

## CALL FOR EVIDENCE FOR AN IMPACT ASSESSMENT

This document aims to inform the public and stakeholders on the Commission's future legislative work so they can provide feedback on the Commission's understanding of the problem and possible solutions, and give us any relevant information that they may have, including on possible impacts of the different options.

**⚠️ You should finalise this document at the earliest stages of the impact assessment process**, so that best use can be made of feedback from stakeholders.

<b>TITLE OF THE INITIATIVE</b>	<i>Sustainable consumption of goods – promoting repair and reuse</i>
<b>LEAD DG (RESPONSIBLE UNIT)</b>	<i>DG JUST.A2</i>
<b>LIKELY TYPE OF INITIATIVE</b>	<i>Legislative (Proposal for an amendment of the Sale of Goods Directive and possibly a separate new legislative proposal on the right to repair)</i>
<b>INDICATIVE TIMETABLE</b>	<i>Q3 2022</i>
<b>ADDITIONAL INFORMATION</b>	<a href="https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13150-Sustainable-consumption-of-goods-promoting-repair-and-reuse_en">https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13150-Sustainable-consumption-of-goods-promoting-repair-and-reuse_en</a>

### A. Political context, problem definition and subsidiarity check

#### Political context

Unsustainable consumption of goods, leading to a growing amount of waste, is one of the main causes of negative impacts on the global environment. The [new consumer agenda](#) and the [circular economy action plan](#) aim at promoting repair and encouraging more sustainable products.

The European Parliament<sup>1</sup> called on the Commission to make it easier for consumers and businesses to make sustainable choices, to establish a consumer right to repair and to amend the Sale of Goods Directive ('the Directive'). The Council<sup>2</sup> welcomed the initiative on the 'right to repair' with the aim to promote more systematic repairs, including beyond the liability period<sup>3</sup>, and at a reasonable cost.

This initiative will lead to a proposal on the right to repair, as indicated by the President in the Letter of Intent<sup>4</sup>. It will produce synergies with other initiatives such as those on [sustainable products](#), circular electronics and the [empowering consumers in the green transition](#), as well as with product-specific Ecodesign implementing regulations.

#### Problem the initiative aims to tackle

Businesses have limited economic interest to produce or supply more environmentally sustainable goods; the Commission's initiatives on the supply side will try to address this<sup>5</sup>. Consumers will have more

<sup>1</sup> Resolution [Towards a more sustainable single market for business and consumers](#)<sup>1</sup> of 25 November 2020.

<sup>2</sup> Conclusions of the Competitiveness Council of 22 February 2021 (<https://data.consilium.europa.eu/doc/document/ST-6364-2021-INIT/en/pdf>)

Council conclusions on Making the Recovery Circular and Green of 11 December 2020 (<https://data.consilium.europa.eu/doc/document/ST-13852-2020-INIT/en/pdf>)

<sup>3</sup> The legal liability period is the period of time during which the seller is liable to the consumer for any lack of conformity, which exists at the time when the goods were delivered and which becomes apparent within 2 years of that time.

<sup>4</sup> [https://ec.europa.eu/info/sites/default/files/state\\_of\\_the\\_union\\_2021\\_letter\\_of\\_intent\\_en.pdf](https://ec.europa.eu/info/sites/default/files/state_of_the_union_2021_letter_of_intent_en.pdf)

<sup>5</sup> One of the main such initiatives is the sustainable products initiative (SPI). For more on this initiative see: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative_en)

information at their disposal to make a sustainable choice when purchasing goods<sup>6</sup>. However, once goods are purchased, the consumer's choice of how long to use them is essential in ensuring a sustainable life cycle<sup>7</sup>. Goods are not being used as long as they could be and are becoming waste before the end of their potential useful life. Studies<sup>8</sup> show that the lifetime of many products has in fact been decreasing in recent years; consumers have an important role to play in reversing that trend.

