Right to Repair feedback on the *Discussion Paper on Product Safety in the Circular Economy*

Brussels, November 2024

The Right to Repair Europe coalition represents over 170 organisations from 27 European countries. It represents environmental NGOs and repair actors such as community repair groups, social economy actors, spare parts distributors, self-repairers, repair and refurbishing businesses, and any citizen who would like to advocate for their right to repair. This is a rapidly growing movement, and its objective to make repair affordable, accessible and mainstream is aligned with the objectives of the European Green Deal and the Circular Economy Action Plan. Browse member organisations by country here.

Introduction

This paper provides feedback on the Discussion Paper for the *Study in support of the implementation of the General Product Safety Regulation: product safety in circular economy* produced by the consultants Verian, Ramboll and Milieu and discussed during a stakeholder meeting held in Brussels on September 12th, 2024. We provide this feedback in written form to ensure that it is duly taken into account, as we did not find the input which we provided during the interview stage, reflected in the current draft report.

We provide some observations on general questions such as whether repair falls under the scope of GPSR, whether the safety topic is a matter of consumer perception or actual risk, to which extent the identified issues are specific to circular economy business models, and the role of manufacturers in improving circular economy safety.

We then discuss in more detail the discussion paper's approach to consumer perception, the actual risks related to circular economy activities, and the need for standards to be created or revised in order to ensure safety in the context of circular economy business models.

General comments

Although we did participate in an interview with the consultants, we don't find our input reflected in the current version of the discussion paper. While we understand the need to be concise in the discussion paper, we feel that it is crucial for our feedback to be critically addressed in the final report.

As far as the general approach is concerned, we would like to offer the following observations:

Relevance of GPSD to repair

Repair is listed among the circular business models under investigation. However, the perspective of the study throughout is the scope of the GPSR, i.e. products (re-)entering the market. It is highly debatable whether the most typical repair cases are covered in this scope, since repair of a product doesn't always entail its re-entry into the market as the report suggests - actually, in practice, it most often doesn't. Most repairs consist of bringing a faulty product back to its original state, in order to continue to be used by the same user. In other words, **repair does not commonly involve either a substantial modification to the product or a change of ownership.** Since most repairs don't involve a new product entering the market, it would seem that GPSR would not apply to most repairs. The Commission representative seemed to confirm this during the meeting, however in order to avoid any legal uncertainty we feel it is crucial to see this clearly confirmed.

Safety issues: real or perceived?

Throughout the discussion paper, the perception of a lack of safety is conflated with an actual lack of safety. Safety concerns are listed among the factors preventing consumers from purchasing goods from the circular economy, and the (partially implicit) conclusion seems to be that there is a real safety issue with circular economy products, which therefore needs to be addressed through policy measures.
However, this reasoning implies a significant logical leap. Below, we question both the analysis of consumers' perceptions and the fact that such safety issues actually exist, as **there is no evidence of any actual safety issues linked to repair activities.** As we explained during the workshop, if there even is an issue of consumer perception, it might not be more than that - and in that case the adequate policy approach would consist of **measures aimed at improving consumer perception of circular economy products or services, rather than improving the safety of said products or services themselves.**

Are the identified issues specific to the circular economy?

The safety issues listed in the paper (see Figure 3) are **not at all specific to circular economy practices** - in fact, every single one of them could also apply to linear business models. The identified issues, which can be broadly summarised as an unverifiable product history (as mentioned on p. 6 of the report), are **mostly related to product age**, not to circular economy activities.

It is unclear whether the research into the Safety Gate database mentioned on p. 9, which suggests that concerns with the safety of circular economy products are justified for some products, has actually compared circular economy products to linear economy products and found a significant difference, or if it just looked into the safety risks for these products in general. Similarly on p. 11, the availability of information was directly checked for circular products and compared to customer survey data for linear products; this crucial difference in the source of information does not allow for a reasonable comparison.

We feel that **the study should be more precise in its scope and investigate any increased safety risks that are specifically linked to circular economy models** - otherwise, there is a risk of creating hurdles for circular economy models which do not exist for linear business models, and hence to disrupt the level playing field for the nascent circular economy.
In addition, we contend that **circular economy activities may offer synergies rather than divergences.** They can actually make older products safer, since they provide an opportunity to clean and inspect the product, spot potential issues and/or perform preventive maintenance. We encourage the consultants to investigate this aspect further.

The role of manufacturers

The role of manufacturers is underestimated in the discussion paper; in fact they aren't even mentioned as stakeholders. However, it makes little sense to discuss topics such as the use of non-original parts as a safety issue without addressing the availability and price of original parts, or to discuss the safety of repair without addressing **product design or repair information – all of which are within the manufacturer's control.** If one wanted to improve the safety of CE practices via standards, it would be worthwhile, for instance, to investigate the possibility of creating standards for after-sales support (including repair documentation).

Consumer perception

We find the way the discussion paper takes into account consumer perception, throughout and in particular in section 4, somewhat questionable. As mentioned above, the perception of a lack of safety is generally conflated with an actual lack of safety. We also question the study's approach from a methodological standpoint in several instances.

