



Evaluation of EU legislation on design protection

**Tomas Lorenzo Eichenberg
Senior Expert**

DG Growth, Unit F3, Intellectual Property

10th GRUR MEETS BRUSSELS WORKSHOP

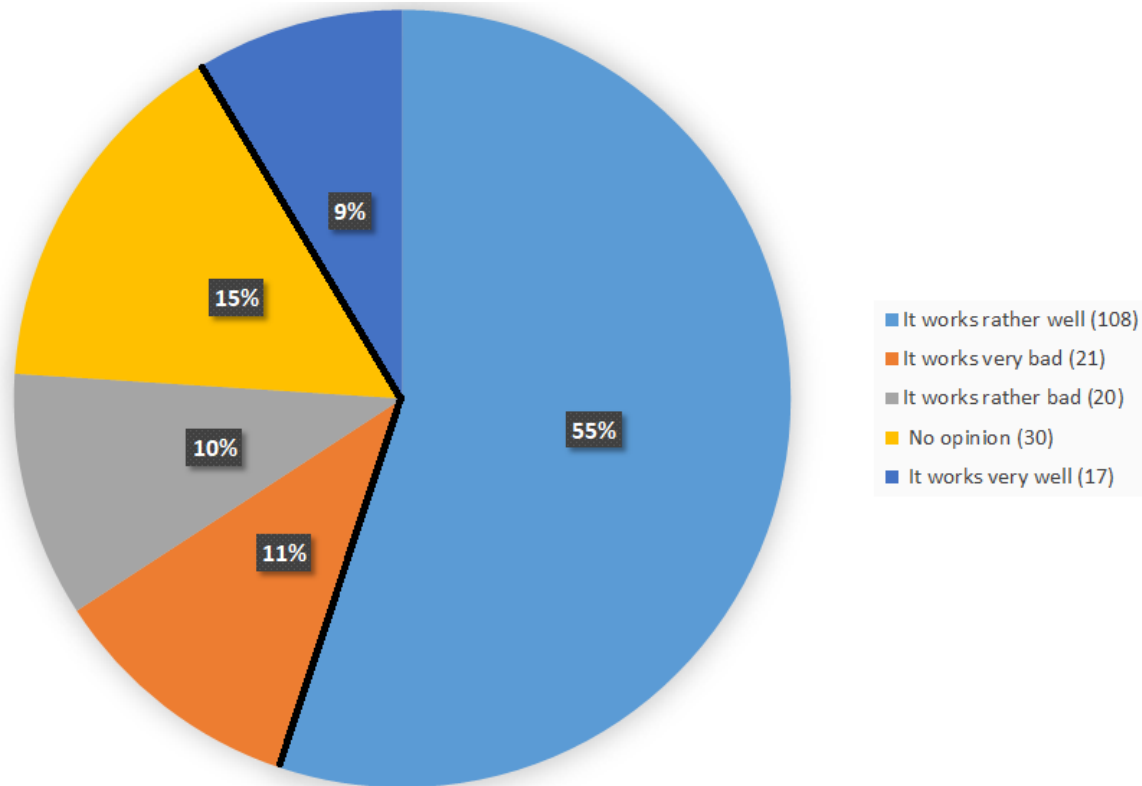
5 December 2019

I. Context of public consultation

- Directive 98/71 & Regulation 6/2002 date back to 1998/2001; only Regulation amended once in 2006 for accession to Hague system.
- Overall evaluation launched to establish degree to which acquis works as intended and can still be considered fit for purpose.
- Two studies published in 2015 (economic) and 2016 (legal).
- Complementary public consultation run from 18/12/18 to 30/04/19. 196 replies received from different stakeholders (21 FR, incl. CNCPI).
- Results published on 26/07/19 including all individual contributions: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-3527248/public-consultation_en
- Evaluation report (CSWD) planned for July 2020.
- Legislative reform initiative likely in 2021.

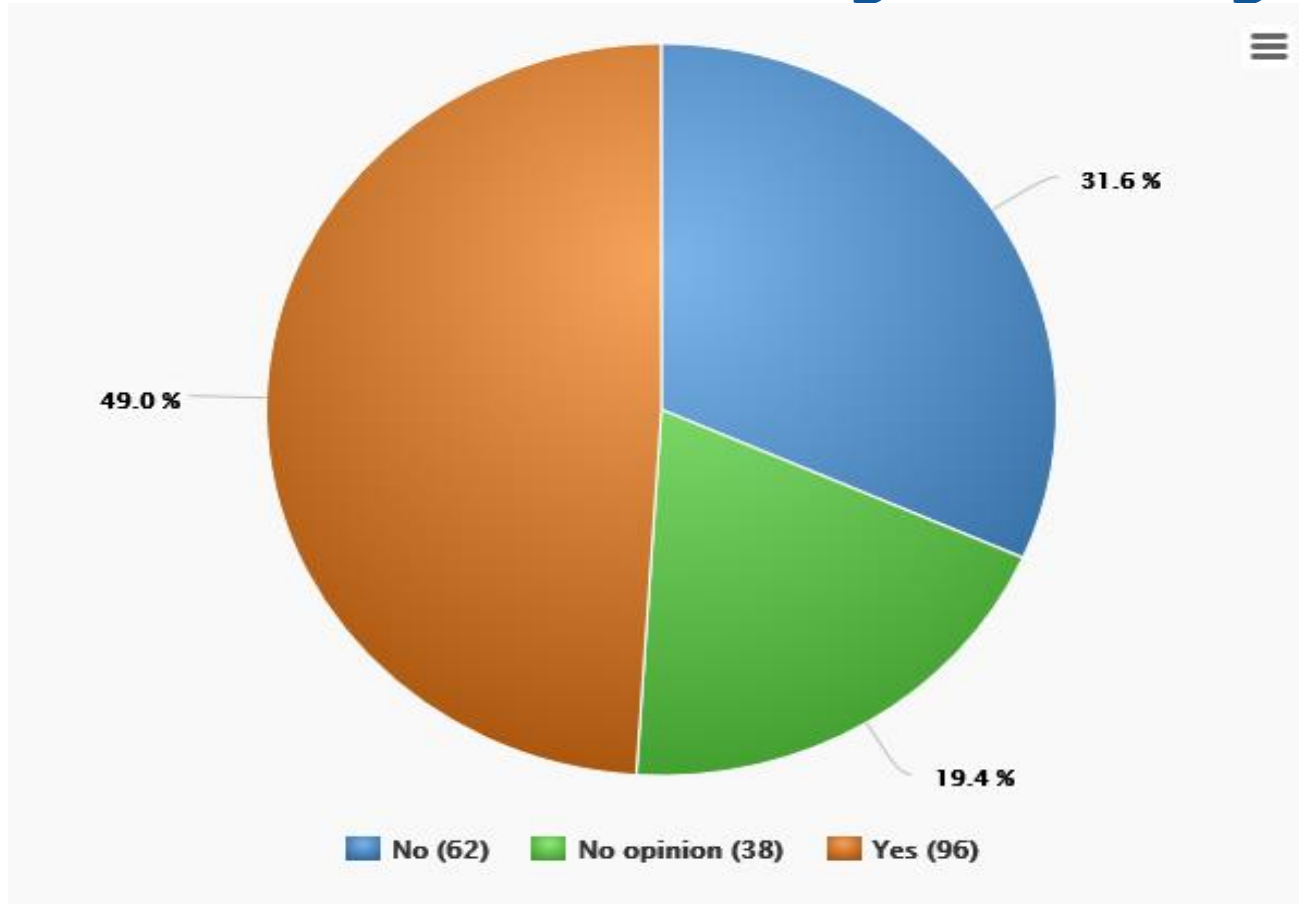
II. Replies to general questions

Q2: Overall functioning of design system in the EU



- Almost 2/3 (**64%**) consider that system works well.
- Out of the 1/5 (**21%**) finding it to be bad, nearly 2/3 (**63%**) do so because of non-harmonization of spare parts protection.

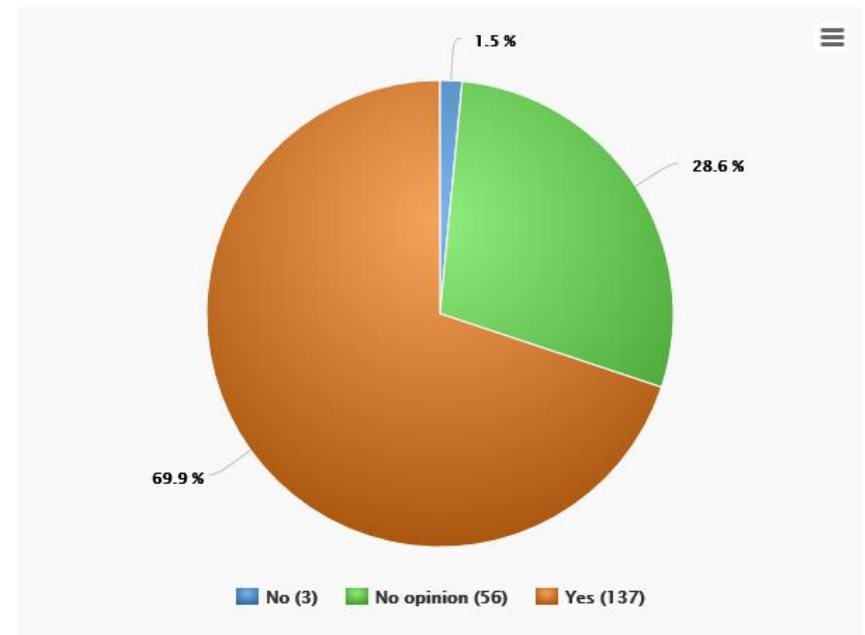
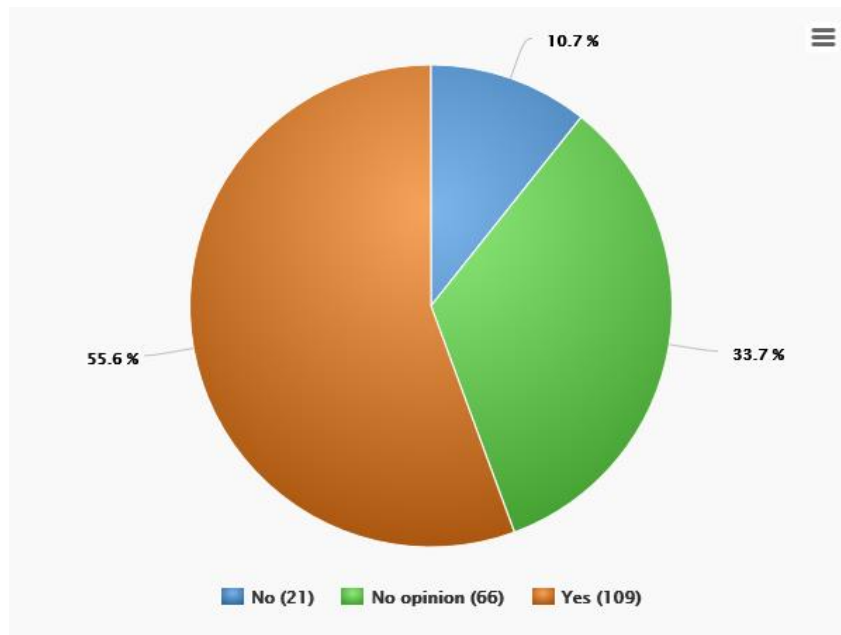
Q7: Awareness of shortcomings of EU legislation



Almost half of the respondents (**49%**) however pointed out certain shortcomings of the existing designs acquis.

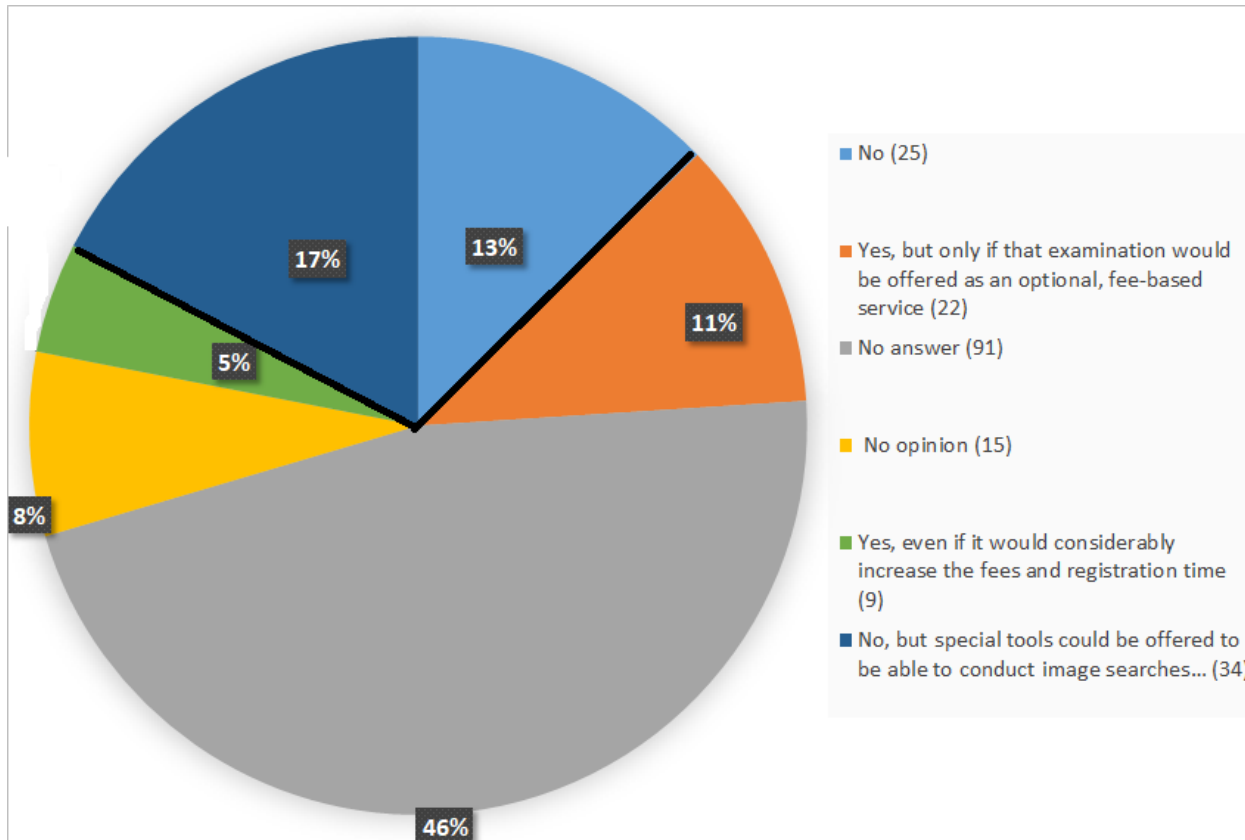
III. Replies to specific questions

Q16: Different rules on spare parts as problem? Q17: Should rules be the same in the EU?



