FINNISH COMMERCE FEDERATION

11 November 2023

Finnish Commerce Federation's feedback on rationalisation in reporting obligations

General principles of rationalising reporting obligations

There are several measures the Commission, together with the other institutions, can take to rationalise reporting obligations both pro- and retroactively. Most importantly, legislative proposals should be accompanied by comprehensive impact assessments and follow the one in, one out principle in a very broad sense, meaning that new reporting and other obligations are introduced hand in hand with streamlining existing obligations to the extent that administrative burden doesn't increase for the companies targeted by the proposal. Because burden reduction could and should be approach in policy area agnostic sense, this would require a more cooperative approach between Directorates-General than is currently the case.

The periodic reviews of existing EU legislation should be updated to regularly have an assessment of the necessity end practical or technical execution of reporting obligations, including redundancies due to other pieces of legislation. In the same vein, the revision of existing rules should aim at cutting down the number of country-specific reporting obligations, i.e., by introducing common reporting models and practices and by reducing Member State options present in the current rules. Further, common EU-level guidance can be helpful for the businesses to follow the reporting requirements even if they are not reduced.

Further, digitalisation should be utilised to enable the use and, where possible, interconnection of administrative one-stop-shops for reporting (report only once-principle). Currently, new digital tools for reporting don't necessarily lead to the rationalisation of reporting obligations because the same information must still be presented or reported in a physical form. E.g., the digital product passport should be developed in the future step-by-step to cover all product-related reporting needs.

Regularly recurring reporting can create a lot of administrative burden for companies while being of very little benefit in situations, where the information tends to remain the same or doesn't lead to any reaction on the authorities' side. In such situations it should be considered if either the reporting cycles could be longer (e.g., moving from quarterly to annual reports) or new reports would only be provided, when there has been a significant change in the scope, object, or content of the reporting.

Specific suggestions: product and cybersecurity related information, and sustainability reporting

Reporting obligations have increased almost exponentially in companies' operations involving the handling of product or cyber security related information, and digital tools are not yet available or haven't brought the needed relief due to poor execution and interaction of existing solutions. We have recognised significant possibilities for simplification measures.

- Once the digital product passport is introduced, the rules for the use of CE marking in different product categories should be assessed from the perspective that some of the existing obligations may become redundant. Product information which must be presented

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to the customer (professional or consumer) should be rationalised in such a manner that physical copies are only available per request if at all.

- Although in force only since October 2023, the CBAM itself and the Declarant Portal have already proved to be extremely complicated to use, and even large companies have difficulties to find skilled employees to fulfil the obligations. Using the existing ISO standard for emission calculation and reporting instead of a completely new one would have made the process easier for at least part of the companies. We call for a review as soon as it is considered possible and ask that the representatives of the commerce and manufacturing industries are closely involved in improving the CBAM.
- Equally difficult is the situation with the reporting of plastic waste under the SUP Directive, because despite the legislation already being in force for a while, it is still not clear, which products are covered by the reporting obligations, and which are not. Measures to clarify the situation should be urgently considered and should not exclude the possibility of revising the Directive.
- Cybersecurity incident reporting obligations are embedded in several pieces of EU law (e.g., NIS Directives, GDPR). Currently, the companies are frustrated that the reports must be done also for minor incidents which still require extensive documentation but don't lead to any action from the authorities' side. The threshold should be higher so that only more severe incidents are reported (cf. the CRA, where such an outcome is likely).

Similarly, reporting obligations in chemicals legislation towards the consumers and supervisory authorities should be streamlined so that they are much easier to follow while still detailed enough to fulfil the needs of the supervisory authorities and ensuring the safety of consumers and other users.

- In the revision of the CLP regulation, the Commission proposes that a full set of label elements of hazardous chemicals should permanently fixed on the fuel pumps, but in its general approach, the Council has added the requirement to provide a physical copy of all the label elements to be attached on a portable receptacle whenever vehicle fuels are supplied at a pump. This obligation would be disproportionate and unreasonable.
- The information requirements for cosmetics products are broad, and because of the generally small size of retail packaging, hard to introduce in physical form. While warning signs and possibly some other essential information could be printed on the packaging, there should be no obstruction to provide the rest of the information digitally by using e.g., QR codes.
- The REACH regulation should be amended to allow the transfer of safety data sheets from one user to another using digital tools and registries such as KemiDigi service in Finland.
- Annexes I and II of the POP regulation require the businesses to report to the supervisory authorities all stocks exceeding 50 kilograms, and the threshold is not related to the amount of the POPs used but the products or substances where they are used. As a result, 50 kg of the compound itself falls under the same reporting obligation as 50 kg of frying pans, which include very small amounts of the compound in question. The rules should be rationalised to take into account aforementioned situations.
- When paint is sold online, the seller is required by the ECHA's guidelines to file an individual product report on each paint can, which is tinted following the customer's order.

