



POSITION PAPER

Brussels, 25 May 2023

Orgalim position and recommendations on the proposal for a Directive laying down common rules promoting the repair of goods

Executive summary

Europe's technology industries welcome the proposal from the European Commission for a Directive laying down common rules promoting the repair of goods purchased by consumers with a view to contributing to the proper functioning of the internal market, while providing for a high level of consumer and environmental protection. This paper sets out our views and concrete recommendations on this new proposal.

✔ What we support

- That this proposal for a Directive will make it easier and more cost-effective for consumers to repair as opposed to replace goods.
- The ambition of the proposal to increase the knowledge of consumers and to facilitate their access to repair.
- The objective of the proposal contributing to the proper functioning of the internal market and the proposed maximum level harmonisation Directive.
- The scope, and that the proposed Directive will cover finished consumer goods.
- That the European Repair Information Form will provide standardised and harmonised key information on the conditions and price of the repair service. However, we also have several concerns.
- The proposed online platform for repair and goods subject to refurbishment.
- The development of a voluntary European quality standard for repair services.

⚠ What concerns us

- Different national initiatives adopted by various Member States to promote the repair of goods because they fragment the internal market.
- Overlaps, duplication of efforts and double regulation between the three different initiatives from the Commission which together will jointly deliver on the "right to repair"; the proposal for Ecodesign for Sustainable Products Regulation (ESPR), the proposal on empowering consumers for the green transition and this new proposal for a Directive on common rules promoting the repair of goods.
- New rules promoting the repair of goods which are not aligned with the New Legislative Framework (NLF).
- Not enough time for economic operators to adapt to the new rules.
- The unnecessary burden created by the proposed European Repair Information Form and the fact that some of the required information may be difficult to provide for this Form as well as for the proposed online platform for repair and goods subject to refurbishment.
- No distinction between provisions on repair within the legal guarantee period and provisions on repair beyond the legal guarantee period.

You will find our general recommendations at the end of the document.

Introduction

Orgalim represents Europe's technology industries, providing innovative technology solutions which are underpinning the twin green and digital transitions and can unlock a greener, healthier and more prosperous future for the European Union and its citizens. Our industries 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 thank the European Commission for the opportunity to comment on the [proposal](#) for a Directive laying down common rules promoting the repair of goods.

Our industries welcomed the Commission's new Circular Economy Action Plan (see our position paper [here](#)), the Sustainable Products Initiative (see our position paper [here](#)) and the proposal for Ecodesign for Sustainable Products Regulation (see our position paper [here](#)) as key measures to further optimise the way resources are used throughout the economy and society. Last year, we also supported the principle of the new "right to repair" initiative (see our position paper [here](#)) which was announced in the new Circular Economy Action Plan. The aim is to encourage 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 now welcome the [proposal](#) from the Commission for a Directive laying down common rules promoting the repair of goods** purchased by consumers with a view to contributing to the proper functioning of the internal market, while providing for a high level of consumer and environmental protection. This proposal delivers on the Commission's priority of the green transition, specifically the European Green Deal and its objective of sustainable consumption.

What we support

We support that this proposal for a Directive laying down common rules promoting and facilitating the repair and reuse of goods will make it easier and more cost-effective for consumers **to repair as opposed to replace goods**.

We also support the ambition of the proposal **to increase the knowledge of consumers and to facilitate their access to repair**. The transition to more repairable and sustainable products requires a culture change for both manufacturers and consumers.

We support existing as well as new **business type models** such as servitisation which incentivise the extension of product life cycles through durable design, repair, refurbishment and remanufacturing. It is a desirable development that products, as long as they are economically and environmentally beneficial and respect product safety requirements, are used for as long as possible through good maintenance, repair, service and also through upgrading.

We support the objective of the proposal laying down **common harmonised rules** promoting the repair of goods and contributing to the **proper functioning of the internal market**. We also support the proposed **maximum level harmonisation Directive** (Article 3) according to which Member States shall not maintain or introduce in their national law provisions diverging from those laid down in this Directive. It is essential that requirements are harmonised at EU level to secure the functioning of the internal market and to safeguard the possibility for companies to develop efficient and successful circular reparability solutions across Europe.

As to the **scope**, we welcome that the proposed Directive will apply to the repair of goods purchased by consumers (Article 1) and will therefore cover finished **consumer goods** (business-to-consumer (B2C)).

