EUROPE'S VIDEO GAMES INDUSTRY

European Games Developer Federation

ISFE contribution to the roadmap on the future sustainable products initiative

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Introduction

1. ISFE shares the European Commission's conviction that addressing climate change is one of the most critical challenges of the 21st century and welcomes the opportunity to contribute to the roadmap consultation on the sustainable products initiative. The video games sector has taken numerous initiatives to preserve the environment and is continuously striving to improve the energy efficiency of its devices and services.

2. Please find below an executive summary of the video games' sector contribution to the roadmap on the future sustainable products initiative. More details on each point can be found in the subsequent pages.

Executive Summary:

- **Preserving the ability for the sector to self-regulate is essential and efficient**
  "Self-regulation measures" or voluntary agreements (VAs) as authorised under the current framework of the Ecodesign Directive allow industry to develop environmental requirements for their products in a way that is swifter and more flexible than mandatory regulation. The European Commission has supported and endorsed the Games Consoles VA since its inception, deeming it the preferable and viable alternative to regulatory measures. The Games Console VA has significantly exceeded the Commission's energy saving estimate and continues to be effective. Therefore, the continued recognition of VAs is essential and should be ensured in the future review of the Ecodesign Directive.
- **Information requirements on repairability and availability of spare parts must not be detrimental to consumer safety and the protection of intellectual property rights**
  Providing consumers and independent repairers with unfettered access to detailed information on repairability (such as diagnostic tools, detailed repair manuals) or specific key parts of the product (e.g. proprietary components, internal batteries, etc...) puts consumer safety and the protection of video games developers' and console manufacturers' intellectual property at significant risk. Therefore, ISFE recommends that the European Commission include similar safeguards in the future sustainable products initiative to those included in Article 9(1)(e) of the Waste Framework Directive (Directive (EU) 2018/851).
- **Adequate safeguards must be incorporated to use non-recycled materials when alternative recycled solutions are limited and/or they could pose a safety risk to consumers and/or reduce the end-of-life recyclability of products**
  Sometimes it is impossible for businesses to replace the materials used in their products with recyclable alternatives that are readily available in sufficient quantities and are sturdy enough to ensure an adequate level of consumer safety and/or recyclability of the product at the end-of-life. In such instances, the European Commission should not include in its future sustainable products initiative a requirement that businesses use only recycled materials to manufacture their products.

Background information

Preserving the ability for the sector to self-regulate is essential and efficient

3. Article 15 of the current Ecodesign Directive allows for the industry to commit to voluntary agreements (VAs) as they "can enable quick progress due to rapid and cost-effective implementation, and allow for flexible and appropriate adaptations to technological options and market sensitivities"[1]. Such initiatives must comply with specific requirements, such as ensuring that signatories represent a large majority of the relevant economic sector, or that the measures laid-out in the VA deliver added-value (more than a "business as usual" scenario) in terms of the improved overall environmental performance of the product[2].

4. Following the adoption of the Ecodesign Directive, console manufacturers[3] agreed with the European Commission to further improve the energy efficiency of games consoles. Their engagement is codified under the Games Consoles Voluntary Agreement, (Games Consoles VA) and includes specific provisions related to energy and resource efficiency (including on repairability and recyclability) which are applicable for both current and future generations of games consoles[4]. With regular reviews, the Games Console VA is flexible enough to adapt to new technologies in a timely manner and serve as a template for similar harmonised rules across the world. It enables the games console industry to proactively develop integral and innovative energy efficient solutions that allow for the evolution of gaming technology without degrading the level of play. Compliance with the Agreement is annually checked by an independent inspector[5].

5. The European Commission supported the launch of the Games Consoles VA with an inception impact assessment report[6] which concluded that the VA "provides the most advantages, has the best cost-benefit ratio, and provides the best energy efficiency improvement [compared to other regulatory options]"[7]. The European Commission originally estimated the Games Consoles VA to generate cumulative energy savings of 1 TWh per year by 2020[8]. It is now estimated that over 5 TWh of energy use will be avoided in 2020 through the use of energy efficiency technologies and power management driven by the Games Consoles VA[9]

6. Over the lifetime of UHD consoles[10], energy savings are expected to exceed 42 TWh[11], which is equivalent to the annual energy consumption of Portugal and significantly higher than the Commission's original expectations. For the new generation of 8K definition consoles, to be released by the end of 2020[12], Signatories of the VA expect lifetime energy savings to reach 46 TWh (when comparing new energy efficient technology introduced since UHD capable consoles)[13]. The