As mentioned above, the availability of information was directly checked for circular products and compared to customer survey results for linear products, which clouds the comparison.

As far as the importance of various issues to consumers is concerned (fig. 6), it would be critical to be aware of the methodology of the survey in order to interpret the results correctly. All of the issues listed have similar scores, which seems like an unlikely outcome if the answers had been provided spontaneously by consumers - for instance, it can be assumed that the average consumer would be much less aware of the topic of product recall than they would be of the issue of product quality. It looks as if the replies may have been mostly the result of respondents being primed by the suggestions contained in the question, which was presumably presented as a multiple choice. Presented with any of these issues, the average consumer would be unlikely to state that they didn't care about them at all, however this fact **reveals very little about the extent to which concerns about the listed issues would actually be on a consumer's mind when considering circular economy based products.** Respondents may also have feelings of guilt for not choosing more circular options, therefore gratefully clinging to any excuse offered to them by the survey for not doing so.

The study concludes that "consumers find it important that safety related aspects are checked before purchasing a product. In particular, the general product quality, compliance with safety regulations and whether the product has been recalled are the most important aspects for consumers to check for." This may be not much more than a vague aspiration. The key question that remains unanswered, is **if consumers actually check this information either for new or circular economy products** - and if so, how. In fact, it seems exceedingly unlikely that consumers generally consult the Safety Gate database before any purchase be it linear or circular.

Finally, regarding the behavioural study, the results seem to be quite diverging across products and types of information. In themselves, they certainly don't seem to justify the conclusion that "the experiment demonstrated that as product information better alleviates consumers' safety concerns, the more trustworthy they perceive the product to be, which in turn increases the likelihood of purchase." This conclusion should be more carefully supported.

Safety risks related to (self-)repair

The discussion paper states that "the safety of repaired products can be inconsistent due to the varying quality of repairs, particularly when non-original or substandard parts are used, repairs are incomplete, improper reassembly occurs, or if it is done by non- or semi-professional workers. Self-repair poses additional risks due to a lack of expertise and insufficient testing. Certified repair services can enhance product safety by following recognised guidelines and protocols, ensuring repairs meet safety and performance requirements."

It should be noted that the **safety risks described are mostly hypothetical.** As mentioned above, one could just as well formulate the opposite hypothesis: every repair operation involves some level of inspection and often cleaning of the product, usually not only external but also internal. This offers **an opportunity to detect any potential safety hazards** that could arise from wear and tear or contamination, and to perform **preventive maintenance** along with the fault fixing. Professional repairers often perform safety and functionality checks after a repair, which a non-repaired product would not be subject to over the course of its lifetime.

In any case, **there is precious little evidence of any actual safety issues linked to repair activities.**
During the workshop held on September 12th 2024, participants were asked about safety issues related to circular economy activities. Several manufacturers' representatives highlighted the safety-critical nature of their products and the risks involved with tampering with them. However, when asked if these comments merely reflected a risk averse position or if they could actually cite any concrete cases of safety incidents, **none of the participants could cite a single actual incident**. While a market surveillance authority representative mentioned a case of refurbished fitness equipment imported without the proper documentation, again there were no documented incidents with the equipment, it was merely a case of administrative unconformity. On the other hand, a repairer present at the stakeholder workshop mentioned a track record of 60 000 repairs without a single incident.
This is consistent with our previous experience. A similar question by the American FTC during a 2019 workshop, along with a public request for empirical research and data,[1] **didn't yield a single case of a repair-related**

[1] The call for empirical research requested submissions of data on several issues related to repair, including the risks posed by repairs made by consumers or independent repair shops,

safety incident[2]. Likewise, hundreds of thousands of repairs at German repair cafés **didn't lead to a single repair-related insurance claim**.[3]

As far as safety issues specifically related to self-repair are concerned, iFixit has **facilitated an estimated one billion self-repairs** over the course of 20 years through its online repair guides and sales of repair parts and tools, without ever facing insurance claims related to safety incidents. These repairs include all types of parts including voltage carrying components.
Finally, in spite of commonly referring to safety risks when policy options to foster repair are discussed, a host of manufacturers including Bosch, Siemens, Gaggenau, Neff, Electrolux, AEG, Zanussi, Samsung and Miele actually enable self-repair - including for components connected to mains power - by selling these parts to consumers, leading **researchers to point out the inconsistency of the safety argument used by manufacturers.**[4]

A more detailed case study on this subject can be found in our feedback on the Staff Working document on a Repairability Score for Household Tumble Dryers.[5]

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the liability faced by manufacturers when consumers or independent repair workers are injured while repairing a product, and the liability faced by manufacturers when consumers are injured after using or coming into contact with a product that has been repaired improperly by a consumer or independent repair shop. See https://www.ftc.gov/nixing-the-fix-call-for-research.