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There is no similar requirement for pre-tinted paints nor for paints tinted and sold in brick-and-mortar stores. In our opinion the requirement is not in line with the CLP regulation.

The recently introduced legislation on sustainability reporting, namely the Corporate Sustainability Reporting Directive and the taxonomy rules, are already proving to be very burdensome to follow. The same applies to other There are two main reasons: either the topics the businesses need to report on can be insignificant or irrelevant due to the inflexibility of the rules, or the information needed for the reporting is not available in digital form, leading to significant costs in the collection and processing of the data.

- We welcome the Commission's decision to delay the adoption of sector-specific reporting standards, but also call for a thorough assessment of the administrative burden as part of the implementation report by 30 April 2029 and preferably earlier.

Specific suggestions: information obligations in consumer relations

In recent years, the Commission has given several extensive proposals concerning consumer protection, which then have been expanded in scope and in the number of obligations by the other EU institutions, all the while brushing aside the need to simplify the existing consumer *aquis* and reform it to reflect the new market realities and technical developments in retail. The next Commission should strongly consider setting a moratorium for new reporting obligations.

We have recognised several information obligations, which in our opinion are either ineffective, redundant, outdated, or all of the above. While none of them are particularly burdensome in isolation, the accumulation of obligations makes the situation difficult especially for SMEs.

Primarily, the Commission should consider a more comprehensive overhaul of the consumer rules, starting with an assessment of the structural updating needs, prerequisites, and implementation options of the legislation responding to the needs of omnichannel commerce. In the absence of a comprehensive reform, a quicker and easier option would be the simplification and alignment of information obligations across the consumer Directives, also considering other sector- or product specific legislation.

Some of the overly detailed information obligations incorporated in current consumer law and related internal market legislation we have recognised include the following:

Consumer Rights Directive (CRD)

- art 5(1)(e) – Repeating the trader's legal obligations or the consumer's rights in the contract should not be the task of the trader, because the consumers should be aware of their rights. This obligation increases the administrative burden unnecessarily and is further complicated by the changes introduced in Directive on Empowering Consumers in Green Transition.
- art 5(1)(g) – The requirement concerning the technical protection measures is redundant due to more detailed requirements stemming from other legislation (esp. CRA but also SGD and DCD).
- art 5(1)(h) – The consumer should be aware of the compatibility and interoperability requirements they expect from the product, and the trader should only provide this information to the consumer by request.

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- art 5(4) – Additional pre-contractual information requirements increase the administrative burden and form barriers to the Single Market, which is why the Member State option should be abolished.
- art 6(1)(c) – Unnecessarily detailed requirements for the means of communication in distance and off-premises contracts create administrative burden, and the trader should not be obliged to provide a telephone number if other communication channels are available (cf. article 21, which doesn't require the trader to provide a telephone, only that the consumer can't be charged more than the basic rate).
- art 6(1)(d) – With regard to point (c), it should suffice to provide the consumer with only one address, namely the one where the consumer can address their complaints.
- art 6(1)(ea) – There's no added value in specifying that the price was personalised on the basis of automated decision-making, because the use of personal information, profiling etc. are extensively legislated elsewhere (e.g., GDPR, forthcoming AI Act).
- art 6(1)(h), art 11(1)(a) and 11(3) and Annex I – The model withdrawal form should be considered obsolete, when the withdrawal function is incorporated into the directive, or the Directive should be amended to make the use of withdrawal form optional for distance contracts concluded by electronic means, instead of requiring the trader to provide several means for withdrawal. Further, the model instructions on withdrawal should be simplified and updated respectively.
- art 6(1)(i) – The trader should not be required to inform the consumer about the cost of returning the goods if they cannot normally be returned by post, because the trader may not and shouldn't be expected to be aware of circumstances related to the consumer, due to which the use of postal services is impossible or the costs deviate from average. This should also be reflected in article 6(6).
- art 6(1)(l) – As with article 5(1)(e), this obligation increases the administrative burden unnecessarily and is further complicated by the changes introduced in Directive on Empowering Consumers in Green Transition.
- art 6(1)(n) – When the trader's commitment to codes of conduct is voluntary, also informing the consumer of their existence or where they can be obtained should be voluntary unless otherwise provided in the codes of conduct themselves.
- art 6(1)(r) – The requirement concerning the technical protection measures is redundant due to more detailed requirements stemming from other legislation (esp. CRA but also SGD and DCD).
- art 6(1)(s) – The consumer should be aware of the compatibility and interoperability requirements they expect from the product, and the trader should only provide this information to the consumer by request.
- art 6(7) – The prerequisites for the use of national language requirements should be specified at the EU level to prohibit the Member States from introducing unnecessarily strict requirements which cause excessive administrative burden and may form barriers in the Single Market.