Firstly, under the Directive, consumers can choose (during the legal liability period) between having the seller repair or replace products that were defective at the moment of delivery. In practice, consumers usually choose to replace them. Secondly, consumers lack incentives to buy second-hand or refurbished goods.

Looking beyond the Directive, when consumers cannot benefit from the remedies under the legal liability period (e.g. because the defect was caused by them or the legal liability period expired), they often face significant difficulties to repair goods, which can result in their premature disposal. Reasons include dissuasive repair costs, which are sometimes close to or even higher than the price of a new product. Consumer bias against second-hand or refurbished goods also leads to shorter lifetimes for goods, negatively affecting the environment.

The initiative aims to tackle these problems through consumer-related/relevant measures, with an overall objective of extending the useful life of goods. The approach taken by the initiative will also seek to achieve synergies with other ongoing Ecodesign initiatives.

#### **Basis for EU action (legal basis and subsidiarity check)**

##### **Legal basis**

The initiative could entail targeted amendments to the Sale of Goods Directive and a new right to repair, either within the Directive or possibly in a separate instrument. Any amendments to the Directive would be based on Art. 114 TFEU, while a separate instrument on the right to repair could be based on Art. 114 or 191 TFEU.

##### **Practical need for EU action**

The objective of extending the actual useful life of goods, while avoiding obstacles to trade in the form of diverging national mandatory consumer rights and distortions of competition, cannot be adequately achieved by Member States acting alone. Only coordinated intervention at EU level can contribute to the smooth functioning of the internal market, safeguarding the need for a high level of environmental protection and maintaining a high level of consumer protection throughout the EU. Moreover, it will create legal certainty for businesses that want to offer their goods or provide related services in other Member States.

#### **B. Objectives and policy options**

The main objective of this initiative is to encourage consumers to use consumer goods for a longer time, by repairing defective goods and by purchasing more second-hand and refurbished goods. Besides the baseline of 'no policy change', the following policy options will be considered (options are cumulative):

<sup>6</sup> More information about the initiative on empowering consumers in the green transition available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12467-Empowering-the-consumer-for-the-green-transition\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12467-Empowering-the-consumer-for-the-green-transition_en)

<sup>7</sup> Studies show that replacement is more environmental friendly than repair only in exceptional cases. See: EEB (2019) *Coolproducts don't cost the earth*, full report accessible at: <https://mk0eeborgicuyptuf7e.kinstacdn.com/wp-content/uploads/2019/09/Coolproducts-report.pdf>

<sup>8</sup> Prakash, S., Dehoust, G., Gsell, M., Schleicher, T., Stamminger, R., *Influence of the service life of products in terms of their environmental impact: Establishing an information base and developing strategies against "obsolescence"*, 2020. Available online at [https://www.umweltbundesamt.de/sites/default/files/medien/1410/publikationen/2020-01-16\\_texte\\_09-2020\\_obsolescence\\_en\\_0.pdf](https://www.umweltbundesamt.de/sites/default/files/medien/1410/publikationen/2020-01-16_texte_09-2020_obsolescence_en_0.pdf)

**Option 1) Low intervention – voluntary commitments:** encourage businesses to commit voluntarily to repairing goods with a significant negative impact on the environment and promote the purchase of second-hand and refurbished goods.

**Option 2) Moderate intervention:**

Sub-options 2A) Extend the legal guarantee period: (i) for new goods that consumers choose to repair instead of replacing them; and/or (ii) for second-hand and/or refurbished goods (amendments to the Directive).

Sub-options 2B) Make repair the preferred remedy when repair is less expensive than or as expensive as replacement (amendment to the Directive); oblige producers or sellers to repair goods beyond the legal guarantee period for a reasonable price (new right to repair within the Directive or a separate instrument).

**Option 3) High intervention:**

Sub-option 3A) Limit consumers' choice of remedies by prioritising repair over replacement (amendment to the Directive); Oblige producers or sellers to repair goods beyond the legal guarantee period, in some cases for free (new right to repair within the Directive or a separate instrument).

Sub-option 3B) Extend the legal guarantee period beyond the current minimum period of 2 years (amendment to the Directive).

