

# Understanding Exemptions under ESPR, PPWR and Digital Product Passports

What companies often get wrong about scope, applicability, timelines and compliance obligations

|             |                                                                                                                                                                                       |
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| SCOPE       | ESPR, PPWR and Digital Product Passport applicability, exclusions, transitional periods, product prioritisation, market roles and supplier-data boundaries                            |
| AUDIENCE    | Manufacturers, importers, brand owners, distributors, regulatory affairs, sustainability, product stewardship, packaging, procurement, IT/data, legal and board-level decision-makers |

## CORE THESIS

Understanding exemptions is not a loophole exercise. It is a core compliance capability. Companies that correctly determine scope, applicability, timing and market role will avoid unnecessary projects while preparing early for requirements that genuinely matter.

**Legal note:** This white paper provides strategic orientation and does not constitute legal advice. Applicability must be assessed against the final legal text, delegated acts, implementing acts, guidance, product category, market role, Member State interfaces and company-specific facts.

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# 1. Executive Summary

Many organizations assume that new European sustainability regulations apply uniformly to all products, all sectors and all companies. This assumption can lead to unnecessary compliance projects, premature technology investments, excessive supplier requests and misallocated budgets.

The reality is more complex. ESPR, PPWR and the Digital Product Passport framework contain multiple layers of scope limitations, exclusions, product prioritisation mechanisms, implementation timelines and delegated-act dependencies. Understanding these boundaries is becoming just as important as understanding the obligations themselves.

The first compliance question should not be: What do we need to do? The first question should be: Does this requirement actually apply to us, when, and in which role?

## EXECUTIVE INSIGHT

The greatest risk is not always non-compliance. It is often wrong-scope compliance: investing in the wrong project too early, while missing the obligations that are actually material for the business.

# 2. Why Exemptions Matter

Exemptions, exclusions and phased applicability determine whether a requirement is relevant immediately, later, only for certain product groups or not at all. This matters because ESPR and DPP obligations may depend on future delegated acts, while PPWR has broad coverage but differentiated timing and technical criteria.

- Avoiding unnecessary DPP software projects for products without current passport obligations.
- Avoiding premature supplier data requests that are not yet legally required.
- Distinguishing final legal requirements from policy discussions or preparatory studies.
- Prioritising products that are in the ESPR Working Plan or exposed to early delegated acts.
- Understanding which PPWR requirements apply immediately, later, or only after secondary legislation.
- Identifying whether the company acts as manufacturer, importer, distributor, fulfilment provider or another economic operator.

# 3. ESPR: Framework Scope and Exclusions

ESPR is a framework regulation. It establishes the legal architecture for ecodesign requirements, information requirements, Digital Product Passports and sustainability-related product governance, but it does not automatically impose detailed operational requirements on every product today.

Concrete obligations are introduced product group by product group through delegated acts. Companies therefore need to distinguish between being potentially in scope of the framework and having a concrete product-specific obligation with an application date.

| ESPR SCOPE QUESTION             | WHY IT MATTERS                                                                                                                                                 | TYPICAL ANSWER TYPE      | ACTION                          |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|---------------------------------|
| Is the item a physical product? | ESPR is built around physical products placed on the EU market.                                                                                                | Yes / No / borderline.   | Conduct product classification. |
| Is the product excluded?        | Certain categories such as food, feed, medicinal products, veterinary medicinal products and living plants or animals are outside the main ESPR product scope. | Excluded / not excluded. | Document rationale.             |

| ESPR SCOPE QUESTION                      | WHY IT MATTERS                                                                                                             | TYPICAL ANSWER TYPE           | ACTION                          |
|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|-------------------------------|---------------------------------|
| <b>Is there a delegated act?</b>         | Concrete obligations arise through product-specific delegated acts.                                                        | Existing / draft / none.      | Monitor delegated-act pipeline. |
| <b>Is the product prioritised?</b>       | The Working Plan 2025-2030 signals where requirements may come first.                                                      | High / medium / low exposure. | Map portfolio to Working Plan.  |
| <b>Has the application date arrived?</b> | Even after a delegated act, transition periods where provided by the relevant delegated act or implementing measure" apply | Applicable now / future date. | Create implementation timeline. |

#### PRACTICAL TAKEAWAY

ESPR readiness is recommended for many sectors, but ESPR compliance obligations must be assessed product group by product group, delegated act by delegated act and date by date.

## 4. PPWR: Broad Scope, Special Cases and Transitional Logic

PPWR has a broader immediate relevance than ESPR because it applies to packaging placed on the EU market. However, this does not mean every packaging obligation applies to every packaging format at the same time or in the same way.

