

APPLiA Response to TRIS Notification on French Decree on the *sustainability* index of electrical & electronic equipment

APPLiA, Home Appliance Europe would like to respond to the TRIS Notification 2023/0477/FR and 2023/0480/FR with regard to the draft Decree relating to the durability index for electrical and electronic equipment in France.

APPLiA members always aim to provide the best quality of their products while ensuring their durability for promoting circular appliances and would support initiatives that contribute to a successful circular economy that brings together all societal actors.

Through this contribution, we would like to raise the Commission's intention on some issues and impacts at European level.

Disclaimer: The French decree refers to the term "L'indice de durabilité", which is accurately translated as "durability index" in English. The term "sustainability" used in the TRIS notification is a misinterpretation, as it suggests a wider concept beyond the index's intended scope. Henceforth, this position paper will employ the accurate term, "durability index".

1. Decree of the Council of State on the durability index of electrical and electronic equipment

1.1 General comments

Ensuring the EU Single Market and Free Movements of Goods

Our key concern is that this is once again a national measure that is undeniably impacting our sector at European level, given the incompatibility with the basic principles of the functioning of the European Union. We believe that the European Single Market is a foremost principle to be preserved, as well as the free movement of goods and principle of proportionality. European economic growth and competitiveness depends on a free,



balanced, open and fair-trading system, both within the European Single Market and for imports/exports with third countries. We therefore support an EU circular economy strategy that focuses on keeping markets open and cross-border trade flowing.

We fear that these critical principles will be put at risk by the individual actions of one Member State. National legislation initiatives should not impede the free circulation of goods in the internal market.

To secure the functioning of the Single Market, it will be crucial to ensure a harmonised approach to the various circular economy measures throughout the EU. When regulation is relevant and needed, it must be tackled at European level and subject to thorough impact assessment. It should be recalled that the Commission services working on product measures under Ecodesign and Energy Labelling legislation are already considering the introduction of a durability index at EU level.

As protectors of the European laws, we would urge the Commission to request the French representatives to put on hold their initiative and rather work with other Member States and the European Commission to consider the index at EU level.

A reasonable time frame for entry into force

The entry into force of the provisions of the decree for the durability index of washing machines is foreseen for 12 months after the date of publication of the decree.

We would like to question the feasibility of implementing the Decree, still in preparation, in view of this expected timeframe. Indeed, according to specifications outlined in the national procedure as well as the ongoing notification to the European Commission, we have concern that no reasonable timeframe is in place for proper implementation of the provision. For all new product requirements, APPLiA continues to highlight that a sufficient lead-time should be granted between the publication of regulations and the application of new requirements. Industry needs to adapt their processes for implementing new or updated legal requirements, through complex supply chains.

More specifically with regard to the initial implementation of reliability tests, a minimum transition period of 30 months is necessary, considering the time necessary for reliability testing of one washing machine for the maximum number of cycles in combination with the numerous different models which must be tested before being placed on the French market.

Additionally, the timely implementation of the scoring system is intrinsically linked to the progression of European standardisation efforts. The CENELEC TC59X WG23 standardisation group is at the forefront of this venture, having crafted a draft for the durability standard specific to washing machines. As of now, this draft is yet to be validated as well as passed through the necessary channels for it to be recognized and published as an official standard. It is pivotal for such methodologies to reflect the on-ground reality to ensure their relevance and efficacy.



The French Decree has proposed this draft methodology as the basis to assess the lifespan of a product or other protocols, granted they can deliver equivalent results. For manufacturers, this presents a unique challenge. Their ability to calculate scores is held in abeyance until such a time when the methodology gains official publication.

The coexistence of numerous different indexes in the future

With the potential introduction of the European Commission's repairability index for vacuum cleaner energy labelling, consumers are likely to face confusion. This is because the criteria for the French and European repairability indexes, set to appear on the European Energy Label, will differ. Additionally, with France's plans to extend the durability index to products like dishwashers and vacuum cleaners, consumers will soon see the EU repairability index, the French repairability index, and the French durability index all displayed together on various products in the French market. We also see the same evolution in legislation in other Member States such as Belgium and considerations on a potential index also in Spain and Romania. Such overlapping and differing indexes can be misleading and can diminish the clarity consumers need when making informed choices about product sustainability.

1.2 Technical comments

Definitions

Placing on the Market, Distributor, and Model: Further clarification is needed for the terms "Placing on the Market," "Distributor," and "Model." Specifically, it is essential to address the scenario in which a distributor also functions as the manufacturer of products marketed under its own brand. In such cases, it should be explicitly stated that the responsibility for calculating the repairability index lies with the distributor-cum-manufacturer.

Model Definition: The definition of "Model" should incorporate the concept of an "Equivalent Model," akin to European legislation (REGULATION (EU) 2017/1369). An "Equivalent Model" refers to a product with identical technical characteristics relevant for labelling and the same product information sheet. However, it is placed on the market or put into service by the same supplier as another model with a different model identifier. Integrating this concept would allow for a reduction in the number of individual product models requiring tests, given the anticipated volume of products entering the French market post-2024. Without such a standardised approach, extensive testing durations and significant resource allocations are expected. Streamlining the testing process through an 'equivalent model' approach not only aligns with the index's sustainability objectives but also conserves resources and optimises testing capacities across Europe, thereby supporting free trade.



