Meeting between CNECT.F1 and BEUC, Online, 26 January 2021, Circular Electronics Initiative

BTO

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Participants:

Commission Participants:

Third parties' participants (BEUC): (focuses on digital, including on a RtoR); (focuses on sustainability, durability, reparability); and (focuses on consumer rights; cross-sector topics linked to sustainability).

Main topics discussed:

• BEUC stated that the objective of the meeting was to learn about the content of the Circular Electronics Initiative (CEI), its timeline, and how it will tackle the right to repair.
• CNECT introduced the Commission's ongoing work on the Circular Electronics Initiative, referring also to related Commission initiatives to do with sustainability, such as the Initiative on Empowering Consumers for the Green Transition, the Sustainable Products Initiative, and the Green Claims Initiative.
• BEUC mentioned that the obligation to provide updates pursuant to SGD/DCD is too vague. Moreover, it is only seller who is responsible. BEUC asked what the Commission plans regarding the updates, and what instruments will be opened up. CNECT explained that a CNECT/JUST study will shed light on the way forward for a right to repair a specific group of products.
• CNECT clarified for BEUC that the responsible department in the Commission for the SGD and consumer empowerment initiative is DG JUST (A2 and E1, respectively).
• On the timeline of the study, CNECT clarified that it will be launched in February-March, but timing is indicative. First, the study should present a gap analysis to avoid overlap.
• BEUC asked about the Q4 2021 timing of the CWP. CNECT clarified that this concerns a Communication presenting measures (including on Ecodesign that were pushed to the first half of 2022 from Q4 2021), along with other initiatives.
• On BEUC request, CNECT clarified that the SPI is planned for Q4 2021. The implementing measures - for Q1-Q2 2022 are not necessarily linked as they are under the current Ecodesign Framework Directive.
• BEUC asked what the Commission envisages in terms of remedies (damages etc), to which CNECT explained there is no clear decision yet.
• BEUC asked about alignment of the study with other Commission studies (by JUST/CNECT) and GROW study regarding reparability and durability aspects. CNECT clarified that it will do a gap analysis to ensure there are no overlaps.
• BEUC raised its concern that aspects of durability and reparability are too focused on information provision and not design, asking also how information will be presented to consumers, and saying that it expected initiatives on this to be more ambitious (e.g. also for the benefit of consumer and independent repairers). CNECT clarified that the CEI will not replicate information provisions, but ensure all preconditions needed for a RtoR are in place.
• BEUC asked, on information aspects, whether CNECT is considering any reparability, durability scores, or Product Passports. CNECT clarified that these are under consideration in other initiatives.
• To BEUC's question on what field will be looked into among the existing regimes to create an effective RtoR, CNECT answered that there is no decision yet.
• CNECT asked about the types of IP problems BEUC envisages in it will face in its ongoing work on a Right to Repair, to which BEUC replied mainly a clash with Copyright directive provisions. BEUC is discussing this with stakeholders. Tracers in software embedded in any device are proprietary and the legal response to this is a difficult one. BEUC suggested providing for exceptions / limitations to existing exclusive rights, e.g. that repairer does not need to require authorisation from copyright holder/proprietor to perform repairs.

• CNECT asked how best to encourage consumers to make sustainable choices. BEUC commented that obsolescence is beyond tech aspects, but design can make repair more intuitive. Hard to assess how best to encourage consumers if currently products are not made to be reparable. Durability is only a part of this issue. But if a product is more durable, it can encourage consumers to sell it rather than throwing it away. BEUC has a paper on this, and is preparing a new one examining the legal guarantee period, its extension (also in relation to the product's lifespan). BEUC is also looking into the producer- seller liability, stating that if there will be direct link between consumers and producers, this would put more pressure on the former to produce goods with better quality. BEUC also referred to the potential for mandatory producer guarantees in consumer law initiatives or as a standalone instrument, which is currently being consulted with members of BEUC. BEUC suggested that sector specific legislation could be useful, with direct producer liability (taking inspiration from the Product Liability directive).

• BEUC highlighted that the Right to Repair might see big opposition from industry but that it would also depend on how many different areas the initiative will affect. The EP (majority party) public support is important and can change the process/outcome (like in the Common Charger initiative).

**Operational conclusions:**
None.

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The BTO might be of interest to: