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Creating a safe and effective ‘right to repair’



Executive summary

DIGITALEUROPE believes that consumers should be entitled to high-quality repairs that are safe, secure and reliable. Our members already treat repair, refurbishment and remanufacturing as part of their everyday business practice, performing millions of repairs annually.¹ Their repair facilities across Europe help promote sustainable consumption, reduce the environmental impact of ICT products, deliver real benefits to consumers and create high-skilled jobs. These services are also integral to ensuring customer trust and satisfaction.

The right to repair should:

- ▶ **Put consumer safety at the heart of the legislation**, recognising that not all repairs can be carried out safely and successfully by consumers themselves.
- ▶ **Acknowledge the importance of existing manufacturer-led repair networks** that provide consumers with convenient access to safe and effective repair options.
- ▶ **Ensure consistency with existing product-specific EU legislation** that promotes repair.
- ▶ **Exclude business-to-business transactions from the scope.** Businesses already have commercial repair arrangements that ensure sustainability whilst meeting their specific operational needs.
- ▶ **Recognise that repair is one of many tools** to incentivise a shift towards a more circular economy. In some cases, replacement with a new or refurbished product might be more suitable.

¹ DIGITALEUROPE, *The contribution of the digital industry to repair, remanufacturing and refurbishment in a circular economy*, April 2017, available at <https://www.digitaleurope.org/resources/the-contribution-of-the-digital-industry-in-a-circular-economy/>.



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Right to repair

The right to repair should ensure consumers are entitled to high-quality repairs that are safe, secure and reliable.

It is important to understand that not all repairs can be carried out safely and successfully by consumers themselves, as they could compromise a device's integrity or functionality. Especially for highly complex devices, a skilled professional will be the best suited to carry out a repair.

The 'right to repair' should, therefore, only promote consumer repairs where they do not jeopardise product safety, security or reliability. The right should otherwise be tailored to match appropriate repairs with appropriate providers.

Repairs should also be considered as just one tool as part of a broader strategy to incentivise prolonged product lifetime, minimise waste and shift towards a more circular economy. In some cases, replacement and adequate recycling can have a lower environmental footprint, and can therefore present an equally viable option.

Scope of the right

The right to repair should apply to all consumer products and should be enacted at a European level. However, where there are already existing product-specific repairability requirements, these should take precedent over new policies.

Consistency must be ensured with existing and emerging EU policies that promote increased repair options for electronic devices under the Ecodesign Directive,² the proposed Batteries Regulation³ and the Sale of Goods Directive.⁴

Business-to-business (B2B) transactions should be outside the right's scope. Business customers usually require tailored commercial arrangements for repair in light of their critical operational requirements.

A specialised repair, including shipping to a repair vendor, can take several business days and most businesses cannot afford such operational delays. In those cases, to prevent disruption, business customers prefer an arrangement where they receive a new or refurbished product or component within a short timeframe and return the defective product. The defective product or component is then repaired and redeployed to another customer in the future or sold on at a lower price point. Repair hubs maintain stock of products and parts, to be able to

² Directive 2009/125/EC.

³ COM/2020/798 final.

⁴ Directive (EU) 2019/771.

facilitate a minimum turnaround time for the business customer. This practice, which works well, prevents business disruption and is key to achieving a viable circular economy.

Ensuring safety and cybersecurity

Most electronics are highly complex and contain components that may pose an electrical shock or fire risk. Improper handling of such components can lead to severe injuries (such as burns or blindness) or property damage. This is recognised by the Joint Research Centre (JRC), which has noted that electronic repairs require ‘appropriate technical skills that most consumers do not have. If a product is not properly repaired, consumer safety could be compromised.’⁵

Privacy and cybersecurity concerns should also be considered alongside physical safety. With connected devices, unauthorised access can result in cybersecurity vulnerabilities, privacy and fraud risks, or loss of sensitive personal, financial or professional information.

A repair carried out by a professionally trained technician using genuine parts is the most reliable and safest option. Sufficient safeguards must be put in place, particularly where third-party independent repair facilities are concerned. If the technician is not employed or contracted by the manufacturer, they should be insured and demonstrate compliance with applicable standards for electrical equipment repairs.

Importance of manufacturer repair networks

Manufacturer-authorised repair networks provide consumers with convenient access to safe and effective repair options. Such networks ensure to consumers and manufacturers alike proper compliance with safety and other legislation.

Manufacturer-authorised networks are optimised for efficiency, minimising the environmental impacts beyond what would be possible via consumer-led repair models. They allow for appropriate collection and treatment of waste and often include reverse logistics and take-back schemes. They maintain product production and repair data, which allows for accurate prediction of demand for spare parts, minimising overstocking and – more importantly from an environmental perspective – reducing resource and material consumption. They also provide data for analysis on product performance and quality, allowing for product improvements.

⁵ P. 132, JRC technical report, *Analysis and development of a scoring system for repair and upgrade of products*, 2019, available at https://publications.jrc.ec.europa.eu/repository/bitstream/JRC114337/jrc114337_report_repair_scoring_system_final_report_v3.2_pubsy_clean.pdf.

