

Feedback on Sustainable products – exemptions to prohibiting the destruction of unsold apparel and footwear

PUBLIC CONSULTATION

RREUSE welcomes the opportunity to provide feedback on the draft delegated act on derogations from the prohibition of destruction of unsold consumer products, within the framework of the Ecodesign for Sustainable Products Regulation (EU) 2024/1781 (ESPR).

Banning the destruction of unsold goods is a crucial step to address overproduction and wasteful business practices. RREUSE strongly supports the European Commission's initiative, as well as the particular attention given to textile and footwear products for the proposed ban. RREUSE also advocates for an extension of the ban to all consumer goods, notably electrical and electronic equipment.

Overproduction depletes resources, generates unnecessary waste, and is at the heart of the ongoing crisis in the used and waste textile sector, affecting social enterprises and other reuse operators across Europe¹. A tight ban on the destruction of unsold items can be a way to address this practice. However, it must also be accompanied by measures that seek to eliminate unsustainable products, binding quantitative targets for resource use and waste prevention, and economic and fiscal measures to prioritise circular business models².

The draft delegated act on exemptions to prohibiting the destruction of unsold apparel and footwear further clarifies possible derogations from the destruction ban, as set out in Article 25 of the ESPR. RREUSE urges the Commission to tighten the proposed exemptions to prevent loopholes that could enable environmentally harmful and wasteful business practices, while placing additional strain on the used and waste textile sector. Legislation should provide clear disincentives for unsustainable production patterns. Derogations to the ban should always be technically justified and strictly defined, limited to cases where (preparing for) reuse is truly impossible.

Article 2(a) and 3(a) on dangerous products

RREUSE appreciates the introduction of a reference to the General Product Safety Regulation (EU) 2023/988 as a step towards a more precise definition of dangerous products. However, this derogation must only apply to those cases where it is technically unfeasible to restore the product's safety, e.g. through repair and remanufacturing. Destruction should not be allowed if corrective actions to remedy the products' faults are possible. Economic operators should therefore be required to assess whether other corrective actions are technically feasible before resorting to destruction. Both Article 2(a) and Article 3(a) should be amended accordingly.

¹ RREUSE (2025) Policy Paper: Addressing the second-hand textiles crisis (Available [here](#)).

² RREUSE (2025) Advancing sustainable resource management with the Circular Economy Act (Available [here](#)).

Article 2(b) and 3(b) on unfitness for purpose due to non-compliance with Union or national law

Products that are deemed unfit for their original purpose for reasons other than being dangerous should only be destroyed after all technically feasible options for repair, repurposing, or remanufacturing have been exhausted. Economic operators should therefore be required to assess whether such corrective actions are technically feasible before resorting to destruction. This approach supports the waste hierarchy and circular economy goals. Article 2(b) and 3(b) should be amended accordingly.

Article 2(c) and 3(c) on infringement on intellectual property rights

For products found to infringe intellectual property rights, other corrective actions should be explored and exhausted before destruction, e.g. remanufacturing or repurposing. Economic operators should therefore be required to assess whether such corrective actions are technically feasible before resorting to destruction, in line with the waste hierarchy. Article 2(c) and 3(c) should be amended accordingly.

Article 2(d) and 3(d) on expired licensing or contractual agreements

Expired licensing contracts or agreements are not appropriate grounds for destroying perfectly usable products. Whereas other proposed derogations, e.g. on dangerous goods, can be justified on the grounds of consumer safety, this exemption only benefits those economic operators making use of limited licensing agreements. This is especially the case for luxury fashion brands and companies which enter into licensing agreements with retailers or distributors to sell a collection or limited-edition product during a defined sales season. Allowing the destruction of these products when they go unsold is against the principles of the ESPR, which is why RREUSE opposes this derogation and advocates for its removal.