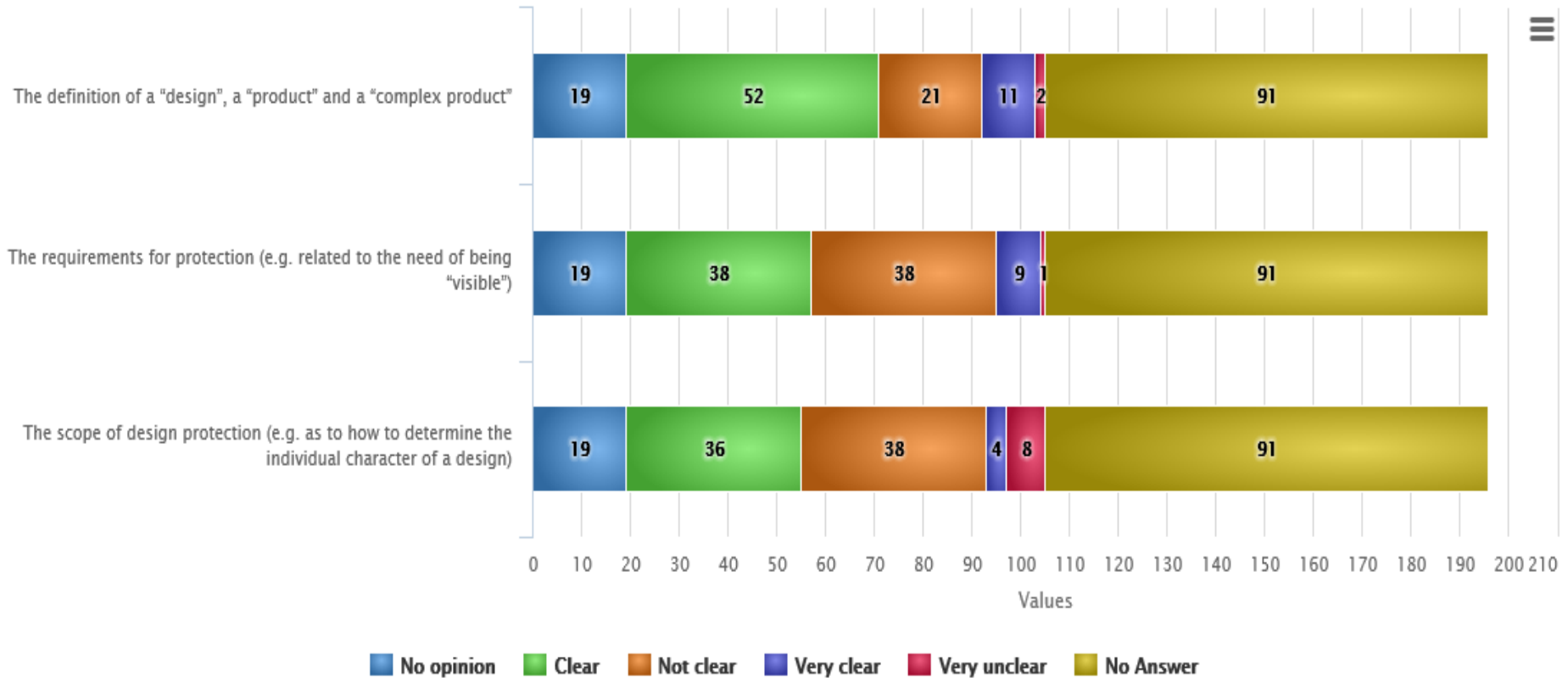
55,6% see non-harmonization of rules as a problem for them.
More than 2/3 (**69,9%**) of the respondents favour same rules.

Q31: Should EUIPO examine novelty ex ante?



- **56,2%** of those who replied to the question do not want the EUIPO doing so.
- Only small percentage (**8,6%**) of those who replied to the question are for that even it would lead to higher fees & longer registration time.

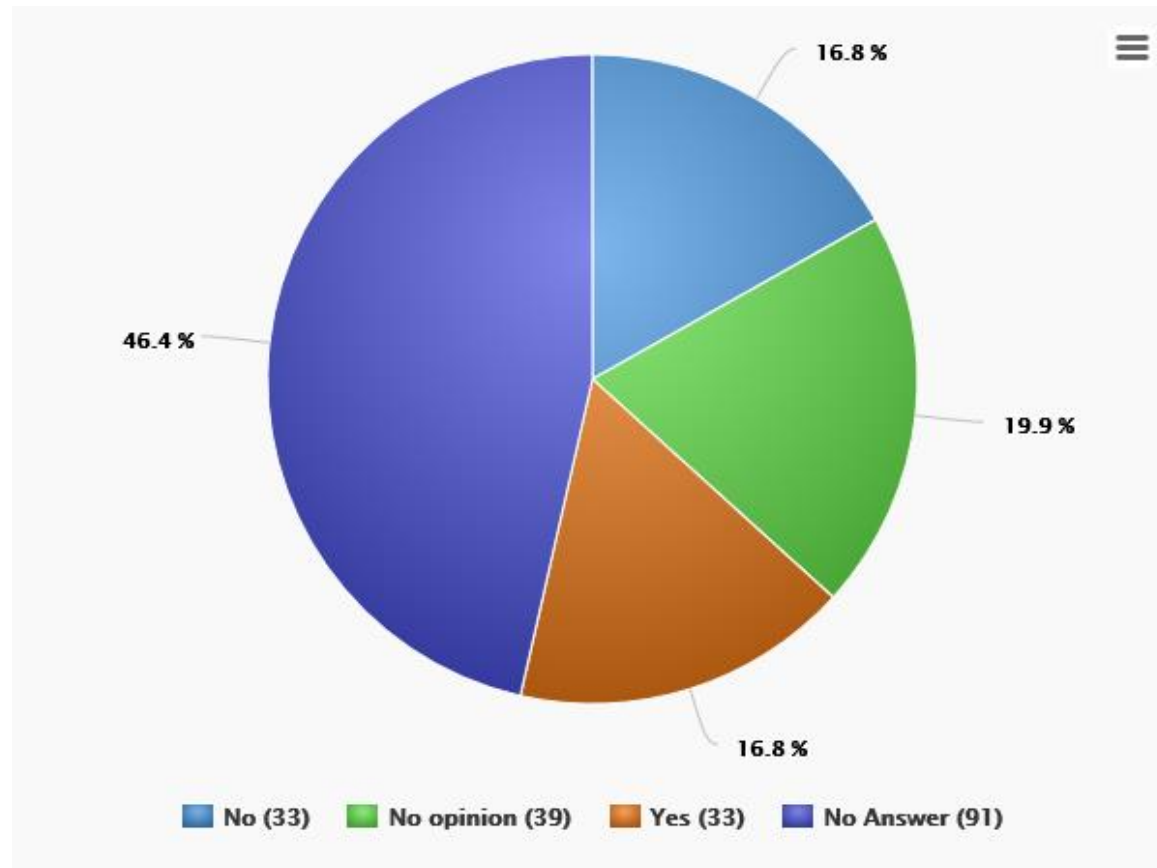
Q39: Clarity of basic concepts in the legislation



