

CONSULTATION OF THE COMMISSION ON SUSTAINABLE CONSUMPTION OF GOODS / RIGHT TO REPAIR ADDITIONAL COMMENTS TO THE SURVEY

In its consultation, the Commission intends to encourage consumers to use more durable products and promote repair. To this end, it is considering two methods in particular:

- Extend the legal guarantee period, via a proposal amending the Sales of Goods directive.
- Develop repair as much for the consumer as for the producer or the seller, either within the Directive or possibly in a new separate legislative proposal on the right to repair.

Preamble

Companies have been putting the principles of circular economy into practice for many years, to optimize the use of the resources necessary for the production and operation of products while meeting consumers' needs to improve product quality and environmental performance requirements.

Because it extends the lifespan of products and thus allows a reduction in the consumption of resources compared to replacement, better reparability of products coupled with a satisfactory business model is part of the transition of companies in favour of sustainable consumption. The integration of circular economy among the environmental objectives of the taxonomy and reporting standards under the -currently being adopted- CSRD directive also encourages companies to report on their actions in this area.

It should be noted however that:

- The issue of reparability, and more generally of the lifespan of products, varies significantly from one sector of activity to another.
- The concept of product is broad: very complex products may have repairable sub-components and non-repairable ones; in this case, it is important to agree that the concept of repair should apply to certain sub-components and not to the complex product as a whole.
- Some products/materials will not all be repairable given the performance requirements for their use (for example glued products of greater resistance than screwed products).
- It is important that the repair process does not lead, paradoxically, to relying on the use of spare parts of lesser quality which ultimately extends the life of the product very little while lowering its quality of resistance, thereby leading to an excess of waste.

While they are not opposed in principle to the reparability of products, companies consider that imposing this approach would be counterproductive in view of the many sectoral specificities highlighted below. In this context, they recommend promoting an incentive approach while making consumers more responsible.

The need for incentives at the European level

If national laws already encourage circular economy¹, **companies support the interest of a Commission initiative to promote the development of repairability on an incentive basis.**

This orientation is based on the **identification of the following issues:**

- the difficulty of legislating horizontally without taking into consideration sectoral specificities (automotive equipment manufacturers, luxury, construction, etc.);
- the recent application of Directive [2019/771](#) of 20 May 2019 on certain aspects concerning contracts for the sale of goods, which entered into force in June 2019, and on which there has not yet been sufficient hindsight (complaints from consumers/handling of disputes by companies...);
- the need to maintain a real "level playing field" established via the 2-year legal guarantee of conformity (art 10, al 1 - Directive 2019/771);
- the need to harmonize the many existing works having an impact on the lifespan of products and repairability: in particular the current revision of the Directive on eco-design of products and the many voluntary initiatives by companies²;
- the absence of a consolidated and cross-sector European indicator concerning the lifespan of consumer goods. Lifetime assessments are only possible for well-defined product categories and the pathways for repairability improvement are different from one type of product to another and from one sector to another.

It is therefore important to take these issues into account in order to **build courses of action at the European level which capitalize on the dynamics of voluntary actions by companies** as they have the advantage of being based on the reality of each type of product and on their specific improvement potential.

With regard to the options relating to the legal guarantee of conformity and beyond the duration of this guarantee

- **Promote the extension of the duration of the legal guarantee of conformity for repaired products**

6 months extension at the European level **of the duration of the legal guarantee of conformity** on repaired products would tend to harmonize the practice already implemented in France.

- **Give value to the commercial guarantee**

Beyond the duration of the legal guarantee of conformity, the commercial guarantee payable by the customer is already widely used on the market and makes the end customer responsible for the choice between repair and replacement.

It is an approach that promotes competitive emulation between companies in the same sector. Faced with consumers who are increasingly sensitive to environmental issues and concerned about an economical solution, companies are offering services that increasingly include attractive repair or replacement options depending on the type of product.

¹ By way of illustration: French anti-waste law for a circular economy (AGEC) [2020-105](#) of February 20, 2020 which aims to fight against all the different forms of waste and to promote a circular economy.

² See, in this sense, the [Sustainability Club](#): network of French companies willing to participate in this ecosystem working to identify the brakes and levers

Eco-design and incentive approaches should be favoured

The most economical solution for companies and consumers in order to **increase the lifespan of products is to integrate, from their design, principles to optimize the resources necessary for their manufacture and use, as well as to facilitate their repair when possible.** Companies therefore support the revision of the eco-design Directive by ensuring that it is an opportunity to impose eco-design principles on any company placing products on the European market, whether they produce in the EU or outside the EU.

In this context, **companies consider that the introduction of a new right to repair is not desirable** because it will encourage less responsibility on the part of the consumer in the proper use of his product. There is therefore a strong risk that such a right will cause accelerated deterioration of the products.

Moreover, the period during which compensation would be payable could not be indefinite, in particular for areas in which technological innovation is permanent.

The implementation of such a right would require removing many legal uncertainties:

- Would the definition of normal wear and tear be functional and/or time related?
- Which actors would guarantee the possibility of repair for second-hand products?
- How to establish the principles of repairability for complex parts with many repairable or non-repairable sub-components?
- How to deal with cases where repair is not possible?

In this context, **companies consider that the European level could in particular encourage repairability - without imposing it - by initiating the following steps:**

- Set up experiments on **indicators for period of use** for certain categories of products in order to raise consumer awareness;
- Create **information portals on the repair offer** of economic actors;
- Establish **standard calculations for consumers** on the interest of repairing vs. replacement of products, starting on a pilot basis for certain categories of products;
- Introduce possible **tax deductibility measures** on the cost of storing spare parts.

*

ABOUT AFEP

Since 1982, AFEP gathers the largest companies present in France. The association, based in Paris and Brussels, aims to foster a favourable environment for businesses and to present the vision of its members to French public authorities, European institutions and international organisations. Restoring business competitiveness to achieve sustainable growth and employment in Europe and meet the challenges of globalisation is AFEP's priority. AFEP has around 113 members. More than 8 million people are employed by AFEP member companies and their cumulative annual turnover amounts to 2,600 billion euros.

Contact:

Emmanuelle Flament-Mascaret - Director of Economic Law - concurrency@afep.com

Nicolas Boquet - Director of Environment and Energy - environnement@afep.com

Alix Fontaine - EU Policy Advisor - a.fontaisne@afep.com