

Orgalim Position Paper on the “right to repair”

Executive summary

Representing Europe’s technology industries providing innovative solutions that can unlock a greener and more prosperous future for the European Union and its citizens, **Orgalim supports the principle of the new “right to repair”** initiative. This initiative, which was announced in the new Circular Economy Action Plan, encourages consumers to use products for a longer time and to promote repair to keep repairable products in the economy for as long as possible, while making sure that, once repaired, these products are fit for future use in order to avoid undue extra costs and waste of resources. We also support the use of voluntary measures to achieve such goals and ambitions.

We recommend the following **key principles** to be respected when developing new requirements to improve the reparability of products:

- The concept of the “right to repair” needs to be defined.
- An impact assessment must be conducted to ensure that the implementation of the new requirements will be workable, proportionate, enforceable and will contribute to a circular economy.
- Fair competition and a level playing field must be secured
- New requirements must follow the New Legislative Framework
- Double regulation must be avoided
- There is no one-size-fits-all solution. A product-by-product approach is needed
- The scope of products covered must be clear
- Start with a small number of products and focus on consumer products
- Methodology of the Ecodesign Directive must be used
- Requirements must be based on scientific assessment methods through recognised European or ISO /IEC/ITU international standards and must be reliable and verifiable
- Responsibilities of the different actors must be clear and the possible cost implications for the different actors defined and proportionate
- Safety first. If the repair is not done in the right way, risk of safety and responsibility issues.
- Quality of repair is of high importance
- Testing after repair is needed for most products
- We support the use of voluntary commitments and incentives. Business models must not be regulated.
- There are not enough incentives for consumers to take into consideration the total costs.
- Consumers need to use products in the correct way
- **Not only how the products are used is important, but also how they are maintained**
- Economic factors have to be taken into account
- Reparability versus other design parameters must be assessed
- Evidence to support the assumption that lifetime of products has decreased.

1. Introduction

Representing Europe's technology industries providing innovative solutions that can unlock a greener and more prosperous future for the European Union and its citizens, Orgalim thanks the European Commission for the opportunity to comment on the call for evidence for an impact assessment on the legislative proposal for an amendment of the Sale of Goods Directive, and possibly a separate new legislative proposal on the "right to repair".

Our industries, providing innovative technology solutions that are underpinning the twin green and digital transitions, stand ready to continue providing innovative, high-quality, functional and safe products that are efficient and affordable, last longer, and are designed for reuse, repair, and high-quality recycling. We welcomed the Commission's new Circular Economy Action Plan (see our position paper [here](#)) and the Sustainable Products Initiative (see our position paper [here](#) and our Statement on the proposal for a Regulation on ecodesign for sustainable products [here](#)) as key measures to further optimise the way resources are used throughout the economy and society. **Our industries also support the principle of the new "right to repair" initiative** which was announced in the new Circular Economy Action Plan to encourage consumers to use products for a longer time and to promote repair to keep repairable products in the economy as long as possible, while making sure that, once repaired, these products are fit for future use in order to avoid undue extra costs and waste of resources. This should be limited to business-to-consumer (B2C) transactions as repairs and services for sales of goods in a business-to-business (B2B) context are generally covered by contractual agreements. We also support the use of voluntary measures to achieve such goals and ambitions.

It is difficult to respond to the Commission consultation questionnaire on the "right to repair" as the responses to the questions depend very much on the type of products included in the scope. The responses also vary depending on the different target groups. For future consultation questionnaires, we recommend considering the possibility of having different versions of the consultation questionnaire for different target groups (e.g. different questionnaires for consumers, industry, governments, NGOs, etc.). Another reason why it is difficult to respond to the questions is the fact that several elements in the questions are not detailed or clear enough. For example, "guarantee" is mentioned in the questionnaire but the kind of guarantee is not specified; legal or commercial? This has a huge influence on how the questions are interpreted.

2. Key principles

We recommend the following **key principles** to be respected when developing new requirements to improve the reparability of products:

- **The concept of the "right to repair" needs to be defined.** The concept is unclear in the questionnaire. Such a principle must not encourage the consumer to forego responsibility for the correct use and maintenance of the products. It must encourage the consumer to choose the correct product. There will always be a cost for the consumer. Even if the repair is nominally free, the cost will be transferred at the time of purchase of the product. The social and economic impacts must be analysed carefully. Does the "right to repair" mean that the customer is not responsible for the repair cost, or does it mean for how long should you be able to repair a product and pay for the repair (with reference to availability of spare parts, etc.)? This is unclear in the questionnaire.
- **An impact assessment must be conducted** to ensure that the implementation of the new requirements will be workable, proportionate, enforceable and will contribute to a circular economy. There must be proven environmental benefits that exceed the costs for industry.