Of those who replied to the question:

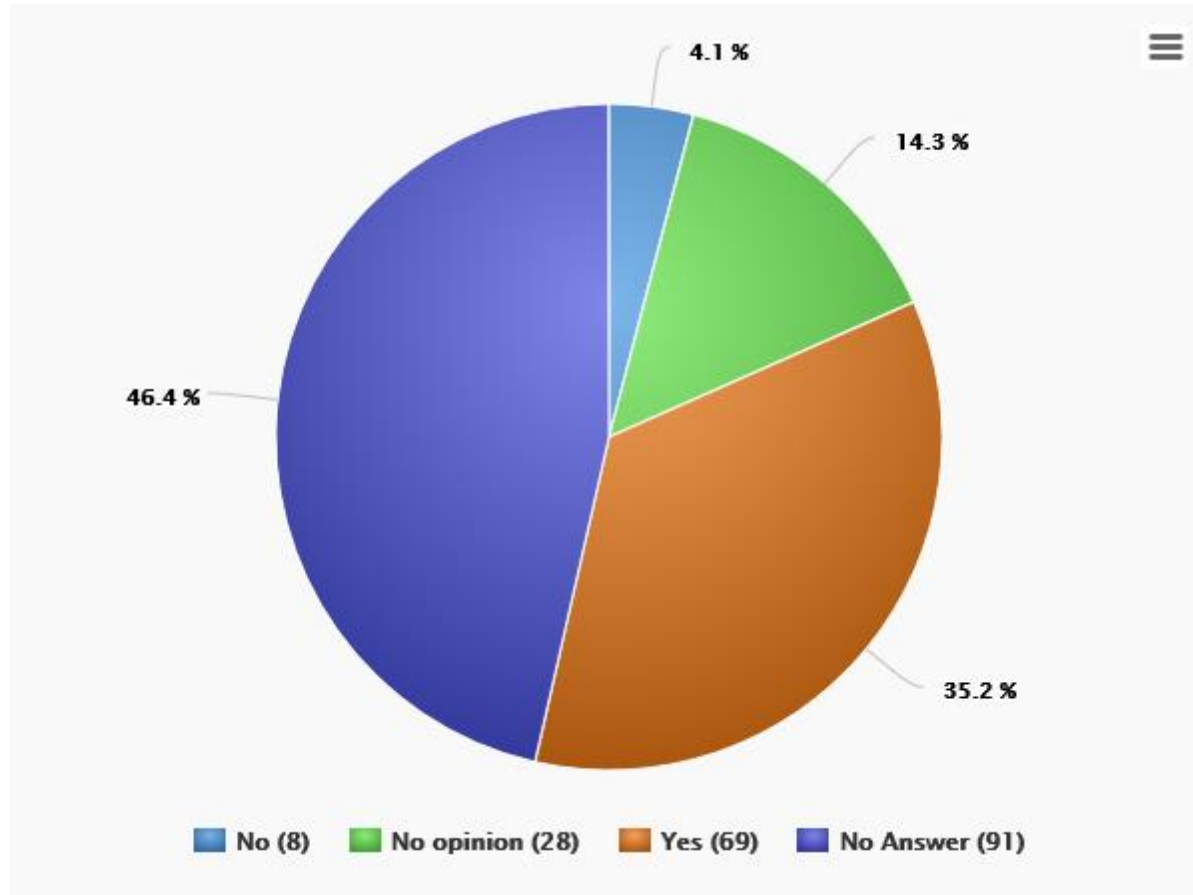
- **60%** see design/product definitions as clear, **21,9%** don't.
- **44,76%** see protection requirements as clear, **37,1%** don't.
- **38,1%** see scope of protection as clear, **43,8%** don't.

