

Brussels, 9 December 2024

## Response to the call for evidence on rules for Digital Product Passport (DPP) service providers

### Introduction

Orgalim, representing Europe's technology industries, welcomes the opportunity to provide early input to the upcoming delegated act setting out requirements for Digital Product Passport (DPP) service providers in the context of Article 11.3 of the [Ecodesign for Sustainable Products Regulation](#) 2024/1781 (ESPR).

The ESPR leaves it open to economic operators responsible for making available a DPP to decide whether to store the DPP in their own systems or use third party services (Article 11.c ESPR). The choice will depend on each company's assessment of the related costs and the necessary IT infrastructure, inter alia. It is expected that not all relevant economic operators, in particular many SMEs, will have the resources required to create, authenticate, process, store and maintain all DPPs in their own systems. In these cases, contracting the services of third party DPP service providers will be required.

Additionally, all economic operators will be required to make available an up-to-date back-up copy of the DPP through an independent third party DPP service provider (Articles 10.4 and 27.1.c ESPR).

For these reasons, we welcome a clarification of the requirements for DPP service providers, with the aim of keeping the system workable and flexible for all involved economic operators including SMEs. Such a clarification should also provide the legal certainty needed for technology manufacturers willing to provide DPP services themselves.

### Recommendations

Although we reserve the right to develop a more detailed position in the future, our early recommendations are:

- **Fulfilment of legal requirements and contractual freedom must be the basis** of the B2B relationship between the economic operator responsible for the DPP and the DPP service provider. In particular, the DPP service provider must at least ensure a level of service that enables the responsible economic operator to meet all ESPR requirements for the DPP and DPP data. DPP services are also expected to provide the cybersecurity level mandated in applicable cybersecurity law<sup>1</sup> and comply with relevant platform regulations. The two parties must retain the contractual freedom to agree on optional digital services built

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<sup>1</sup> For example, Article 11.h of ESPR, Regulation 2024/2847 ([Cyber Resilience Act](#)), and, for certain manufacturers, the [NIS 2 Directive 2022/2555](#) and its related [implementing regulation 2024/2690](#), insofar as cybersecurity risk-management measures are concerned (Article 21 NIS 2).

on top of the minimum DPP requirements (e.g. in the context of data spaces), on customised cybersecurity features or on contractual agreements for the use and re-sharing of DPP data, as allowed for in Article 11.2 ESPR.

- As to the requirement for responsible economic operators to make available a **back-up copy** of the DPP through an independent third party DPP service provider, we recommend:
  - that the **impact assessment** pays particular attention to the provision of mandatory back-up services because the ESPR clauses mandating DPP back-ups were added by the co-legislators during the ESPR adoption process and were not part of the original European Commission proposal and impact assessment.
  - that DPP service providers are required ensure the **security of DPPs**, especially for DPP data with restricted access.
  - that the back-up copy is **only available to authorities in case of liquidation, insolvency or cessation of activity**, in order to avoid leakage of DPP data and breaches of the principle of access on a “need to know” basis.
- **Technological neutrality is needed.** Requirements on DPP services must remain neutral to the technologies used to provide DPP services. There are different ways to provide DPP services (e.g. through platforms, through blockchains, through federated data spaces, or a mixture of these), and more may appear in the future as businesses innovate. The delegated act should not unnecessarily drive some technological options out of the market, as responsible operators must have the maximum choice of technological offers available to choose the most suitable to their situation and systems.
- **Certification schemes must be as light as possible and based on self-assessment.** The impact assessment should evaluate whether voluntary certificates could enhance transparency in the market and help responsible economic operators (especially SMEs) trust the new system and take up DPP services. We strongly advise against third party certification, as it will increase costs for all parties involved and create bottlenecks for the provision of DPPs and therefore for the successful implementation of ESPR.
- The legal framework for the provision of DPP services must be the same across all EU Member States to ensure **legal certainty and a level playing field** across the single market.

For more information on our position on other aspects of the DPP, please refer to [Orgalim’s detailed recommendations on Digital Products Passports](#).

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