Manufacturers have processes that track repairs completed through their authorised networks, allowing traceability of repairs in case of follow-up issues. Opening up repairs to independent third-party servicing with no obligation for traceability would inhibit manufacturers' ability to track repairs and determine liability. Traceability also assists insurance companies and other entities if the incident requires investigation and resolution.

Warranty and liability implications of failed repairs

Customers should be made aware of the potential implications for manufacturer-provided warranties stemming from a failed repair, be it carried out by an independent repair provider or by consumers themselves.

In these cases, future repair costs will be borne by consumers, as manufacturers cannot be held liable for such repairs.

Protection of intellectual property

Proprietary information and intellectual property rights (IPR) should be preserved in the context of repairs. Legislation should not, for example, force manufacturers to divulge information or provide access to components that could compromise their IPR.

The existing right to repair provision in the Waste Framework Directive strikes a good balance in this regard. It establishes that spare parts, repair instructions, etc. should be made available if this does not compromise safety, quality or IPR.⁶

Cost of repair

Some stakeholders have proposed creating a repair fund where manufacturers placing products on the EU market would subsidise the cost of repair for consumers, similar to the recently developed French repair fund.

Subsidising repair costs could have an inverse impact on sustainable consumption habits as it could encourage fraud or carelessness in the handling, maintenance and use of products as the cost of repair would not be placed on the end-user.

Any financial incentive should not be detrimental to existing practices of commercial authorised repair networks, managed by manufacturers and producers, which have been working for many decades in Europe and have created many highly skilled jobs. These are small, medium and large businesses and would not exist if repair was for free or cost neutral. There is a cost

⁶ Art. 9(1)(e), Directive 2008/98/EC.

associated with repair. This cost includes the manual labour for the repair, transport to and from the repairer, and buying replacement parts. In addition, there are costs for training, tools and specialised equipment, renting space and other related overhead costs.



Legal guarantees

Potential remedies for defective products

The most effective remedy for defective products is highly dependent on the situation and the product. Whilst repair might be the most effective solution in some situations, replacement with a new or refurbished product might be more suitable in others.

There are instances, for example, where repair is technically possible, yet replacement offers a better solution in terms of speed, logistics, costs, customer-friendliness and even sustainability. In those cases, manufacturers and sellers should have the flexibility to offer a replacement instead of a repair. This should include the option to replace defective products with refurbished ones.

Where a replacement occurs, many manufacturers ensure, where and to the extent possible, the returned product will be refurbished and further used for future replacements. Where repair is not possible, manufacturers ensure proper end-of-life treatment in accordance with existing waste regulations. Components or secondary raw materials can be reused. This way, businesses advance environmental goals and avoid the generation of unnecessary waste.

Length and scope of legal guarantees

The recently revised Sale of Goods Directive establishes a minimum two-year legal guarantee for products that covers defects that existed at the time of delivery. We believe this is sufficient – as evidenced by the Commission’s impact assessment, 96 per cent of problems with goods that were defective at the time of delivery are discovered within the first two years from purchase.⁷

Extending the length of legal guarantees could substantially increase the cost of goods, as manufacturers and retailers would need to make allowances for a much higher volume of returns and requests for repair or replacement. It is estimated that increasing the duration of legal guarantees from two to five years would increase the cost of goods on average by 29.4 per cent.⁸ In addition, and

⁷ SWD/2017/0354 final - 2015/0288 (COD).

⁸ See our *Views on suggestions to include the concept of ‘expected lifespan’ to the proposed Tangible Goods Directive*, available at <https://www.digitaleurope.org/resources/views-on->

importantly, an extension of the guarantee period would have no bearing on the expected lifetime of a product and would not change the number of defects identified.

Extended legal guarantees could also create unnecessary waste, as manufacturers and the repair community would need to produce, maintain and store spare parts for a longer period, regardless of whether there will be demand. Manufacturers will also incur excess costs to scrap obsolete parts if the spare parts are never used, as it is difficult to accurately forecast how many spare parts may be needed.

Similar to suggestions regarding a 'repair fund,' the possible negative impact on sustainable consumption habits should be taken into account. Longer legal guarantees covering issues that did not exist at the time of purchase could discourage the responsible handling, maintenance and use of products by some consumers, as the cost of replacement and repair would not be placed on them.

Restarting legal protection periods

Some stakeholders have proposed that the legal guarantee period should restart when a product is repaired. This could lead to instances of abuse or even fraud, notably with consumers bringing their product back right before the end of the legal guarantee period in order to benefit from extended legal protection periods. Such abusive, potentially endless renewal of the legal protection period should be prevented.

Commercial options for additional protection

It is important to recognise the existing commercial options already on the market which provide consumers with additional protection, should they desire it. Our sector, like many others, has seen the widespread introduction of commercial guarantees, extended service plans and services covering accidental damage, which provide consumers with the choice of extra levels of protection. These service plans are used competitively between manufacturers as well as third parties, both to extend the period of coverage or the scope, e.g. accidental damage, theft, loss.

