

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.

TITLE OF THE INITIATIVE	<i>Sustainable consumption of goods – promoting repair and reuse</i>
LEAD DG (RESPONSIBLE UNIT)	<i>DG JUST.A2</i>
LIKELY TYPE OF INITIATIVE	<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>
INDICATIVE TIMETABLE	<i>Q3 2022</i>
ADDITIONAL INFORMATION	https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13150-Sustainable-consumption-of-goods-promoting-repair-and-reuse_en

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 negative impacts on the global environment. The New Consumer Agenda¹ and the Circular Economy Action Plan² aim at promoting repair and encouraging more sustainable products.

The European Parliament³ called on the Commission to enhance the possibility for consumers and businesses to make sustainable choices as well as for establishing a consumer right to repair and amendments to the Sale of Goods Directive (the 'Directive'). The Council⁴ welcomed the initiative on the 'right to repair' with the aim to promote more systematic repairs also beyond the liability period⁵ at a reasonable cost.

This initiative will lead to the proposal on the right to repair, as indicated by the President in the Letter of Intent. It will produce synergies with other initiatives such as the [Sustainable Products Initiative](#), the Circular Electronics Initiative and the Empowering consumers in the green transition, as well as product-specific Ecodesign implementing Regulations.

Problem the initiative aims to tackle

Goods are not used as long as they could and are becoming waste before the end of their potential useful life. This happens because businesses and consumers lack effective incentives to make environmentally

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0696>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0098&from=EN>

³ Resolution '[Towards a more sustainable single market for business and consumers](#)' of 25 November 2020.

⁴ 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>)

⁵ 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 two years of that time.

<p>sustainable decisions. Businesses have limited economic interest to produce or supply more environmentally sustainable goods. Studies⁶ show that the lifetime of many products has, in fact, been decreasing in past years.</p> <p>While consumers can currently choose between having defective products repaired or replaced by the seller during the legal liability period under the Directive, these goods are usually replaced. The current legal framework does not provide incentives for consumers to repair and use products for as long as possible. Consumers also lack incentives to buy second-hand or refurbished goods, which would otherwise contribute to the circular economy and the reduction of waste in Europe.</p> <p>When consumers cannot benefit from the remedies under the legal liability period (for example because the defect was caused by the consumer or when the legal liability period expires) they often face significant difficulties to repair them, which can result in their premature disposal. Reasons include dissuasive repair costs, 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.</p> <p>The initiative aims at tackling these problems with an overall objective of extending the usage of goods and with a synergetic approach with other ongoing Ecodesign initiatives.</p>
Basis for EU action (legal basis and subsidiarity check)
Legal basis
<p>The initiative could entail targeted amendments to the 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.</p>
Practical need for EU action
<p>The objective of extending 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 a 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, which want to offer their goods or provide their related services in other Member States.</p>
B. Objectives and policy options
<p>The main objective of this initiative is to encourage consumers to use consumer goods for a longer time by repairing defective goods and purchasing more second-hand and refurbished goods. Besides the baseline of ‘No policy change’, the following policy options will be considered:</p> <p>Option 1) Low intervention measures – voluntary commitments: encourage businesses to voluntarily commit to repair goods with a significant negative impact on the environment and promoting purchase of second-hand and refurbished goods.</p> <p>Option 2) Moderate intervention measures:</p> <p><u>Sub-options 2A)</u> Extend legal guarantee periods for:</p> <ul style="list-style-type: none"> - cases where consumers choose to repair goods and/or

⁶ Prakash, S.; Dehoust, G.; Gsell, M.; Schleicher, T.; Stamminger, R. (2020): Influence of the service life of products in terms of their environmental impact: Establishing an information base and developing strategies against "obsolescence", 2020. Online available at https://www.umweltbundesamt.de/sites/default/files/medien/1410/publikationen/2020-01-16_texte_09-2020_obsolescence_en_0.pdf, last accessed on 13 Jul 2020.

