Directors’ Meeting on the Circular Electronics Initiative and the right to repair

(9 March 2021)

Notes on the Discussion

1. **Main conclusions**

Among the many points of agreement, we note the consensus on the two-pronged approach - supply-side requirements for reparability and durability complemented by a demand-side right to repair:

- The supply side should be fully covered by Ecodesign and the future SPI.
- On the demand side, there is a need to provide for a right to repair to complement supply-side measures.

Further reflection is needed to map out the options and agree on the best approach for establishing the right to repair. Key questions to explore include the scope of the right (horizontal or sectoral), the direction of the right (against manufacturers/sellers), the legal instrument(s) that would govern such a right (amendment of existing legislation and/or a new legal instrument) and timing.

2. **Main points per DG**

**DG CNECT:**

- We are currently assessing how to introduce a consumer right to repair for electronic devices, starting with mobile phones, tablets and laptops, including a right to update obsolete software. The first step (“supply side”) should be covered by Ecodesign. Secondly, a legal right needs to be conferred onto consumers so they can seek repair in practice, on the basis of these new obligations (“demand side”). We should assess what needs to be done on take-back and return schemes to ensure full circularity;
- There are two relevant entries in the CWP 2021 on circular electronics (no. 2 and 13). A Communication (end of 2021) will address our approach to circular electronics; we will use our (joint CNECT-JUST) study to carefully assess impacts and costs on all actors, as well as model business cases (aftermarket etc);
- The current sales law regime does not cover defects which may appear 2 years after the device is delivered and defects at the fault of the user;
- The regime should complement upstream requirements on design. ICT devices are intrinsically very hard to repair, and proving non-conformity can be very challenging. The right must also be against producers (so as not to unfairly burden sellers).

**DG GROW:**

- Supply side requirements will be covered in the proposal on smartphones and tablets that will adopted as implementing measures in Q2 2022. All relevant elements (referred to in the note circulated prior to the meeting) will be included (e.g. on the availability of critical spare parts for a minimum number of years);
These requirements can be coupled with proposals from DG ENER on energy performance for computers (including laptops) and a potential voluntary agreement on printers.

There is a need to ensure coherence between different initiatives, especially with the SPI which will set the EU’s overarching policy direction;

Consider external dimension – issue of recourse to non-EU manufacturers;

Consider question of the trade-off between durability and recyclability;

Referring to the example of sectoral and horizontal product safety measures, horizontal and vertical measures do not necessarily exclude each other;

Complementarity between supply and consumer side – there is a need for action so the consumer actually goes for repair – including on availability of repairers.

DG JUST:

Agreement on the need to ensure all ongoing initiatives are coherent in substance.

The Initiative on Empowering Consumers for the Green Transition will cover certain aspects of obsolescence (as an unfair commercial practice).

The distinction between supply and demand side measures is critical. To link them, there is an interest in creating a consumer right.

To have a horizontal and a sectoral right to repair covering partially the same products would be too much; the former would make more sense from a consumer point of view. The demand-side measures do not necessarily have to follow after the supply-side measures, i.e. no need for strict sequencing.

We must establish what the needs are for a horizontal approach; while the right to repair could be horizontal, it may not covering all products). An option would be to apply it in respect of goods for which the necessary supply-side (Ecodesign) requirements are available. The right to repair in the SGD (2 years) leaves two areas outside the scope of the SGD: 1) defects which arise from the consumer’s own use; and 2) defects arising after the two-year liability period. These two areas could be treated under a separate right to repair.

Commissioner Reynders will give political guidance to DG JUST. JUST is assessing political interest (workshop with Member States) to include further measures for repair, e.g. in the SGD (nudging consumers towards repair) and/or separate measures against producers.