Companies must assess packaging type, material, function, market role, reuse status, food-contact status, packaging unit, EPR obligations, technical documentation requirements and implementation dates.

| PPWR ISSUE                        | COMMON MISUNDERSTANDING                                                | CORRECT SCOPING QUESTION                                                          | BUSINESS ACTION                                   |
|-----------------------------------|------------------------------------------------------------------------|-----------------------------------------------------------------------------------|---------------------------------------------------|
| <b>Recyclability</b>              | All packaging must already meet future 2030 recyclability performance. | Which recyclability obligation applies now, and which depends on future criteria? | Create current and future recyclability roadmap.  |
| <b>Recycled content</b>           | All plastic packaging has identical recycled-content requirements.     | Which plastic packaging category applies, when, and with what evidence?           | Map packaging families and supplier certificates. |
| <b>Reuse and refill</b>           | Reuse applies universally.                                             | Does the specific format or sector trigger reuse/refill obligations?              | Conduct format-specific assessment.               |
| <b>Food-contact packaging</b>     | Circularity automatically overrides food-contact safety constraints.   | Can the circular solution comply with FCM and PPWR simultaneously?                | Validate food-contact safety after redesign.      |
| <b>Micro-enterprises and SMEs</b> | All companies have identical operational burdens.                      | Are lighter rules, thresholds or role differences relevant?                       | Assess company role and size carefully.           |
| <b>Technical documentation</b>    | A supplier certificate is enough.                                      | What evidence must the company placing packaging on the market hold?              | Build PPWR technical files.                       |

## 5. Digital Product Passport: When It Is Mandatory and When It Is Not

The most common DPP misconception is that every product already needs a Digital Product Passport. This is incorrect. DPP infrastructure, standards and registry rules do not by themselves create a passport obligation for all products.

A DPP or other applicable Union legislation becomes mandatory where a product-specific delegated act, sector regulation or other applicable legal act requires it. The battery passport is the most important early binding example, with application to covered battery categories from 18 February 2027 under the Battery Regulation.

| DPP STATEMENT                                           | STATUS                                       | COMPLIANCE IMPLICATION                                              |
|---------------------------------------------------------|----------------------------------------------|---------------------------------------------------------------------|
| <b>The DPP registry exists or is being implemented.</b> | Infrastructure milestone.                    | Does not automatically create passport duties for all products.     |
| <b>Harmonised DPP standards exist.</b>                  | Technical enabling layer.                    | Important for architecture, but not a universal product obligation. |
| <b>A sector law requires a passport.</b>                | Concrete obligation.                         | Product-specific implementation required.                           |
| <b>A delegated act requires DPP data.</b>               | Concrete obligation after transition period. | Map data fields, access rights and evidence.                        |
| <b>A customer asks for passport-like data.</b>          | Commercial requirement.                      | May be voluntary legally but mandatory commercially.                |

### KEY DISTINCTION

The DPP registry is infrastructure. Product obligations arise only when the relevant legal act requires a passport for the product group or sector.

## 6. Market Role and Economic Operator Assessment

Applicability is not only about the product. It is also about the role of the company in the value chain. The same product can create different obligations for a manufacturer, importer, distributor, brand owner, fulfilment provider or authorised representative.

| ROLE QUESTION                                                      | WHY IT MATTERS                                                                        | EXAMPLE RISK                                                       | ACTION                                             |
|--------------------------------------------------------------------|---------------------------------------------------------------------------------------|--------------------------------------------------------------------|----------------------------------------------------|
| <b>Who places the product on the EU market?</b>                    | Primary obligations often attach to the placing-on-market actor.                      | Assuming a supplier carries responsibility when the importer does. | Map legal entity and market role.                  |
| <b>Is the company a manufacturer or private-label brand owner?</b> | Brand ownership can affect responsibility even when production is outsourced.         | DoCs signed without role analysis.                                 | Review OEM/private-label arrangements.             |
| <b>Is packaging imported with the product?</b>                     | Packaging obligations may attach to the company placing packaged goods on the market. | Packaging data missing from import approvals.                      | Include packaging in product release process.      |
| <b>Is the company only a distributor?</b>                          | Distributor obligations can differ from manufacturer obligations.                     | Over- or under-collecting data.                                    | Define distributor checks and escalation triggers. |

| ROLE QUESTION                                            | WHY IT MATTERS                                                 | EXAMPLE RISK                                      | ACTION                                       |
|----------------------------------------------------------|----------------------------------------------------------------|---------------------------------------------------|----------------------------------------------|
| <b>Does fulfilment or e-commerce create obligations?</b> | Some frameworks recognise fulfilment and distance sales roles. | EU market access without clear responsible actor. | Update marketplace and logistics governance. |

## 7. Supplier Data, Confidentiality and Access Rights

Many suppliers are already receiving broad DPP, ESPR and PPWR questionnaires. Some of these requests are justified. Others are premature, overly broad or not aligned with actual legal obligations.

Future systems will increasingly distinguish between public data, customer data, authority data, recycler or repairer data and confidential business information. A strong scoping process should determine not only what data is needed, but who is entitled to access it and why.