<ul style="list-style-type: none"> - second-hand and/or refurbished goods. <p><u>Sub-options 2B)</u></p> <ul style="list-style-type: none"> - foresee repair instead of replacement within the legal guarantee period when repair is less or equally expensive and/or - oblige sellers or producers to repair goods beyond the legal guarantee period for a reasonable price (new right to repair). <p>Option 3) High intervention measures:</p> <p><u>Sub-option 3A)</u> Mandatory repair within and beyond the legal guarantee period:</p> <ul style="list-style-type: none"> - where repair, as opposed to replacement, becomes the default remedy, - obliging sellers or producers to repair goods beyond the legal guarantee period (new right to repair), in some cases for free. <p><u>Sub-option 3B)</u> Extend the legal guarantee period beyond the current minimum period of 2 years.</p> <p><u>Sub-option 3C)</u> Enable the seller to replace defective products with refurbished goods and not new ones.</p>
<p>C. Likely impacts</p> <p>Economic impacts – Neutral macro-economic impacts are expected: higher costs for sellers and manufacturers in certain sectors while higher revenue due to increased demand in others (e.g. repair sector, second-hand and refurbishing businesses). In addition, easier access to repair services and longer liability periods is likely to reduce consumers’ detriment due to replacing defective goods and related transaction costs.</p> <p>Social impacts - The initiative could encourage more sustainable behaviour by incentivising consumers to repair their goods and to buy more second-hand and refurbished goods. In terms of job creation, employment opportunities in the manufacturing and in the repair sectors may be impacted.</p> <p>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 Goal 12 (Responsible Consumption and Production) and Goal 13 (Climate Action) of Sustainable Development Goals.</p>
<p>D. Better regulation instruments</p>
<p>Impact assessment</p> <p>An impact assessment will be prepared to support this initiative. It will be based among others on the following evidence and data:</p> <ul style="list-style-type: none"> - DG JUST study to support the Commission’s policy development on promoting repair of consumer goods and contracts in the data economy (expected in 2022); - Study on the Circular Electronics Initiative Right to Repair (expected in 2022); - Supporting Impact Assessment study on 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 initiative empowering consumers for the green transition (JUST/2019/CONS/FW/CO01/0094 (2019/10)); - Consumers’ engagement in the circular economy, behavioural study contracted by DG JUST (October 2018)⁷ - Ecodesign preparatory study on mobile phones, smartphones and tablets⁸
<p>Consultation strategy</p>

⁷ Available at : https://ec.europa.eu/info/live-work-travel-eu/consumers/sustainable-consumption_en#behaviouralstudyonconsumersengagementinthecirculareconomy

⁸ <https://op.europa.eu/it/publication-detail/-/publication/a7784be4-853d-11eb-af5d-01aa75ed71a1/language-env>

<p>The consultation aims to gather feedback on the existence and extent of the problem of insufficient usage life of goods as well as on possible policy options and their likely impacts. Main stakeholders concerned are EU citizens and businesses, product manufacturers, sellers, repair services providers and companies active in refurbishing and second-hand markets. The following consultation activities are planned:</p> <ul style="list-style-type: none"> • Expert Group on the digital contracts directives (with all Member States in March 2022). • A 12-week public consultation in all EU languages (November 2021 to February 2022). • Dedicated workshop(s) with stakeholders (Q1 2022) and additional targeted consultations. <p>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.</p>
<p>Why we are consulting?</p> <p>Sustainable consumption can be increased through choosing sustainable products as well as by prolonging their use, for example through favouring repairs instead of replacements.</p> <p>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.</p>
<p>Target audience</p> <p>The public consultation is open for contributions from all stakeholders. We welcome contributions from EU citizens and businesses, including those playing a role in sustainable consumption such as product manufacturers, sellers, repair services providers, waste management service providers, companies active in refurbishing and second-hand markets. Finally, we look forward to contributions from academics, non-governmental organisations, as well as from Member State authorities.</p>