Information and Database

Redundant and Contradictory Communication: Manufacturers are currently obligated to provide information in an electronic format, free of charge, to whoever asks for it within 5 working days for each model of equipment placed on the market. This obligation appears to duplicate efforts, considering that this information is also supposed to be communicated through the government database. Eliminating this redundancy can streamline processes and reduce administrative burdens.

Database Details: The proposed text concerning the database lacks essential information, notably the Data Scheme and specific details regarding the information that must be included in the database. Providing clarity on these aspects is crucial to ensure the effective implementation of the regulatory framework.

Online Display of Durability Index

Clarity in Terminology: The reference to "allowing the equipment to be purchased" should be revised to "allowing the equipment to be added to the shopping basket (permettant la mise au panier)." This adjustment is necessary to eliminate potential confusion, as the "act of purchasing" typically occurs when bank details are validated, a step that takes place on a web page separate from the initial selection of products. Ensuring clarity in the terminology aligns with the user experience and understanding of the online shopping process.

2. Order regarding the criteria, sub-criteria and scoring system for calculating and displaying the durability index of household washing machines

2.1 Scope

The current text addresses the requirement for a household washing machine. Nevertheless, to eliminate any potential ambiguity regarding washer-dryers, which fall outside the scope of this index, we strongly advocate for the inclusion of the specific term 'top-loading and front-loading household washing machines' within the regulatory framework.

2.2 Family of criteria A – Repairability



The 7-day timeframe established for manufacturers to provide information on accessing the documentation poses significant challenges. The coordination process involving the receipt of access requests by a staff member, the subsequent transfer of these requests to the relevant department, which may not always be situated in France, and the duration required to respond to such requests can be notably protracted. These considerations underscore the need for a more realistic timeframe to ensure compliance. We would call for at least 15 working days.

Upon examining both Table 1.1 and Table 1.2, there are accompanying bullet points concerning information delivery and access procedures that are ambiguous. This vagueness not only increases the risk of misinterpretation but also presents operational hurdles. A key inconsistency identified is the contradiction between the requirements. On one hand, there is an implication that information can be directly provided, such as through a website, while on the other, it suggests the need for a request-based delivery. Furthermore, the stipulation to specify access within a 7 working-day frame seems impractical and lacks justification. It is crucial to review and provide clearer guidelines to avoid such discrepancies and ensure feasible timelines.

In reference to Table 1.1, which deals with the 'Technical manual for repair instructions', we are seeking more detailed guidance on its scope and content. Specifically, it is unclear if the manual pertains to the components listed in List 2 or those from List 1. Clarifying this distinction is essential for proper comprehension and implementation.

In reference to Criterion 3.4, the mention of a 'software reset' as highlighted in Footnote 3 presents a conceptual discrepancy. While we acknowledge the ability to deliver software, delivering a software reset, as phrased, seems out of context.

2.3 Family of criteria B – Reliability

Wear resistance: The reference standard for reliability testing contains an error that warrants attention. Specifically, in ANNEX 2, Family Criteria B, Sub-criterion 1.1 (Wear resistance), section a), the reliability testing protocol for washing machines is currently cited as follows: "...manufacturer's tests conforming to the standardised measurement method according to CEN EN50731...". It is important to note that EN 50731 is indeed a recognised standard, but it falls under the purview of CENELEC (European Committee for Electrotechnical Standardisation) and not CEN (European Committee for Standardisation).

Table discrepancy: An error has been identified in ANNEX II, specifically in section 1.a): The table in question currently indicates that the maximum achievable points are "6" if the number of cycles exceeds 3400. However, there appears to be a discrepancy between this table and the accompanying text, as well as the calculation provided beneath the table. It is clearly stated in the text and calculation that the maximum number of points should be "16." This inconsistency raises concerns about the accuracy and alignment of the scoring system.





Wear resistance - issuing an engine warranty: In the specified decree, boundary conditions related to the warranty are not explicitly outlined. Although the warranty is for free, questions remain with regard to the costs charged for shipment or repair. It should be clarified.

Maintenance: There appears to be a discrepancy between the requirements set forth in tables A and B. In table A, there are provisions that can be met if the design obviates the need for a specific maintenance step. However, table B evaluates the quality of the provided information, suggesting that detailed explanations and manuals are favoured. This poses a contradiction: why would extensive documentation be advantageous for a maintenance step deemed unnecessary by design? Guidance is needed on how to appropriately address such scenarios in table B.

Setting up a quality process: This criterion emphasises the establishment of a documented process within the organisation for ongoing improvement, aimed at enhancing the longevity of every product model introduced to the market. This process should be demonstrable upon request during official inspections. We seek clarity on the type of evidence required for this standard. While comprehensive details would be covered during an audit, a more streamlined verification method should be in place for routine market surveillance checks.

Final calculation: Clarification is sought regarding the linkage and weighting between the two sections, namely, "Family of criteria A – Repairability" and "Family of criteria B – Reliability." It is essential that a clear understanding is provided of how these components are interrelated, and guidance would be appreciated.