We believe that consumer choice is important. However, many customers do not put a premium on this peace of mind and prefer not to pay for it. Forcing longer guarantees through legislation may stifle both competition and consumer choice while increasing prices for all consumers.



Product lifetimes

Difficulty in defining product lifetimes

Although there is a general public perception of declining product lifetimes, establishing a reliable, comparable and verifiable tool to determine a product's lifetime is not straightforward.

A product's lifetime is highly dependent on the end-user's use of it. As the French Environment Agency (ADEME)'s has highlighted:

“ *The uses of today are different from those of yesterday: on average we open the door of our refrigerator twenty times more than 50 years ago. It is therefore not always possible to compare the lifetimes of objects over time. Moreover, the growing presence and large number of electrical and electronic equipment in homes increases the probability of failure and therefore the feeling of reduced durability of products.*⁹

A comparison of consumer product lifetimes estimated by the UN Environment Programme (UNEP)¹⁰ in 2009 with data published in 2021 by the After-Sales Service Barometer¹¹ of French retailer Fnac Darty is inconclusive.

Comparison of product lifetime from the 2009 UNEP study and usage time before replacement from the 2021 Fnac Darty After-Sales Service Barometer

Product	Lifetime according the 2009 UNEP study	FNAC-Darty Observatory 2021
Personal Computer	5 to 8	10
Laptop	5 to 8	7
Printer	5	6 to 8
Mobile phone	4	4
TV	8	10
Refrigerator	10	13 to 15

⁹ P. 22, ADAME, *Allongement de la durée de vie des produits*, 2016, available at https://www.ademe.fr/sites/default/files/assets/documents/allongement_duree_vie_produits_2016_02_rapport.pdf.

¹⁰ https://www.researchgate.net/figure/Estimated-lifespan-and-weight-of-electrical-and-electronic-equipment-EEE_tbl2_230592852.

¹¹ <https://leclaireur.fnac.com/barometre-sav/>.

Premature obsolescence

In this context, our sector is unfairly accused of implementing engineering solutions that result in planned or premature obsolescence of consumer devices. While there is no agreed definition of premature obsolescence, the term is often used to refer to an alleged policy, business practice or marketing strategy whereby manufacturers deliberately shorten the lifetime of a product in order to ensure a constant, or recurring, purchase pattern. DIGITALEUROPE forcefully rejects such practices.

Introducing new products reflects our industry's best efforts to keep pace with consumer expectations and preferences. The speed at which this occurs reflects the highly competitive market in which we operate, rapidly increasing consumer expectations and the breakneck speed of technological improvements.

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About DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

DIGITALEUROPE Membership

Corporate Members

Accenture, Airbus, Amazon, AMD, Apple, Arçelik, Assent, Atos, Autodesk, Banco Santander, Bayer, Bidao, Bosch, Bose, Bristol-Myers Squibb, Brother, Canon, Cisco, Danfoss, Dassault Systèmes, DATEV, Dell, Eli Lilly and Company, Epson, Ericsson, ESET, EY, Facebook, Fujitsu, GlaxoSmithKline, Global Knowledge, Google, Graphcore, Hewlett Packard Enterprise, Hitachi, HP Inc., HSBC, Huawei, Intel, Johnson & Johnson, Johnson Controls International, JVC Kenwood Group, Konica Minolta, Kry, Kyocera, Lenovo, Lexmark, LG Electronics, Mastercard, Microsoft, Mitsubishi Electric Europe, Motorola Solutions, MSD Europe Inc., NEC, Nemetschek, NetApp, Nokia, Nvidia Ltd., Oki, OPPO, Oracle, Palo Alto Networks, Panasonic Europe, Philips, Pioneer, Qualcomm, Red Hat, ResMed, Ricoh, Roche, Rockwell Automation, Samsung, SAP, SAS, Schneider Electric, Sharp Electronics, Siemens, Siemens Healthineers, Sky CP, Sony, Sopra Steria, Swatch Group, Technicolor, Texas Instruments, TikTok, Toshiba, TP Vision, UnitedHealth Group, Visa, Vivo, VMware, Waymo, Workday, Xerox, Xiaomi, Zoom.

National Trade Associations

Austria: IOÖ

Belgium: AGORIA

Croatia: Croatian Chamber of Economy

Cyprus: CITEA

Czech Republic: AAVIT

Denmark: DI Digital, IT BRANCHEN, Dansk Erhverv

Estonia: ITL

Finland: TIF

France: AFNUM, SECIMAVI, numeum

Germany: bitkom, ZVEI

Greece: SEPE

Hungary: IVSZ

Ireland: Technology Ireland

Italy: Anitec-Assinform

Lithuania: Infobalt

Luxembourg: APSI

Moldova: ATIC

Netherlands: NLdigital, FIAR

Norway: Abelia

Poland: KIGEIT, PIIT, ZIPSEE

Portugal: AGEFE

Romania: ANIS

Slovakia: ITAS

Slovenia: ICT Association of Slovenia at CCIS

Spain: AMETIC

Sweden: TechSverige, Teknikföretagen

Switzerland: SWICO

Turkey: Digital Turkey Platform, ECID

Ukraine: IT Ukraine

United Kingdom: techUK