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- art 6(8) – Additional pre-contractual information requirements increase the administrative burden and form barriers to the Single Market, which is why the Member State option should be abolished.
- art 6a(2) – Additional pre-contractual information requirements increase the administrative burden and form barriers to the Single Market, which is why the Member State option should be abolished.
- art 7(1), (2), (4)(a) and (4)(b) – With respect to off-premises contracts, it should be possible to provide the required information and copies to the consumer on any durable medium chosen by the trader by abolishing the requirement to provide them on paper unless otherwise agreed.

Sale of Goods Directive (SGD)

- art 7(1)(d) and 7(2) – Public statements made by other persons in previous links of the chain of transactions, including the producer, particularly in advertising or on labelling effectively increase the seller's information obligations based on article 6(1), because the seller must take the extra steps to correct any inaccuracies they are or should be aware of. The responsibility should cover only statements made by or on behalf of the seller.
- art 7(4)(a) – Even if the seller was obliged to inform the consumer about the availability of the update, the liability due to failing to inform about the consequences of the failure of the consumer to install it is disproportionately severe, especially because the issue is regulated in more detail elsewhere (e.g., CRA).
- art 17(2)(a) – The new ECGT Directive will require the products to be accompanied with a label including information about the commercial guarantee and a reference to the legal guarantee and in any case the consumers should be aware of their rights, so the referred point of the SGD is redundant and should be abolished.
- art 17(4) – The prerequisites for the use of national language requirements should be specified at the EU level to prohibit the Member States from introducing unnecessarily strict requirements which cause excessive administrative burden and may form barriers in the Single Market.

Digital Contracts Directive (DCD)

- art 8(1)(b) – Public statements made by other persons in previous links of the chain of transactions, particularly in advertising or on labelling effectively increase the trader's information obligations based on article 7, because the trader must take the extra steps to correct any inaccuracies they are or should be aware of. The responsibility should cover only statements made by or on behalf of the trader.
- art 8(3)(a) – Even if the trader was obliged to inform the consumer about the availability of the update, the liability due to failing to inform about the consequences of the failure of the consumer to install it is disproportionately severe, especially because the issue is regulated in more detail elsewhere (e.g., CRA).

Services Directive

- art 22(1)(h) – It is in the interest of the service provider to tell the recipient about the existence of an after-sales guarantee not imposed by law, but obliging the provider to do this has very little added value while increasing administrative burden.

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- art 22(5) – Additional information requirements applicable to providers established in a Member State's territory increase the administrative burden and form barriers to the Single Market, which is why the Member State option should be abolished or, at minimum, it should be specified in the Directive, which requirements are considered proportionate.
- art 27(1) – Unnecessarily detailed requirements for the contact details with the service provider create administrative burden, and the provider should not be obliged to supply a telephone number if other communication methods are available.

Directive on Electronic Commerce

- art 5(1)(c) – The requirement to provide an electronic mail address of the service provider is unnecessarily limiting, and it should suffice to provide details for any communication method(s) allowing the service provider to be contacted rapidly and communicated with in a direct and effective manner.

Price Indication Directive (PID)

- art 6a – The relatively new rules concerning price reduction announcements have already proven to be extremely burdensome for the retailers. While the article itself is relatively simple, its practicality and effectiveness were never assessed properly as it was added to the Consumer Omnibus Directive during the co-decision process. Furthermore, the Commission's guidelines include positions that in our view have no support from the article itself and there are no recitals to clarify its interpretation. The rules should be thoroughly assessed in the forthcoming review of the Directive and amended as needed.

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