Regarding the proposed **European Repair Information Form** (Article 4), we support that this form will provide standardised and harmonised key information on the conditions and price of the repair service.

- **We recommend** that the time period of the validity of the offer should be decided by the repairers because they have the first-hand information about their supply chains and availability of spare parts.

We support that the European Repair Information Form should be **given to the consumer only upon their request** (Article 4.1). This will avoid unnecessary burdens and costs for industry. We also support that the repairer may request the consumer to pay the necessary costs they incur by providing the information included in the European Repair Information Form if the consumer requests the provision of this form (Article 4.3). However, please see below several concerns we have in the section 'what concerns us'.

We support the proposed **online platform for repair and goods subject to refurbishment** to connect consumers with repairers and sellers of refurbished goods (Article 7). The establishment of at least one online platform in each Member State, where consumers can easily find out about repair offers and compare prices, is a useful tool to increase the knowledge of consumers and to facilitate their access to repair. However, we have some concerns as outlined in the section below. We also welcome the fact that registration on the online platform would be voluntary for repairers, as well as for sellers of goods subject to refurbishment and for purchasers of defective goods for refurbishment.

We support that the Commission will enable the development of a **voluntary European quality standard for repair services**. It is important that new requirements promoting the repair of goods will be based on scientific assessment methods through recognised European or ISO /IEC/ITU international standards so that they will be reliable and verifiable.

- **We recommend** the Commission to provide information about the estimated timeline for the development of this voluntary quality standard for repair services, in order to provide stakeholders with further clarity.

What concerns us

As mentioned earlier, we fully support the proposed maximum level harmonisation Directive (Member States shall not maintain or introduce in their national law provisions diverging from those laid down in this Directive – Article 3). However, we are very concerned about **different national initiatives adopted by various Member States** to promote the repair of goods; for example, related to the repair score of products (e.g. in France, Belgium and Austria), because they **fragment the internal market** and do not offer credibility to consumers when the same product can have different scoring with different methodologies in the various Member States. Our industries see the operation of the internal market as absolutely central for the circular economy to function at EU level.

- This is why **we strongly recommend** Member States to avoid developing national measures for promoting the repair of goods that impair the functioning of the internal market.

To avoid unnecessary burdens for companies and ensure consistency between the various initiatives related to the “right to repair”:

- **We recommend** policymakers to avoid overlaps, duplication of efforts and double regulation between the following three different initiatives from the Commission which together will cover the full life cycle of goods and will jointly deliver on the “right to repair”:
 - The [proposal for Ecodesign for Sustainable Products Regulation](#) (ESPR) which promotes the reparability of products in the production phase.
 - The [proposal on empowering consumers for the green transition](#) which enables consumers to make informed purchasing decisions at the point of sale.
 - This new [proposal for a Directive on common rules promoting the repair of goods](#) purchased by consumers which promotes repair in the after-sales context when the goods are used by consumers.

New rules promoting the repair of goods should follow the **New Legislative Framework** (NLF) and the various definitions (e.g. of “repairer” and “reparability requirements”) should be aligned in all the above initiatives. Furthermore, in general **definitions** must be clear, harmonised and comprehensible and if possible based on related standards applied by professionals in order to avoid misunderstandings.

- **We recommend** that the definition of repair be amended to give sellers the option to replace defective products with refurbished ones where this is an option and in instances where there are clear benefits. This definition should be harmonised across the legislations listed.

It is essential to provide economic operators, and in particular micro and SMEs, with **sufficient time** to adapt to the new rules, and to prepare for the implementation of such rules promoting the repair of goods, in order to ensure legal certainty and predictability.

- **We recommend** that the proposed Directive does not set out in its Article 16 a shorter transitional phase than the proposed 24 months.

Regarding the proposed **European Repair Information Form**, it is important that its introduction will not create unnecessary burdens. The list of conditions provided in Article 4.4 should not be an exhaustive list because some conditions may not always be relevant and so are not needed; for example, the point (g) “*the availability of temporary replacement goods during the time of repair and the costs of temporary replacement, if any, for the consumer*”.

- To take this into account, **we recommend** to add the words “*where relevant*” in the text of the Article 4.4.; “*The European Repair Information Form shall where relevant specify the following conditions of repair in a clear and comprehensible manner*”.

