



RIGHT TO

REPAIR

Right to Repair Europe's reaction to the ESPR

Right to Repair Europe is enthusiastic about the publication of the Ecodesign for Sustainable Products Regulation (ESPR) which has the potential to improve the way products on the EU market are designed and serviced. This regulation could mean a leap towards achieving a European right to repair. It could also inspire non-EU countries to draft policies for more reliable, repairable and reusable products.

To perfect the ESPR, we recommend the following:

Horizontal requirements should be set where possible

To gain efficiency and reduce risks of having too many unconstructive exceptions, it is essential for the Commission to tackle several product types at once.

- **Horizontal repairability requirements for problematic product groups like small kitchen appliances, home audio/visual and connected devices should be prioritised in the first draft work plan (due later in 2022).** Of course, this should not overshadow the parallel need for product specific codesign requirements.
- **Ban any practice preventing repair outside of manufacturers' networks:** Repairers and refurbishers are often hampered in their activities [because of certain manufacturer's practices](#). For example, practices such as [part pairing](#) limit repairability whilst providing no benefits for consumers. Such practices should be horizontally banned for all products. This also underlines a need for a right to install any operating system on any device. This way, manufacturers can sell their devices with proprietary systems and third-party actors can repair, upgrade and reuse these devices by installing Free Software operating systems. Full access to hardware must also be guaranteed by the obligation of manufacturers to publish their drivers, tools and interfaces under a Free Software licence.
- **Clear responsibilities for online marketplaces:** To tackle the widespread import of non-compliant products, online marketplaces facilitating the sale of products should assume clear responsibilities. To avoid obscure sellers and lack of accountability, market places must implement strict vetting processes that enable the traceability of their sellers.
- **Guarantee access to information on repair:** The development of a [Digital Product Passport](#) is welcomed and should facilitate access to repair information. The Commission must remain aware of the importance of transparent access to repair information (so repairers / refurbishers can test or repair products correctly) and give it priority when opposed to manufacturer's confidentiality and Intellectual Property (IP) rights.
- **Allow consumers to take legal action against non-compliant products:** Market surveillance authorities, unless their budget and capacity are significantly enhanced,

will not be able to comprehensively prevent breaches to ecodesign requirements. Allowing consumers to take legal action against non-compliant products will greatly increase the enforceability of the ESPR.

Ecodesign related procedures should be more inclusive

- **Remove voluntary agreements (VAs) from the suggested options:** VAs developed by industry have yielded meagre results and become infamous due to their poor market coverage, weak requirements, and delays in adapting to technological developments. Also, [VAs for printers and games consoles](#) haven't resulted in the expected reduced human resources burden for the Commission.
- **Significantly increase resources allocated to ecodesign:** The European Commission is [already behind schedule](#) in the development and implementation of essential ecodesign and energy labelling policies. With no resource increase, the ESPR proposals will never materialise or will be solely driven by industry's interests.
- **Support inclusiveness in development of ecodesign requirements:** The Commission must ensure that civil society NGOs, repairers/refurbishers, consumers, social enterprises and environmental concerns are well represented in these processes, notably through allocating resources to help these organisations contribute. Clarifying the timelines/deadlines associated with each ecodesign procedure would also facilitate their work.

Definitions should be improved

- **Define and protect second-hand operators and independent repairers:** The status of independent repairers and second-hand operators (including repair cafes and other non-profit community repair initiatives, professional repairers and refurbishers) is poorly defined and risks being compared to the status of operators placing new products on the EU market. Following the philosophy of the ['Blue Guide'](#) on the implementation of EU products rules (2016), second-hand and repaired products that were already placed on the EU market once should benefit from a specific status facilitating the extension of their lifetime¹. Fine tuning the "Refurbishment" definition, adding definitions for "second-hand products" and "second-hand operators", and adapting actors' obligations (aka importers, distributors, dealers, product passport) accordingly, should bring clarity.

¹ Commission Notice — The 'Blue Guide' on the implementation of EU products rules 2016 (Text with EEA relevance) C/2016/1958 OJ C 272, 26.7.2016, p. 1–149: *Union harmonisation legislation applies when the product is made available (or put into service) on the Union market for the first time. It also applies to used and second-hand products imported from a third country, including products resulting from the preparation for re-use of electrical or electronic waste, when they enter the Union market for the first time, but not to such products already on the market. It applies even to used and second-hand products imported from a third country that were manufactured before the Union harmonisation legislation became applicable.*