[1] Directive 2009/125/EC, Recital 19.
[2] The list of the minimal requirements to which a VA must comply is detailed in Annex VIII of the Directive 2009/125/EC
[3] Microsoft, Nintendo and Sony Interactive Entertainment
[4] More information on the Games Consoles Voluntary Agreement can be found at https://efficientgaming.eu/
[5] In its latest report, the independent inspector concluded that all three signatories meet the requirements of the VA
[6] SWD(2015) 89 final
[7] *Ibid*, p. 36.
[8] European Commission, *Commission recognises voluntary energy efficiency agreement for game consoles,* 22/04/2015. Available here
[9] https://efficientgaming.eu/faq/
[10] PlayStation 4, PlayStation 4 Pro, Xbox One, Xbox One S, Xbox One X
[11] An estimate verified in the European Commission's independent consultants' study published in 2019
[12] PlayStation 5, Xbox Series X
[13] Microsoft, Nintendo, Sony Interactive Entertainment, *Games Consoles Self-Regulatory Initiative 10th Steering Committee Meeting,* 28 July 2020, p. 25. Available here

manufacturers have made great efforts to ensure that this new generation of consoles keep within in power caps levels for previous generations in spite of significantly increased performance and functionality compared to the previous generation.

7. The Games Consoles VA is regularly updated to reflect the technological innovations from the sector and incorporate additional requirements on the energy and resource efficiency of the devices covered by the measures. For instance, as part of the requirements included in the last version of the VA published in March 2020, Signatories introduced a 65W cap for 2K navigation and 70W cap for 4K navigation for 4K-capable gaming consoles.

8. **Considering the above, voluntary agreements allow for the industry to develop cost-effective frameworks which generate significant results. ISFE, therefore, strongly encourages the European Commission to reiterate its support to VAs by continuing to allow their use under the future version of the Ecodesign Directive.**

Information requirements on repairability and availability of spare parts must not be detrimental to consumer safety and intellectual property rights

9. In a context where the business model for video games has shifted from one through which consumers purchased and played a static game to a model through which additional updates and content regularly evolve gameplay after the initial purchase[14], maintaining a technologically secure and stable gameplay environment for players, despite content evolution, is critical to business success, consumer experience and safety. Developers and publishers regularly release updates that patch and repair their games to maintain player engagement with their products and services. For example, since its launch in September 2014, Electronic Arts Inc. has released dozens of updates to *The Sims 4*, many of which fix bugs, solve errors or otherwise repair the gameplay environment[15]. As a result of the focus on continuous updates, the community around the game continues to grow, even 5 years after its launch date. This in turn incentivises developers and publishers to continue allocating resources to maintaining a quality and stable gameplay environment, alleviating any concerns around early obsolescence for video games.

10. For the same reasons, console manufacturers also recognise the importance for consumers to have access to durable goods that can easily be repaired when malfunctioning. Under the Games Consoles Voluntary Agreement, they offer consumers the possibility to repair and/or refurbish consoles in authorised repair centres during the commercial guarantee period. They also offer an out-of-warranty repair service to ensure access to repair over the entire lifetime of a console or access to refurbished consoles.

11. Every console manufacturer provides clear and detailed information concerning their product's repairability opportunities in its commercial guarantee, directly available at the point of purchase. Such information includes conditions under which a consumer may be offered a repair or refurbishment of the product, as well as any specific procedures needed to be followed to ensure a quality repair by an authorised repair centre without damaging the product owner's commercial rights.

[14] These updates and services are generally designed to extend and enhance the gameplay experience, provide value to the consumer, and include technical updates and as well as content updates.
[15] Last update was released on 18 August for both PC and consoles

12. Authorised repair centres ensure repairs meet the required quality and safety standards expected by the consumer and required by European law[16]. They possess the appropriate technical skills to perform repairs on highly sophisticated electronics which otherwise can, when "not properly repaired, compromise consumer safety"[17]. In addition, authorised repairs do not compromise consoles' systems and their incorporated technology. Authorised repairs adequately protect both games developers' intellectual property and console manufacturers' proprietary components (see point 14 below).

