From: [Redacted]
Sent: vendredi 2 juillet 2021 18:19
To: [Redacted]
Cc: [Redacted]
Subject: RE: Terms of Reference - Study on promoting repair of consumer goods and contracts in the data economy
Attachments: ToR - Study A2 repair goods - comments E2 (002)_CNECT.docx

Dear [Redacted],

Firstly, thank you for sharing the ToR with us, and my apologies for only reacting today.

We have some suggestions in the attached document (integrated into [Redacted] version). We fully support [Redacted] comments on asking the contractors to explore a fuller set of options that would be additional to (or in fact, that would support and complete) the right to repair.

We see that there may be some cases where the benefits of making products durable outweigh the benefits of reparability from a sustainability point of view. This is already being addressed in, for example, the proposal for a new Batteries Regulation, where a battery does not need to be replaceable if it is proven to be sufficiently durable. Draft Ecodesign requirements for smartphones and tablets also take note of this, and the same debate is likely to arise with respect to more product groups. Since this factor is being taken into account upstream in product design regulation, it is vital to explore how this can be reflected at the consumer’s level – for example, by ensuring consumers can access repair when the product fails durability requirements (and the SGD’s legal guarantee does not apply). This links well to redress aspects which could be strengthened - such as to explore possible tools that consumers could have at their disposal to enforce these rights in practice.

Some further suggestions (also reflected in the text):
- In measure 9 on a R2R it would be good to integrate considerations related to role of software (and firmware) – not present in all consumer goods but certainly in a growing number of them.
- To ask the contractors to consider the share of the market for goods purchased by companies for their employees (these numbers are likely not to be negligible e.g. cars and work laptops, and you may need to justify their exclusion at a later point).
- The assessment of impacts should include social and job creation aspects, and also the effects on innovation.

Best,
Subject: RE: Terms of Reference - Study on promoting repair of consumer goods and contracts in the data economy

Thank you. See a few additional comments. I worked in the conversion. Next to the extension of legal guarantee, the contractor should similarly examine the extension/alignment of the burden of proof period (as already done in FR/PT) which may also contribute positively to extending the useful life of products. I also provided some references to the empowering consumers initiative and the 2018 behavioural study on consumer’s engagement in the circular economy.
I’m off the coming days + next week, but back on 12 July if it would require further discussion.
Good luck with next steps.

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Dear

Please find attached E2 comments. I have informed them in E1 have been informed but they may send further comments later. Regarding the right to repair we added, as further options, consumer rights to free repair where the product is subject to legal durability requirements and the right to claim damages where the producer breaches his product-related reparable obligations such as availability of spare parts. We particularly welcome your inclusion of extended legal guarantee amongst the options.
There are also some remarks on contracts in data economy part
I am off tomorrow and Friday, back on Monday if you need to discuss
Best regards
Subject: Terms of Reference - Study on promoting repair of consumer goods and contracts in the data economy

Dear colleagues,

We would like to share with you the terms of reference for the study on promoting repair of consumer goods and contracts in the data economy.

The study is composed of two parts:

- Part A – relating to promoting sustainability and repair (p. 2-4; p. 7-19) - this part of the study will feed into the Impact Assessment to the initiative on Promoting sustainability in consumer after-sales and a new consumer right to repair
- Part B – relating to contracts in the data economy

We would appreciate your comments to Part A by 1 July cob.

Please also let us know if you are aware of any studies or related data sources that we could share with our future contractor.

Kind regards,

European Commission
Directorate-General for Justice and Consumers
Unit A2 – Contract law
Disclaimer: The views expressed are solely those of the writer and may not be regarded as stating an official position of the European Commission.