harmonisation work (II).

I. The Bill constitutes a barrier to entry into the French market

The Bill constitutes a quantitative and discriminatory barrier to entry into the French market, violating both the principle of free movement of goods and Directive 2008/98/EC, which mandates Member States to set cost-effective financial contribution.

1.1 The Bill violates the principle of free movement of goods

Articles 34 and 35 of the Treaty on the Functioning of the European Union (TFEU) prohibit quantitative restrictions on imports and exports. Moreover, measures having an equivalent effect are also prohibited. The jurisprudence of the Court of Justice of the European Union (CJEU) specifies that these measures are those *"capable of hindering, directly or indirectly, actually or potentially, access to the market of a Member State of products originating in other Member States, even if it has neither the object nor the effect of treating goods coming from other Member States less favourably" (judgment of 21 December 2023, CDIL, C-96/22, paragraph 33).*

- *Analysis of Proposed Measures:*

The French Bill establishes specific requirements for EPR, setting a minimum for penalties ranging from **€5** in 2025 to **€10** in 2030 per product. This increases the EPR financial contribution amount by **+6,500%** to **+57,700%** for the targeted producers, according to the thresholds decided by the regulatory authority.

- *Impact on the Free Movement of Goods:*

Hindrance to Market Access:

The EPR requirements and penalties imposed by the Bill create additional obstacles for European producers, increasing production costs and causing distortions in production systems. This hinders the free movement of goods, particularly entry-level and mid-range products, regardless of their sustainability attributes.

As an example, very recently, the Commission brought an action before the Court on 17 July 2025 against France concerning its labelling requirements for products (Triman logo), as the national legislation obliges operators to adapt their products solely to the French market.

Barriers to Entry:

The substantial amounts of the penalties constitute barriers to entry into the French market, amounting to quantitative restrictions. This contradicts the established case law of the CJEU interpreting Article 36 of the TFEU, which stipulates that measures adopted by a Member State must not restrict intra-community trade more than necessary (judgment of 19 October 2016, Deutsche Parkinson Vereinigung eV, C-148/15, paragraph 34-36).

The French Bill, by imposing specific EPR requirements and disproportionate penalties, infringes upon the free movement of goods within the European Union. It obliges operators to adapt their products solely to the French market, thereby creating additional obstacles and distortions in production systems. There are more appropriate and less restrictive options available to achieve the intended environmental performance objectives.

Consequently, the Bill is contrary to Articles 34, 35, and 36 of the TFEU. We urge you to reconsider these measures to ensure compliance with the principles of free movement of goods and intra-community trade.

1.2 The Bill violates Waste Framework Directive 2008/98/EC

Firstly, Article 8, §3 of the Waste Framework Directive stipulates that Member States must respect:

> *"the need to ensure the proper functioning of the internal market"*

However, in this instance, as developed above, the amount of the financial contribution undermines the proper functioning of the internal market and is contrary to Union law.

Secondly, the Bills alters the purpose of the financial contribution, changing it from a cost-covering mechanism to a sanction mechanism.

Article 8a, §4, b) and c) of the Directive mandates that Member States ensure that the financial contribution paid by producers:

> *"do not exceed the costs that are necessary to provide waste management services in a cost-efficient way […]"*

This provision is also included in Article 22. A, §6 of the current draft revision of this Framework Directive.

Hence, the sole purpose of the financial contribution is to finance the services provided by EPR organisations and is not intended as a sanction mechanism.

However and here again, by increasing the financial contribution amount of a range from **+6,500%** to **+57,700%**, the mechanism will be entirely disconnected from the costs of collection, information, and communication of EPR organisations that it is intended to cover in the 2018 Waste Framework Directive and reiterated in the draft revision.

Thus, both by undermining the internal market and by diverting the mechanism of the financial contribution, the Bill is contrary to the Waste Framework Directive.

II. The Bill disregards the objective of improving the environmental impact of the textile and apparel sector

The French requirements, as formulated in the proposed Bill, contradict the objective of harmonisation and complicate the adoption of forthcoming delegated acts.

2.1 The Bill opposes the fundamental European objective of harmonisation

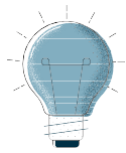
The harmonisation of legislation, based on Articles 114 to 118 of the TFEU, contributes to the establishment and proper functioning of the internal market in which the free movement of goods is guaranteed.

This harmonisation is essential to eliminate distortions arising from disparities between national provisions that distort competition conditions in the internal market.

However, due to the increase in costs and the distortions in production systems that will ensue, the Bill risks creating a fragmentation of the single market that is incompatible with the objective of harmonisation. This fragmentation would be detrimental not only to European producers but also to French consumers, who would face a reduced selection of products and potentially higher prices.

2.2 The Bill opposes the forthcoming adoption of legal instruments

The Bill jeopardises the current environmental ambitions set by the EU and related harmonisation work. Firstly, efforts aimed at harmonising EPR regimes are underway as part of the project to revise the Waste Framework Directive. The project aims to entrust the European Commission with the task of adopting implementing acts that would establish the criteria to modulate the financial contribution based on the Ecodesign for Sustainable Products Regulation (ESPR) methodology (Art. 22. C, §4).



The ultimate objective is to obtain harmonised rules for the financial contribution modulation to ensure the alignment of the financial contribution modulation criteria with product requirements (Art. 22. C, §4). Secondly, harmonisation is also underway concerning eco-design rules. In this regard, Article 4 of Regulation (EU) 2024/1781 (ESPR) also confers on the European Commission the power to adopt delegated acts to supplement this Regulation by setting eco-design requirements. It is also entrusted with the power to develop methodologies for the setting of eco-design requirements (Art. 5, §3).

Furthermore, the Bill also risks contradicting Article 3 of this Regulation (EU) which states that: *"Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products that comply with the performance requirements set out in delegated acts adopted pursuant to Article 4 for reasons of non-compliance with national performance requirements relating to product parameters referred to in Annex I covered by performance requirements included in such delegated acts."*

By limiting the possibility for certain products to enter its market, France could infringe upon the free movement of these goods, even though they would comply with forthcoming European regulations. This would not only create an unjustified trade barrier but also a distortion of competition detrimental to the entire internal market.

Thus, while only EU-wide sustainability criteria can enhance the environmental performance of products, the Bill undermines the Commission's work to define Delegated Acts to address the environmental impacts of products placed on the Union's market and hence contradicts Article 114 of the TFEU.

Therefore, it is imperative to reconsider these measures to ensure compliance with the principles of free movement of goods and intra-community trade, while respecting the harmonised environmental objectives of the European Union.