13. The Games Consoles VA already requires consoles manufacturers to allow for the non-destructive disassembly of specific key components of their game consoles[18]. Spare parts of those key component must also be made available to authorised repairers so that they can perform a repair without having to replace other components of that console. To demonstrate their support to a widened consumer right to repair, consoles manufacturers are continuously exploring with the European Commission which components of their product they can potentially make available to consumers and independent repairers, without a detrimental impact on consumer safety and the protection of video games developers' and console manufactures' intellectual property. As from January 2021, they will where applicable make **Hard Disc Drives and External Power Supplies** available to consumers and **professional** repairers for a defined number of years after placing the last unit of the model on the market**.**

14. Games consoles are, however, a complex environment in which few key internal components form part of a secure system that consists of technological protection measures ("TPMs") and proprietary parts that are deployed to protect against copyright infringement. The deployment of TPMs by the video games console manufacturers benefits all those who create and develop games for consoles, and not just the platform holder. With a secure hardware system in which to create and publish new games, developers (who are often SME's) are more willing to make the financial investments necessary to support the development of new games. This in turn benefits the consumer who now has a wider array of games and interactive experiences to enjoy.

15. The Waste Framework Directive (Directive (EU) 2018/851), which has been implemented in Member States on 5 July 2020, recognises the importance of preserving a product's safety and security, as well as its intellectual property rights. Its Article 9 establishes that spare parts, technical information and repairs instructions should be made available, **if they do not compromise the product's safety and quality, "without prejudice to intellectual property rights"[19].** These three boundary conditions of accepted European law must be reflected in any future circular economy proposals.

16. **Therefore, ISFE strongly encourages the European Commission to incorporate in its future sustainable product initiative similar safeguards to those embedded in Article 9 of the Waste Framework Directive. The preservation of products' safety and quality and protection of intellectual property rights should be ensured when designing information requirements on repairability and spare parts availability.**

[16] Directive 2001/95/EC on general product safety

[17] This assertion has been confirmed by the European Commission's Joint Research Centre in 2020. Cordella M, et al., *Analysis and development of a scoring system for repair and upgrade of products – Final report,* EC Joint Research Centre, 2020, p. 132

[18] Motherboard, hard disk drive, optical drive, and internal power supply

[19] Directive (EU) 2018/851, Article 9(e)

Adequate safeguards must be incorporated to use non-recycled materials when alternative recycled solutions are limited and/or they could pose a safety risk to consumers and/or reduce the end-of-life recyclability of products

17. As indicated within the inception impact assessment on the roadmap for the future sustainable products initiative, the European Commission is considering to impose new requirements on production processes to facilitate the use of recycled content in products put on the market. However, it is sometimes difficult for private companies to find a sufficient supply of recycled alternatives to the materials they use in their products.

18. For example, safety standard EN IEC 62368-1:2020, adopted by the European Standards Organisation CENELEC[20] in March 2020, requires recycled PC+ABS (which is the plastic used in consoles) to comply with the flammability standard grade V-0 (1.5mm thickness). The standard requires that the plastic cannot burn for more than 10 seconds for consumer protection and safety reasons. However, consoles manufacturers face difficulties in finding a sufficient available supply of recycled PC+ABS which meets this flammability requirement, thus preventing them on safety grounds from using recycled plastic in their console manufacturing.

19. In addition, consoles manufacturers cannot ensure that recycled plastics which meet the required flammability standards for consoles (High Wattage products) are free from unsafe levels of halogenated flame retardants (HFRs) due to limitations in the production process of recycled plastics. HFRs, are a family of chemical compounds extensively used since the 1970s to prevent products from burning when exposed to a spark, and now recognised as contaminants with adverse health effects in animals and humans[21]. Furthermore, the presence of HFRs in recycled plastics can also adversely affect the end-of-life recyclability of products[22].

20. **Based on the above, ISFE encourages the European Commission to refrain from including in its future sustainable product initiative a requirement for manufacturers to use recycled materials in their products where the supply of recycled alternatives is insufficient. Also, such requirement should not be imposed if use of such alternatives would compromise the safety or the end-of-life recyclability of products. For all these reasons, ISFE considers that a flexible and balanced approach is warranted.**

Sustainable virtual products, such as games, require sustainable energy to be fully enjoyed

21. Many video games studios in Europe take measures to encourage a greener behaviour within their working environment. This includes for instance encouraging employees to travel by train instead of using the plane, investing in call-in facilities to support remote meetings, or favouring the use of renewable materials and energy to perform daily tasks[23]. The French developer and publisher Ubisoft employees set up "Green Communities" so they could provide recommendations to their hierarchy on how to transform their working environments into more respectful places towards the planet. In addition, several studios committed to offset the emissions generated by their games and their