- Define mandatory, optional and commercially requested data separately.
- Distinguish regulatory access from public disclosure.
- Use confidentiality layers for formulations, supplier identities and sensitive material data.
- Avoid asking suppliers for data without a clear use case and legal or commercial basis.
- Create audit trails for why data was requested, how it was validated and how it may be disclosed.

## 8. Applicability Assessment Framework

Before launching a major ESPR, PPWR or DPP project, companies should run a structured applicability assessment. This should be documented and updated when legal texts, delegated acts, guidance or business models change.

| ASSESSMENT LAYER       | CORE QUESTION                                                           | OUTPUT                             | OWNER                           |
|------------------------|-------------------------------------------------------------------------|------------------------------------|---------------------------------|
| <b>Product scope</b>   | Is the product within scope, excluded, or not yet prioritised?          | Product applicability matrix.      | Regulatory / product management |
| <b>Packaging scope</b> | Which packaging formats and materials are in scope?                     | Packaging family map.              | Packaging / sustainability      |
| <b>Market role</b>     | What is the company legal role?                                         | Economic operator role map.        | Legal / regulatory              |
| <b>Timeline</b>        | Which application dates and transition periods apply?                   | Obligation timeline.               | Regulatory / project management |
| <b>DPP trigger</b>     | Is DPP mandatory, future, voluntary or customer-driven?                 | DPP trigger assessment.            | Regulatory / IT                 |
| <b>Data necessity</b>  | Which data is mandatory, optional, confidential or commercially useful? | Data requirement matrix.           | Data governance / procurement   |
| <b>Evidence</b>        | What documentation is required to support the conclusion?               | Technical file and evidence index. | Quality / regulatory            |

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## 9. Common Mistakes

### Mistake 1: Launching a DPP project without a legal trigger

A passport-like pilot can be useful, but companies should not confuse voluntary preparation with a mandatory obligation.

### Mistake 2: Treating ESPR as immediately operational for all products

ESPR establishes the framework; product-specific obligations normally require delegated acts.

### Mistake 3: Assuming PPWR has one uniform deadline

PPWR has a general application date, but many duties depend on format, material, secondary rules or later milestones.

### Mistake 4: Sending generic supplier questionnaires too early

Broad data requests without clear scope can create supplier fatigue and low-quality responses.

### Mistake 5: Ignoring future exposure because no obligation applies today

A product may not be subject to a current delegated act but may be prioritised or strategically exposed.

### Mistake 6: Missing the company role assessment

Manufacturer, importer, distributor and brand owner obligations may differ significantly.

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## 10. Enterprise Readiness Roadmap

| PHASE                | OBJECTIVE                                      | KEY ACTIVITIES                                                           | OUTPUTS                      |
|----------------------|------------------------------------------------|--------------------------------------------------------------------------|------------------------------|
| <b>1. Scope</b>      | Determine whether requirements apply.          | Map products, packaging, roles, markets and product groups.              | Applicability assessment.    |
| <b>2. Prioritize</b> | Separate immediate, future and low exposure.   | Rank products and packaging by regulatory trigger and timeline.          | Priority heat map.           |
| <b>3. Evidence</b>   | Document the scoping conclusion.               | Collect legal rationale, product data, packaging data and role evidence. | Scope file and decision log. |
| <b>4. Data</b>       | Request only necessary data first.             | Define mandatory, optional and confidential data fields.                 | Supplier data plan.          |
| <b>5. Prepare</b>    | Build readiness for likely future obligations. | DPP pilots, technical files, supplier clauses and data architecture.     | Readiness roadmap.           |
| <b>6. Monitor</b>    | Keep decisions current.                        | Track delegated acts, implementing acts, standards and guidance.         | Regulatory watch dashboard.  |

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## 11. Board-Level Priorities

- Require documented scope assessments before launching major ESPR, PPWR or DPP investments.
  - Separate legal obligations from voluntary readiness and customer-driven requirements.
  - Map all products and packaging against current and expected regulatory timelines.
  - Create a clear economic-operator role map across entities and markets.
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- Design supplier questionnaires around specific legal or commercial triggers.
- Protect confidential business information through access-rights governance.
- Maintain an executive dashboard of applicable, future and excluded obligations.
- Review exemption decisions whenever delegated acts, implementing acts or guidance change.

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## 12. Outlook and Conclusion

ESPR, PPWR and DPP will reshape product and packaging compliance in Europe. However, they will not apply in the same way to every company, every product or every data field. Applicability is therefore becoming a strategic capability.

Companies that understand exemptions and scoping rules will avoid unnecessary compliance activity while still preparing for obligations that genuinely matter. Companies that skip this step risk spending too much in the wrong areas and too little in the right ones.

### FINAL MESSAGE

Understanding exemptions is not about avoiding compliance. It is about building smarter compliance: targeted, evidence-based, proportionate and aligned with real legal triggers.

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## About Regulatory Strategy Consulting Kunz

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