In addition, certain information requested in Article 4.4 listing the conditions of repair the European Repair Information Form shall specify in a clear and comprehensible manner might sometimes be difficult to provide because of the uncertainty of disclosing precise details concerning specific proposed information obligations before the goods have been examined. For example, an initial investigation might be required before one can declare “*the nature of the defect and the type of repair suggested*”; (Article 4.4 point (d)). Similarly, it might be difficult to communicate precise information before the goods have been examined concerning “*the maximum price for the repair*” (Article 4.4 point (e)) and “*the estimated time needed to complete the repair*” (Article 4.4 point (f)). There may also be cases where the information cannot, in principle, be given before the repair process has been completed; for example, where the cause of the defect cannot be identified by initial investigation.

- To take this into account, **we recommend** to add the words “*where possible*” in the text of Article 4.4.; “*The European Repair Information Form shall where relevant and where possible specify the following conditions of repair in a clear and comprehensible manner*”.

As mentioned above, we support the principle of the proposed **online platform for repair and goods subject to refurbishment**. However, for the same reasons as for the conditions of repair in the European Repair Information Form, we are concerned that some of the required information may be difficult to provide precisely before the specific good has been examined; for example, “*the time needed to complete the repair*” (Article 7.1 (a)). It is also unclear how the repairer would be able to provide the consumer with a completed European Repair Information Form via the platform, without having first examined the specific item.

- To take this into account, **we recommend** to add the words “*where possible*” in the text of the Article 7.1.; “*Member States shall ensure that at least one online platform exists for their territory that allows consumers to find repairers. That platform shall where possible [...]*”.

We would welcome further information on how these platforms will work in practice and how they will be financed. Is it important that such platforms do not create discrimination between repairers and are populated only by fully competent professional repairers as consumer confidence is key.

It is also important to distinguish between provisions on **repair within the legal guarantee period and provisions on repair beyond the legal guarantee period**. Within the legal guarantee period, repair should be free of charge when covered by the legal guarantee conditions. Outside the legal guarantee period, the repair service should be in the competitive field (where the repair price fees are freely established so that the repairers can compete with their service). A right to free repair may only exist if a defect existed at the time of transfer of risk (i.e., no damage due to subsequent improper handling, for example). As to provisions on repair within the legal guarantee period, we welcome the Commission's proposal to mandate repair when this is cheaper than replacement. However, we believe that refurbished products have a key role to play on the road to a circular economy. Refurbished products often have sustainability, logistical, and customer experience benefits. For example, they have the potential to further extend product lifetimes and can be instantly handed over to consumers, reducing waiting times while also minimising transport-related emissions. This is why we call for sellers to have the option to replace defective products with refurbished ones where this is an option and in instances where there are clear benefits. In broad terms, repair is more appropriate for higher priced goods, while replacement and recycling of the defective good is more appropriate for cheaper goods.

Additional general recommendations

- **Safety first.** We draw attention to the risk of safety and responsibility issues if the repair is not done in the right way. Safety cannot be compromised in products and components against the "right to repair" and reuse. When it comes to the requirement for producers to provide independent repairers with spare parts and repair-related information and tools, we only support this where the safety of the customers and the repairers, as well as our companies and their partners' cybersecurity and intellectual property, can be guaranteed. 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.
- **The quality of repair is of high importance.** The CENELEC norm preparation for reuse specifies key elements related to quality of Waste Electric and Electronic Equipment (WEEE) to be reused /repaired. The quality of the spare parts used for repair is also of high importance.
- **Testing after repair is necessary 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?
- **There are not enough incentives for consumers to take into consideration the total costs of a product.** 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. As such, the non-regulatory initiative to set out a European Standard for Repair Services represents a step in the right direction, as it will help consumers identify top quality repairers. In addition, the right to repair must not lead consumers to be less careful in their use of the products. It is important that **consumers use and maintain the products in the correct way** and are informed about the existing requirements (e.g. obligations of spare parts availability during a certain period of time).

- **Economic and logistical 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. Sellers should have the option to replace defective products with refurbished ones where this is an option and in instances where there are clear benefits. Refurbished products often have sustainability, logistical, and customer experience benefits. For example, they can be instantly handed over to customers, contribute to extending product lifetimes, and have sustainability benefits.

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 €2,906 billion, manufacturing one-third of all European exports and providing 11.19 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.