[2] "Upon closer review, some of the safety considerations cited give pause. First, other than citing to the mobile phone thermal runaway occurring in Australia in 2011, manufacturers provided no data to support their argument that injuries are tied to repairs performed by consumers or independent repair shops. This is so despite the fact that the Call for Empirical Research specifically asked for data concerning "[t]he risks posed by repairs made by consumers or independent repair shops" and several manufacturers and their associations submitted comments and were provided the opportunity to participate in the Workshop. Nor have manufacturers provided factual support for their statements that authorized repair persons are more careful or that individuals or independent repair shops fail to take appropriate safety precautions (...)" Federal Trade Commission, *Nixing the Fix: An FTC Report to Congress on Repair Restrictions* (2021), p. 28. Available here.

[3] An estimated 200 000 repairs conducted by volunteers at German repair cafés over the last 6 years haven't resulted in a single insurance claim involving an injury related to repair - in fact the only injury-related claim involved a person falling down stairs. See Runder Tisch Reparatur, *A German repair registry: Possible ways of implementing a national registry to increase the availability of spare parts* (2021), p. 3.

[4] Michael Ritthoff e.a.,, Methods and standards for assessing the repairability of electrical and electronic devices: Strengthening material efficiency under the Ecodesign Directive (UBA TEXTE 01/2023), pp. 142, 144.

[5] Right to Repair Europe, Feedback on the Staff Working document on a Repairability Score for Household Tumble Dryers (2024), pp. 7-9. See https://repair.eu/resources/feedback-on-the-staff-working-document-on-a-repaircability-score-for-household-tumble-dryers/

Is there a need for standards to ensure repair safety?

The discussion paper states that "Many companies, particularly in the refurbishment sector, highlight their quality controls, warranties and customer satisfaction guarantees, but do not explicitly mention following any recognised industry standards that govern their testing, repair, refurbishment or safety assessment processes. This gap suggests that, unlike manufacturing, where standards are often prominently stated as a mark of compliance and quality, the circular practices of repair and refurbishment may lack formalised guidance or universally recognised benchmarks." We believe this logic to be severely flawed.

Firstly, it does not seem to be the case that manufacturers prominently feature safety standards when advertising their products. Whilst functional features are usually prominently advertised, for many if not most of the products covered by the study, **compliance with safety standards is tacitly assumed.** Treadmills, toy guns or washing machines aren't explicitly advertised as safe - likely because marketeers don't expect this to be the consumers' main concern, perhaps also because referring to safety might actually remind the customer of the possibility of a product being unsafe, and thereby make them hesitant about the purchase.
Secondly, **procedural standards to ensure the safety of repairs do already exist.**[6]
If such safety standards aren't explicitly referred to by circular economy actors, it is likely for the same reasons that apply to linear business models: when marketing products, circular economy market actors are just as likely to emphasise product features or other characteristics over safety as the original manufacturers are.

There may however be room for standardisation to mitigate circular economy related risks in an area not identified in the discussion paper, namely product design and after sales support by the manufacturer or importer.
Indeed, the **safety risks related to repair (including self-repair) are highly dependent on the way the product is designed**. This was the subject of a series of projects at the Technical University of Delft entitled 'Safe and Secure by Design'.[7]

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[6] See for instance EN 50678:2020, *General procedure for verifying the effectiveness of the protective measures of electrical equipment after repair* details safety checks to be performed after the repair of electric appliances.
[7] The project led to several contributions including Bolanos Arriola e.a., *Veilig ontworpen. Veilig te repareren (Safely designed. Safe to repair*) and Ingemarsdotter e.a., *Ontwerpen voor veilige reparatie van huishoudelijke apparaten in een circulaire economie (Design for*

In the context of the PROMPT project, a **methodology was also proposed to evaluate self-repair risks as a function of product design**.[8] In fact, certain characteristics of the product (such as sharp edges or voltage carrying components that could be touched during repair) can exacerbate repair-related safety risks, whereas others (such as keyed wire connections or visible assembly cues) can mitigate them.

Clear instructions can also improve repair safety, and it is notable that **several manufacturers, while selling spare parts to consumers, decline to share repair manuals with them** - as if the repair procedure would be safer without proper guidance. Here again, one may point out the inconsistency of the safety argument used by manufacturers to justify a closed repair ecosystem.

The European Commission might see this as an opportunity for standardisation in the realm of design for safe repair, and therefore issue a mandate to include criteria for improving repair safety through design and after sales support in the revision of the repairability assessment standard EN 45554:2020, *General methods for the assessment of the ability to repair, reuse and upgrade energy-related products*.

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safe repair of household appliances in the circular economy). See https://www.tudelft.nl/tu-delft-safety-security-institute/collaboration/with-iw-on-safe-secure-by-design for the project in general; the deliverables can be found here: https://www.safe-by-design-nl.nl/documenten/over+safe-by-design+documenten/.

[8] Ruud Balkenende e.a., *Premature Obsolescence Multi-Stakeholder Product Testing Program, deliverable 4.4: Testing procedures for obsolescence related design features* (2022), p. 33-46.