[20] Designated as such by the European Commission. More information available here.
[21] See for instance Shaw SD, et al., *Halogenated flame retardants: do the fire safety benefits justify the risks?*, Rev Environ Health, 2010 Oct-Dec, Issue n°25(4), pp. 261-305. Access here
[22] JOUR et al. Recycling of flame retardant plastics from WEEE, technical and environmental challenges, V L - 8, Advances in Production Engineering & Management, 2013
[23] For instance, as part of its Sustainability Program, Electronic Arts committed to deploying 100% compostable products (paper towels, toilet paper, food and beverage containers) at many of their strategically important locations.

active users[24] through the Playing for the Planet Alliance, an initiative supported and co-launched by the United Nations.

22. Video games developers and studios that mainly produce video games cannot entirely cut the carbon footprint of their products as emissions originating from a game is also due to the device on which the game is played. This is why preserving initiatives aiming at reducing the carbon footprint of games device that are cost-effective and efficient, such as the Games Consoles Voluntary Agreement, is essential.

23. Availability of carbon-free energy and electricity is, therefore, key to ensure that players enjoy virtual games that are fully sustainable. Similarly, software, devices, distribution channels, networks and datacentres all need energy, hence why renewable energy is essential to reduce the video games and more generally the ICT sector's carbon footprint. The Renewable Energy Directive[25], and its future revision planned by the European Commission[26], would offer a relevant framework to encourage renewable energy production that would serve all Europe's digital economy transition to a more sustainable economy.

[24] See for instance Supercell, a Finnish mobile games studio: https://playing4theplanet.org/supercell/
[25] Directive 2009/28/EC
[26] European Commission, "EU renewable energy rules – review, Have your say". Access here

About ISFE

ISFE represents the video games industry in Europe and is based in Brussels, Belgium. Our membership comprises of national trade associations in 15 countries across Europe which represent in turn thousands of developers and publishers in the member states. ISFE also has direct members, the leading console manufacturers and European and international video game companies, many of which have studios with a strong European footprint. They produce and publish interactive entertainment and educational software for use on personal computers, game consoles, portable devices, mobile phones and tablets.

ISFE's purpose is to serve Europe's video games ecosystem by ensuring that the value of games is widely understood and to promote growth, skills, and innovation policies that are vital to strengthen the video games sector's contribution to Europe's digital future. The video games sector represents one of Europe's most compelling economic success stories. Relying on a strong IP framework, the sector is a rapidly growing segment of creative industries. In 2019, the size of Europe's video games industry was €21 billion and registered a growth rate of 55% over the past 5 years in European key markets[27]. Video games have a proven ability to successfully drive new business models. The digital transformation with the growth of online and app-based gaming represents today 76% of the industry's total European revenue. Via the launch of new high-performance consoles and the strong growth of mobile gaming, the industry offers players across Europe and in all age groups the possibility to enjoy and engage with video games[28]. Today 51% of Europe's population plays videogames, which is approximately 250 million people, and 54 % of the players regularly play on consoles.

About EGDF

The European Games Developer Federation e.f. (EGDF) unites national trade associations representing game developer studios based 19 European countries: Austria (PGDA), Belgium (FLEGA), Czechia (GDACZ), Denmark (Producentforeningen), Finland (Suomen pelinkehittäjät), France (SNJV), Germany (GAME), Italy (IIDEA), Malta (MVGSA), Netherlands (DGA), Norway (Produsentforeningen), Poland (PGA), Romania (RGDA), Serbia (SGA), Spain (DEV), Sweden (Spelplan-ASGD), Slovakia (SGDA), Turkey (TOGED) and the United Kingdom (TIGA). Altogether, through its members, EGDF represents more than 2 500 game developer studios, most of them SMEs, employing more than 35 000 people.

Contacts:

Benjamin Seignovert
Policy & Public Affairs Officer | ISFE
benjamin.seignovert@isfe.eu

Jari-Pekka Kaleva
COO | EGDF
jari-pekka.kaleva@egdf.eu

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[27] ISFE Key Facts 2020 from GameTrack Data by Ipsos MORI and commissioned by ISFE https://www.isfe.eu/isfe-key-facts/.
[28] See also https://www.isfe.eu/data-key-facts/