Q40: Protection against copying by 3D printing



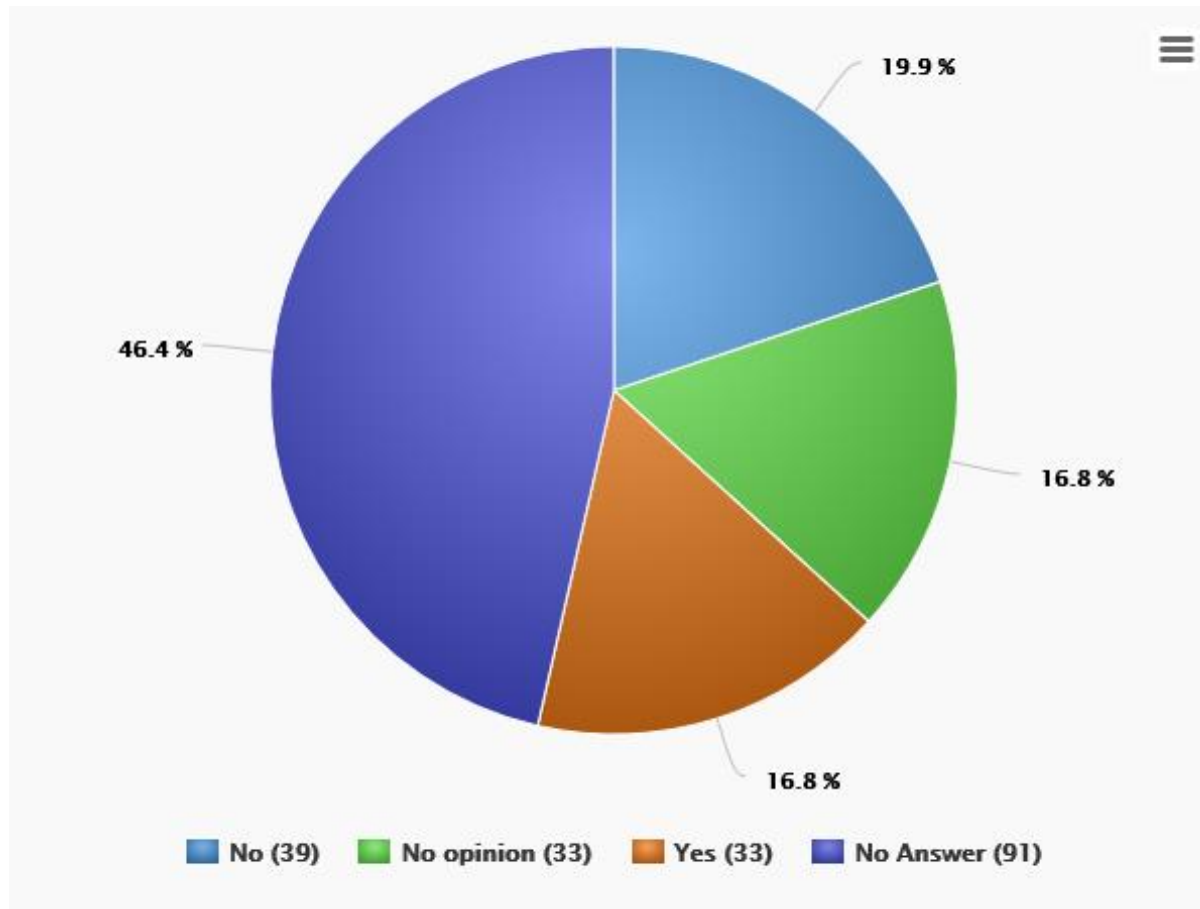
- **31,4%** of those who replied to the question think that the current scope of design rights provides sufficient protection against copying by means of 3Dprinting.
- The **same percentage** thinks that this is not the case.