The review of the SGD may also look at promoting refurbished products;

On external dimension – this should be dealt with through the supply chain;

DG ENV:

The supply side and demand side of the CEI are linked; there is a need to address the fact that EEE is one of the fastest growing waste streams;

Supply and demand should be aligned but it is more difficult to synchronise in timing;

Under the SPI, the uptake of recycled content will be included; the SPI can go beyond Ecodesign in that in can address green public procurement and product passports more broadly.

Under the take-back schemes study, incentives to collect used and waste EEE are being analysed. Infrastructure and capacities in place in particular of refurbishment needs to be analysed. Study on take-back schemes can feed into the CEI. The CEI could be either part of the SPI, or just after. Ideally together.
• International dimension of CEI must be considered
  Measures related to affordability (e.g. reduced VAT rate) will be helpful, and MS measures under recovery plans to promote repair organisations with local jobs

4. **Next Steps**

Moving forward, the agreed approach between services should be communicated to our cabinets for their input/confirmation. With a view to continuing our close cooperation in order to maintain coherence and achieve the best outcome, we would propose meeting more regularly (suggestion below for May).

Next steps:

• CNECT to amend the DECIDE fiche on the CEI Communication in light of the conclusions of the meeting and input from services (CEI Communication to reflect the agreed approach)
• JUST Member State workshops (March onwards) and political steer at Commissioner level (April);
• CNECT/JUST joint study on the circular electronics initiative – Right to Repair, soon to be launched, with first interim results expected mid-summer to feed into the CEI Communication;
• ENV ongoing work on take-back and return schemes for mobile phones, tablets and laptops;
• DG ENER to be included in the discussions (involved in Ecodesign and energy efficiency of computers (including laptops) as well as measures on printers);
• CNECT to organise follow-up Directors’ meetings (suggested next meeting: first half of May).

5. **Overview of Initiatives and Provisional Timing**

The below table sets out the provisional timing of each initiative having potential synergies with the Circular Electronics Initiative. While the Communication setting out our approach on the right to repair is planned for Q4 2021, we anticipate new design requirements to be covered in the form of Ecodesign implementing measures (Q2 2022 for mobile phones and tablets; 2023 for laptops). As for legislative measures on a right to repair, the timing is currently not determined.

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<tr>
<th>Initiative</th>
<th>Planning*</th>
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<tr>
<td>Initiative on Empowering Consumers in the Green Transition (JUST)</td>
<td>Legislative proposal: Q2 2021</td>
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<td>EU-wide take-back schemes (ENV)</td>
<td>Proposal: Summer 2021</td>
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<td>Green Claims (ENV)</td>
<td>Legislative proposal: Q2 2021</td>
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<td>Common charger (GROW)</td>
<td>Legislative proposal: Q2 2021</td>
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<td>Review of EU rules on hazardous substances in electronics (ENV)</td>
<td>• Commission Staff Working Document: Q2 2021</td>
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| Communication on Circular Electronics Initiative (CNECT)                 | • Communication setting out our approach to Circular Electronics and provide elements on e.g. cost-benefit: Q4 2021 (CNECT)  
• Right to repair/consumer rights for electronics: TBC                      |
| Sustainable Products Initiative (GROW, ENV, ENER)                         | • Legislative proposal: Q4 2021                                                                                                          |
| Review of EU rules on hazardous substances in electronics (ENV)           | • Legislative proposal to review RoHS Directive: Q1 2022                                                                               |
| Ecodesign Implementing Measures on mobile phones and tablets (GROW)       | • Adoption of the implementing measures: Q2 2022 [Application: 1 or 2 years after publication (2023/2024, TBD)]                        |
| Ecodesign Implementing Measures on laptops (ENER)                        | • Adoption of the implementing measures: 2023                                                                                             |
| Right to repair (DG TBD)                                                  | • Legislative proposal: timing TBD – end 2022 TBD                                                                                         |
| Measures on printers and consumables (cartridges) (ENER)                 | • Voluntary agreements by industry: timing TBD                                                                                           |

*Timing may be subject to change in light of ongoing inter-CAB discussions.*