Products subject to licensing agreements are neither counterfeit, dangerous, nor produced in infringement of intellectual property rights. Destroying products in excellent condition must not be allowed simply because the licensing contract has expired. If this exemption is kept, applicable licensing agreements should be clearly defined to close potential loopholes. Economic operators should also be explicitly required to seek alternative solutions, such as delabelling or remanufacturing. Licensing contracts should foresee clauses to prioritise reuse or remanufacturing over destruction, including take-back obligations for economic operators. Moreover, the licensor and licensee should be encouraged to agree on the volumes of products to manufacture and be held accountable for them. This can only happen if the ban is kept tight, and only exceptionally allows for destruction. Licensing contracts should have to adapt to the ESPR rather than the contrary, if the objectives of the latter are to be effectively achieved.

Article 2(e) and 3(e) on labels, logos or recognisable product design characteristics

This derogation risks providing a perverse incentive to manufacturers to design products with labels, logos and characteristics that are increasingly harder to remove or render inaccessible. This is particularly the case for luxury fashion brands, whose products can already be difficult to reuse due to high costs of removing logos, labels and product design characteristics. It also allows for the destruction of perfectly usable apparel and footwear. As such, RREUSE opposes this derogation and urges the Commission to limit Article 2(e) and 3(e) to cases of demonstrated conflict with commonly recognised social norms and values. Companies should be responsible for finding alternative ways to manage their unsold branded apparel and footwear, with no excuse for destruction. Moreover, manufacturers should either make their labels, logos and product design characteristics more accessible or be required to cover the costs of removing these components. These important design aspects must also be considered when developing ecodesign requirements for textile apparel and footwear, to enable the easy disassembly and removal of logos and effectively prevent this kind of resource waste.

Article 2(f) and 3(f) on damage, deterioration or contamination from consumers or from handling

While acknowledging the reasons for including a cost-effectiveness criterion in this proposed exemption, RREUSE expresses concern with the way this criterion is currently undefined. A narrow interpretation, focused on short-term costs and biased towards low-margin business models, would potentially benefit fast fashion companies, whose practices are part of the problem the ESPR should prevent. Rather than an indeterminate cost-effectiveness criterion open to interpretation, there should be an absolute cost basis. It should encompass environmental, social and economic costs, including raw material extraction, manufacturing and disposal of a new comparable product. Only if repair exceeds these costs combined, then destruction could be allowed.

Article 2(g) and 3(f) on unfitness for purpose due to design or manufacturing defects

This derogation appropriately limits the destruction of unsold products by requiring economic operators to assess whether repair, refurbishment or remanufacturing is technically feasible to remedy defects. Moreover, RREUSE supports the absence of cost-effectiveness considerations from this exemption. However, a more precise definition of defects making a product unfit for purpose is needed. It would help identify cases of defective products which can still at least partly fulfil their purpose and should therefore still be marketed as such, e.g. at a reduced price. Lastly, RREUSE suggests separating the verification procedure for this derogation from the one related to damage, deterioration or contamination under Article 3(f). It should be clear that cost-effectiveness considerations do not apply to this derogation.

Article 2(h) and 3(g) on non-compliance with chemical safety policies or standards

This derogation is justified because it encourages companies to go beyond minimum legal requirements in terms of chemical safety. However, RREUSE sees a risk that it may incentivise companies to adopt overly restrictive voluntary standards to justify the destruction of unsold

products. If this exemption is kept unchanged, appropriate safeguards are needed for verification under Article 3(g), e.g. a proven track record of the economic operator of implementing the relevant voluntary company policy, procedure or third-party standard. The verification requirement should also be linked to the forthcoming information requirements, which will be set under the ESPR. They will offer the opportunity to mandate producers to report on all substances used in production. This will allow them to be phased out by design. As such, it will reduce the potential need to destroy finished consumer products which have been identified as containing substances of concern.