Sub-option 3C) Enable the seller to replace defective products with refurbished goods and not new ones (amendment to the Directive).

In addition, the Commission welcomes views on the need for, and design of, **additional** legislative and non-legislative **measures to promote sustainable use of goods**, which could influence the current relationship between consumers and businesses, with the aim of extending the useful life of goods.

## C. Likely impacts

**Economic impacts** – Neutral macroeconomic impacts are expected: higher costs for sellers and manufacturers in certain sectors, while higher revenues due to increased demand in others (e.g. in the repair sector and for second-hand and refurbishing businesses). In addition, easier access to repair services and longer liability periods are likely to reduce consumers' need to replace defective goods with new ones and related transaction and hassle costs.

**Social impacts** – The initiative could encourage more sustainable behaviour by incentivising consumers to use goods for longer, to repair them and to buy more second-hand and refurbished goods. In terms of job creation, employment opportunities in the manufacturing and repair sectors may be impacted.

**Environmental impacts** – The initiative will have a positive impact on the environment, in particular in the area of resource efficiency and waste reduction. It will contribute to the attainment of Sustainable Development Goals 12 (Responsible Consumption and Production) and 13 (Climate Action).

## D. Better regulation instruments

### Impact assessment

An impact assessment will be prepared to support this initiative. It will be based among others on the following evidence and data:

- supporting impact assessment study on promoting repair of consumer goods (expected in 2022);
- study on the right to repair under the circular electronics initiative (expected in 2022);
- supporting impact assessment study on the sustainable product policy initiative (expected in 2022);
- study to gather evidence on ways to empower consumers to play an active role in the green transition;
- preparatory study linked to the 'empowering consumers for the green transition' initiative

(JUST/2019/CONS/FW/CO01/0094 (2019/10));

- consumers' engagement in the circular economy - behavioural study contracted by DG JUST (October 2018)<sup>9</sup>;
- ecodesign preparatory study on mobile phones, smartphones and tablets<sup>10</sup>.

#### **Consultation strategy**

The consultation aims to gather feedback on the existence and extent of the problem of the insufficient usage life of goods, as well as on possible policy options and their likely impacts. The main stakeholders concerned are EU public and businesses, product manufacturers, sellers, repair service providers and companies active in the refurbishment and second-hand markets. The following consultation activities are planned:

- expert group on the Digital Contracts Directives (with all Member States in March 2022);
- a 12-week public consultation in all EU languages (December 2021 to March 2022);
- dedicated workshop(s) with stakeholders (Q1 2022) and additional targeted consultations.

Information about the public consultation period will be promoted on social media, focusing on individual businesses and SMEs. The factual summary report will be published on the consultation page 8 weeks after the closure of the public consultation, and a synopsis report will be prepared.

#### **Why we are consulting?**

Sustainable consumption can be increased by choosing sustainable products and by prolonging their use, for example by favouring repairs instead of replacements or by purchasing second-hand goods.

The Commission is launching this public consultation to gather feedback on the existence and extent of the problem, as well as on possible policy options and their likely impacts.

#### **Target audience**

The public consultation is open for contributions from all stakeholders. We welcome contributions from EU public and businesses, including those playing a role in sustainable consumption, such as product manufacturers, sellers, repair service providers, waste management service providers, and companies active in the refurbishment and second-hand markets. Finally, we look forward to contributions from academics, non-governmental organisations and from Member State authorities.

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<sup>9</sup> Available at : [https://ec.europa.eu/info/live-work-travel-eu/consumers/sustainable-consumption\\_en#behaviouralstudyonconsumersengagementinthecirculareconomy](https://ec.europa.eu/info/live-work-travel-eu/consumers/sustainable-consumption_en#behaviouralstudyonconsumersengagementinthecirculareconomy)

<sup>10</sup> Available at : <https://op.europa.eu/it/publication-detail/-/publication/a7784be4-853d-11eb-af5d-01aa75ed71a1/language-env>