- **Fair competition and a level playing field must be secured.** The new requirements must be enforceable and enforced by market surveillance authorities. To ensure a level playing field, the new requirements must apply both to products manufactured in the EU and placed on the internal market or put into service as well as to products made available on the market online or through other means of distance sales.
- **Requirements must follow the New Legislative Framework (NLF)** including the application of the CE marking and declaration of conformity. Product requirements must be based on applicable internal market regulations to ensure a level playing field and to adjust relevant provisions to specifically solve uncertainties related to definitions, requirements and responsibilities of the different actors.
- **Double regulation must be avoided.** New requirements must be consistent and aligned with existing requirements under other EU laws (e.g. current rules regarding CE marking, new Ecodesign Regulation for sustainable products, RoHS Directive, Construction Products Regulation, etc.) to avoid the duplication of effort in providing information.
- **There is no one-size-fits-all solution. Requirements must be established on a product-by-product basis.** Repairability requirements must – like any other product requirements – be established on a product-by-product basis and product category-by-product category basis, taking into account the differences in products, differences between B2C and B2B products and the complexity of the B2C market and products. For example, the availability of repair depends on the type of products. It is also relevant to further distinguish between products a consumer can repair themselves without safety concerns and products which only authorised persons should repair.
- **The scope of products covered must be clear.** We would welcome clarification regarding the scope of the “right to repair” initiative, which is not clear because most of the questions in the Commission consultation questionnaire address consumer products but some questions (e.g. Question 12) seem to refer to professional products (“*equipment to run their offices and factories*”). If the initiative is aimed at consumer products, unintentional inclusion, or inclusion without proper impact assessment of business-to-business (B2B) sold products should be avoided. Business commonly regulates repairs/service via purchasing agreements and for industrial/professional use the (acceptable) repair/service need may be vastly different from consumer use. Furthermore, businesses must already undertake considerable sustainability measures under other regulation and policies. If B2B products are to be included, it needs to be recognised that consumers and businesses are in different situations with different possibilities to influence, define, and establish their own agreements between suppliers and customers. It is therefore important that impact assessment is done separately for any B2B inclusion to ensure that the measures do not have negative sustainability impact and/or impair EU industry competitiveness and development of sustainable business models. Moreover, finished goods, which are within the scope of this consultation, must be clearly distinguished from components: e.g. a cable or wire can be used as an electrical component in a device or apparatus (e.g. a luminaire, or electrical installation), whereas an extension cord (complete with plugs) can be considered as a finished good. We recommend policymakers to develop a criteria-based decision tree approach to defining the products included in the scope of “right to repair” because there are many factors that relate to the product (regardless of its category) such as the carbon cost of the repair; the cost of repair versus the cost of replacement; the availability of qualified technicians to repair the product; access to technical information to make the repair, etc.
- **Start with a small number of products and focus on consumer products.** B2B products should not be regulated in the same way as B2C products as repairs and services for the sale of goods in business-to-business (B2B) contexts are often generally covered as standard practice in our sector by contractual agreements (part of a service contract or even the original contract). The business model for consumer

products is wholly different and varies widely between product categories. We note that the scope of the existing French Circular Economy law requiring producers/importers to ensure information on reparability is provided on or with a product is limited to B2C products. We recommend to start with a small number of products and to focus on consumer products. Consideration should also be given to introducing the “right to repair” for prioritised product groups to gain experience before introducing this requirement to a broader selection of products.

- **The Ecodesign Directive methodology must be used.** Requirements to improve the reparability of products must be analysed on a product-by-product basis using the methodology of the Ecodesign Directive, comparing the added environmental value with the costs for consumers and companies. This means that for some products recycling may overall be a more sustainable solution than reparation. This aspect should also be taken into consideration when developing new requirements for products.
- **Requirements must be based on scientific assessment methods** through recognised European or ISO /IEC/ITU international **standards** and must be reliable and verifiable.
- **Responsibilities of the different actors must be clear and the possible cost implications for the different actors must be defined and proportionate.** There is no question in the consultation questionnaire referring to the responsibilities of the different actors. What will be the responsibilities of manufacturers, sellers, consumers and online marketplaces and search engines? Who will have the right to choose if the product should be repaired and by whom? These are crucial questions to be addressed. Sellers must be held responsible as they have the direct link with their customers. If a product is placed on the European market conforming with all of the relevant legislation and that product is subsequently repaired by someone not authorised by the manufacturer, then the manufacturer can no longer take responsibility for the product. If economic actors are obliged to repair, it must be established in parallel that consumers cannot choose the replacement of the products. Finally, **the possible cost implications for the different actors must be defined and proportionate.** We agree in principle with the statement in the consultation questionnaire “*The price of repair should cover the cost of repair and include a reasonable margin of profit*”. But it is difficult to answer this question because the concept of “reasonable margin of profit” is not defined.
- **Safety first.** We draw attention to the risk of safety and responsibility issues if the repair is not done in the right way. The safety aspect should be part of the product-specific analysis when evaluating the feasibility of a “right to repair” requirement. Safety cannot be compromised in products and components against the “right to repair” and reuse. Therefore, all repair and reuse must be strictly controlled within the framework of compliance with existing standards (e.g. fire hazard). The repair should be examined by professionals to ensure product safety. Any new framework regarding repair should not provide the possibility for non-professional, not-competent actors to offer this service. Ecodesign has already set some criteria to validate the professional credentials of the repairer, ensuring that he/she has the required abilities and is insured to cover the repair activities. We would welcome details on the tests to guarantee that the repaired product has been repaired correctly. As to the technician training to undertake a repair, what are the criteria that will define the competency of the repairer and who will provide the training? Regarding the technician/company competency, who is qualified to do what, and in what circumstances? Some utilities are regulated and the health and safety aspects of repairing products are the top priority.
- **Quality of repair is of high importance.** The CENELEC norm preparation for reuse specifies key elements related to quality of WEEE to be reused /repaired. The quality of the spare parts used for repair is also of high importance.

