

Finnish Textile & Fashion's feedback: Derogations from the prohibition on the destruction of unsold consumer products

Finnish Textile & Fashion (STJM) appreciates the opportunity to comment on the draft delegated act establishing derogations from the prohibition of destruction of unsold consumer products.

General remarks

- **Recycling should not be equated with destruction:** In line with the waste hierarchy, recycling is the preferred recovery option after re-use and before disposal. We therefore ask for clarification that recycling is an accepted and guided pathway for products that do not meet the conditions for re-use.
- **Definition of “unsold consumer products”:** The ESPR defines “unsold consumer products” and limits the rules to products placed on the EU market, yet the practical scope remains unclear, particularly in storage and return situations. Insufficient guidance may lead to unintended and disproportionate administrative burdens. We ask the Commission to clarify, in detail, the delimitation and the situations covered.
- **Workwear, professional and protective clothing:** Workwear, products intended for professional use and protective clothing should be clearly excluded from the scope or be granted an explicit derogation. These products are subject to specific functional, safety and hygiene requirements that restrict re-use. The delimitation and corresponding CN codes must be unambiguous for operators, and this should be clearly set out both in the act and in the Commission's guidance.
- **Non-EU manufacturing countries:** The delegated act should consider the role of manufacturing countries outside the EU and prevent practices whereby unsold products are moved to third countries for destruction or storage. Verification and enforcement mechanisms and sanctions must also be defined for cross-border cases. The Commission should develop implementation guidance together with manufacturing countries and ensure transparency and traceability for cross-border transfers.

Article 2 – Derogations from the prohibition on the destruction of unsold consumer products

STJM considers it essential that derogations are narrowly defined and based on genuine necessity. Destruction must not become routine practice. The rules must be clear and leave no room for ambiguities that would undermine effectiveness or complicate business operations.

Remarks

- **Intentional damage:** The delegated act should prevent practices where products are intentionally damaged (e.g. cutting, soiling) solely to justify destruction under derogation. Such actions are contrary to the purpose of the rules and undermine their objective. We propose provisions to prevent this and to ensure the framework genuinely promotes re-use and product longevity.
- **Contract-based restrictions** (*derogation d*): The current wording leaves unclear at what stage and on what basis contractual or licensing terms may be relied upon for a derogation. It must be ensured that such terms cannot be drafted for the sole purpose of enabling destruction. The act should specify that the contract or licence must be pre-agreed and genuinely linked to the protection of intellectual property rights.
- **Definition of repair costs** (*derogations f and g*): Clarification is needed on what constitutes technical infeasibility of repair or disproportionate cost. The act should set out to what extent a company's own assessment can be accepted as justification, and to which cost level the assessment should be related (cost, wholesale or retail price). It should also be assessed whether cost-effectiveness criteria can be applied proportionately depending on company size or product value.

Emilia Gädde

+358 41 545 8142

emilia.gadde@stjm.fi

11/8/2025

SUOMEN
TEKSTIILI
& MUOTI

- **Applicable and well-established company policies** (*derogation h*): The wording refers to “*applicable and well-established voluntary company policies or third-party standards*”, but the terminology is ambiguous. Implementation should clarify what qualifies as sufficiently established and applicable practice, e.g. minimum period of application and to what extent company-specific internal practices may justify applying point (h).
- **Role of social enterprises** (*derogation i*): Application of this derogation may give social enterprises de facto influence over which products companies may lawfully destroy. Their role should be defined in a balanced manner. It should also be recognised that there is not always realistic demand within social-enterprise networks for all technically usable products.
- **Product-category-specific assessment**: The delegated act should allow for assessment by product category to reflect differing technical characteristics and reparability. For example, woven garments are often easier to repair and longer last than thin knit products. Category-specific assessment would support targeted and proportionate application of the derogations.

Article 3 – Verification

Verification obligations should enable effective oversight and sufficient verifiability while remaining reasonable and manageable for companies. Administrative burdens should not be increased unnecessarily.

Remarks

- **Manageability of documentation requirements**: A ten-year retention period may be excessively burdensome. It should be assessed whether a shorter period, e.g. five years, would adequately meet supervisory and legal protection needs. This would improve proportionality and practical feasibility.
- **Verification**: STJM supports risk-based supervision whereby inspections are targeted at genuine risks of abuse and regulatory circumvention. The act should clearly set out which authority verifies information provided by companies, the legal basis and procedures for doing so, how responsibilities are allocated between authorities, and what sanctions apply in case of non-compliance. In particular, practices regarding disclosure obligations and derogations must be uniform to ensure consistent application and a level playing field in the internal market.
- **Interpretation of social norms and expert opinions**: The text should clarify the extent to which a company’s own technical assessment suffices and when an external expert opinion is required, who may issue such an opinion, and how the situation is to be documented. The reference to “commonly recognised social norms and values” also requires clarification.

Regular review (review clause)

We propose that the delegated act includes a regular review clause to evaluate implementation, the administrative burden on companies, and the effectiveness of the legislation in achieving its objectives. As there is currently no clear metric for assessing impact, such a metric should be defined to enable transparent, verifiable and results-oriented monitoring.

Need for clear rules and guidance

We propose clarifying the wording of the draft delegated act and that the Commission issue complementary implementation guidance. The guidance should set out the practical requirements and interpretation for applying the derogations to ensure uniform and proportionate implementation. We also request clarification on how supervision will be carried out in practice and what obligations it imposes on the various actors.

Emilia Gädde

+358 41 545 8142

emilia.gadda@stjm.fi

11/8/2025

SUOMEN
TEKSTIILI
& MUOTI