Article 2(i) and 3(h) on non-acceptance of donations from social enterprises

As continuously advocated, RREUSE strongly opposes the inclusion of this derogation and firmly questions its appropriateness. Textiles and footwear are specifically called out in the ESPR recitals for their unnecessarily high production volumes and their significant environmental impacts. Moreover, the used and waste textile sector is already overburdened by current production and waste generation volumes, making it hard to manage additional unsold stocks without increased financial support³. The inability to donate unsold products, for instance, due to non-acceptance, must not be considered a valid reason for destruction. In addition, it should not be used to exempt economic operators from finding alternative solutions for their products. Prohibiting the destruction of unsold and returned goods must stimulate operators to reconsider and decrease the quantities they place on the market in the first place. On the other hand, this exemption could institutionalise overproduction and provide a free pass for destruction to economic operators. By removing this derogation, the Commission will not ban the possibility for companies to donate unsold clothing and footwear to social economy entities – that will still be the case. However, companies will finally be held accountable for the number of products they sell and be made responsible for managing their unsold stock.

The exemption under Article 2(i) cannot be considered an appropriate reason for destruction for several reasons:

- Allowing the destruction of unsold goods after offering them for donation to two suitable social economy entities is insufficient and risks becoming a formality for companies to go through before they are allowed to uphold wasteful practices.
- The lack of definition of “suitable” social economy entities risks opening the door to potential loopholes when economic operators are looking for and selecting recipients. The term “suitable” should therefore be removed.
- Offering unsold products on the economic operator’s website for a minimum period of eight weeks before destruction is highly problematic. It would require social economy entities to actively supervise the economic operators’ websites for donations, increasing the administrative burden put on social enterprises.
- Lastly, the reference to extended producer responsibility (EPR) schemes prioritising reuse is also a potential loophole. While some EPR schemes may prioritise reuse over other waste treatment operations, there is no guarantee that this will be the case for all the unsold product covered by EPR. Economic operators would be offered the opportunity to hand over their

³ RREUSE (2025) Urgent action needed to address the EU's textile crisis (Available [here](#)).

unsold products to Producer Responsibility Organisations (PRO) that are not bound by the same rules on unsold goods as economic operators are.

Article 2(j) and 3(i) on accepted donations from social enterprises for which no recipient is found for sale, donation or transfer

The draft delegated act introduces a new derogation for social economy entities that, after having accepted unsold goods through a donation, do not find a recipient for sale, donation or other forms of transfer for those products. RREUSE welcomes the Commission's intention to give flexibility to social enterprises that manage used and waste textiles. However, this exemption risks opening up a dangerous loophole for economic operators to shift the burden of their unsold goods onto social enterprises.

RREUSE opposes the introduction of this derogation for two reasons:

- This derogation would transfer the financial responsibility of the destruction from the economic operator to the social enterprises. Whenever they would make use of the proposed derogation, social enterprises would effectively have to bear the costs of destruction. This goes directly against the polluter-pays principle, as social economy actors are not the ones responsible for overproduction. To truly incentivise meaningful change in production practices, economic operators should bear the full costs of managing their unsold goods, including the costs of the destruction when this derogation is used.
- This derogation would further legitimise destruction and encourage economic operators to use Article 2(i) as a way to redirect their unsold volumes instead of managing them. Donations would essentially become a way to divert responsibility away from economic operators.

Article 2(k) and 3(j) on products prepared for reuse by a waste treatment operator for which no recipient is found for sale, donation or transfer

Similarly to Article 2(j), waste treatment operators must not be held responsible for managing volumes of unsold goods they did not produce, including potential costs for their destruction. RREUSE therefore recommends the removal of this derogation. At the very least, producers should be required to cover the costs of the destruction of their unsold goods when this derogation is used.

For more information, please contact:

Simone Cimadomo, Project and Policy Officer, RREUSE

simone.cimadomo@rreuse.org



**Co-funded by
the European Union**

Co-funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Commission. Neither the European Union nor the European Commission can be held responsible for them.