- **Testing after repair is needed for most products.** The tests on complex products can require bespoke equipment. For example, if a wireless device is repaired, it needs to be tested for efficient use of the spectrum, Electro Magnetic Compatibility (EMC) performance, Specific Absorption Rate and whether any safety aspects are compromised. If a simple electrical device under the Low Voltage Directive (LVD) has been repaired, has an insulation resistance test been carried out?
- **We support the use of voluntary commitments and incentives. Business models must not be regulated.** Companies are increasingly organising themselves in circular business models, also including the repair of products. We recommend policymakers to incentivise this development further, but policymakers should not seek to prescribe business models because we believe companies are better placed to organise this themselves. Furthermore, for the most commonly repaired products such as small household electrical products, we believe there is ample opportunity for manufacturers to refer to local repair shops. It would not be necessary to require companies to offer their own specific repair service. Voluntary agreements between competent authorities and economic sectors have proved to be a powerful measure to reach environmental goals in a cost-efficient way. For example in Europe, the Circular Plastic Alliance and the European Plastic Pact have demonstrated their strengths in mobilising industry through voluntary commitments. Such commitments and agreements will also be a good way to foster the transition to more sustainable consumption of goods, e.g. by promoting repair and reuse. We recommend voluntary commitments at EU level to be considered for these sectors.
- **There are not enough incentives for consumers to take into consideration the total costs.** Manufacturers want to see that, if they are following rules on circularity and repair measures, there should be incentives for people to choose these products. Otherwise, less reputable manufacturers may not follow the rules and there will be a risk of unfair competition
- **Economic factors have to be taken into account:** Sometimes repairability incurs a higher cost and makes it unprofitable. When it comes to the question of new purchases or repairs, consumers often decide against a repair for economic reasons, even though it would make sense from an environmental perspective. The decisive factor here is not so much the absolute cost of repair, but the relationship between the purchase price and the cost of repair. Cost and efficiency are the main drivers for decision-making when it comes to repairing or replacing a product and time also has to be accounted for; e.g. how long does repair/replacement take, how long could a replacement be accounted for tax-wise, or would replacement be (more) cost and energy efficient than repair?
- **Consumers need to use the products in the correct way** and to be informed about the existing requirements (e.g. obligations of spare parts availability during a certain period of time). We need to “educate” and raise awareness to consumers of the need to repair the products and the importance of good maintenance. In addition to the obligations for the manufacturers, sellers and repairers, it is also important that consumers use the products in a correct way. We recommend to balance the “right to repair” with the use of the product by the consumer. Misuse of products by the consumer should be also addressed. In cases where B2B products are within the scope, it is also important that professionals use the products in the correct way.
- **Not only how the products are used is important, but also how they are maintained.** The maintenance of the product by the owner is the starting point to achieving the optimum lifetime of the product, while following all the manufacturers warnings/guidance (e.g. with regard to cleaning, storage, charging, etc.). Maintenance plays a major role in a good relationship between consumers and businesses (particularly for B2B). Our industries sell long lasting high end products (for example machinery and installations). These are

not one-time-use or throwaway products. There is a lot at stake –for consumers who usually pay a high price for quality products and for sellers due to their market reputation. Moreover maintenance and repair are usually part of the contract and business between producers and consumers.

- **Repairability versus other design parameters must be assessed.** The relevance and effectiveness of the various proposed circular economy and repairability requirements should be analysed in comparison to other policy tools and design parameters. For example, to what extent it is possible to repair a product, and how this repairability parameter will affect other design parameters that might result in increased environmental impact, must be assessed. In some product categories, repairability sometimes has to be balanced with durability. The Ecodesign Directive gives a framework to analyse these aspects in a life cycle perspective and the standards EN 4555x to provide a guide.
- **Evidence to support the assumption that the lifetime of products has decreased.** There seems to be a general assumption that the lifetime of products has decreased. We would welcome any evidence and statistics to support this statement based on comparable scenarios of use. For example, see the French Studies on WEEE for B2C for household WEEE [here](#) (“*Étude gisement DEEE 2019 Modélisations et plan d’action pour DEEE ménagers Version révisée du 08/09/2021*”) and for professional WEEE [here](#) (“*Étude gisement DEEE 2019 - Modélisations et plan d’action pour DEEE professionnels Version révisée du 08/09/2021*”).

Orgalim represents Europe’s technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU’s largest manufacturing sector, generating annual turnover of over €2,076 billion, manufacturing one-third of all European exports and providing 11.33 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.

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