Q41: Protection against goods in transit needed?



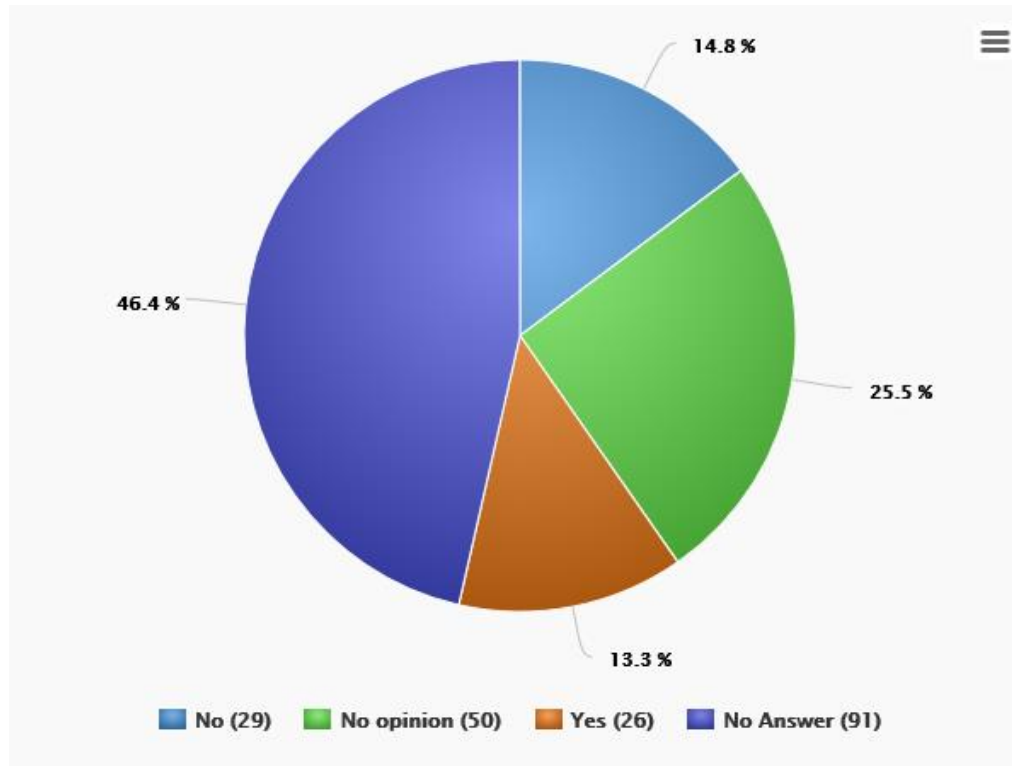
65,7% of those who replied to the question think the scope of design rights should extend to goods in transit (alignment with reformed TM acquis).

Q43: Requirements for representation of RCD adequate?



37,1% of those who replied to the question consider current requirements for representation of RCDs (e.g. means, number of views) not appropriate.

Q46: Inappropriately rigid/complex rules?



- **24,8%** of those who replied to the question think there are unnecessarily rigid/complex rules.
- 'Same-class-requirement' for multiple applications named most;
- In response to Q58, **39%** of those who replied saw such 'same-class-requirement' as inappropriate.

Q48: Need for further harmonization

Of those who replied to the question:

Top five design law aspects	Important
1. Requirements for the representation of a design	71,4%
2. Substantive grounds for refusal	69,5%
3. Product indication & the design's scope of protection	69,5%
4. Right to the design	67,6%
5. Multiple applications and its conditions	65,7%



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Takeaway



Thank you for your attention!

Contact: tomas.eichenberg@ec.europa.eu