



## SBS assessment of the proposal and the IMCO amendments to the Right to Repair Directive

September 2023

Text proposed by the Commission	Proposed change
<p><b>Recital 22</b></p> <p>“Member States should ensure that all economic operators that may provide repair services in the Union have easy access to the online platform. Member States should be free to decide which repairers can register on the online platform as long as access to that platform is reasonable and non-discriminatory for all repairers in accordance with Union law. <i>Enabling repairers from one Member State to register on the online platform in another Member State in order to provide repair services in areas that the consumer searched for should support the cross-border provision of repair services.</i> It should be left to Member States’ discretion how to populate the online platform, for instance by self-registration or extraction from existing databases with the consent of the repairers, <i>or if registrants should pay a registration fee covering the costs for operating the platform.</i> To guarantee a wide choice of repair services on the online platform, Member States should ensure that access to the online platform is not limited to a specific category of repairers. [...]”</p>	<p><b>Recital 22</b></p> <p>“Member States should ensure that all economic operators that may provide repair services in the Union have easy access to the online platform. Member States should be free to decide which repairers can register on the online platform as long as access to that platform is reasonable and non-discriminatory for all repairers in accordance with Union law. <i>Enabling repairers from one Member State to register on the online platform in another Member State in order to provide repair services in areas that the consumer searched for should support the cross-border provision of repair services.</i> It should be left to Member States’ discretion how to populate the online platform, for instance by self-registration or extraction from existing databases with the consent of the repairers, <del>or if registrants should pay a registration fee covering the costs for operating the platform.</del> To guarantee a wide choice of repair services on the online platform, Member States should ensure that access to the online platform is <b>free of charge and is</b> not limited to a specific category of repairers. [...]”</p>
<p><b>Justification:</b> The European repair platform should be cost-free, ensuring equity and fair competition among all actors.</p>	

Text proposed by the Commission	Proposed change
<p><b>Recital 27</b></p> <p>The Commission should enable the development of a voluntary European quality standard for repair services, for instance by encouraging and facilitating voluntary cooperation on a standard between businesses, public authorities and other</p>	<p><b>Recital 27</b></p> <p>The Commission should enable the development of a voluntary European quality standard for repair services, <del>for instance by encouraging and facilitating voluntary cooperation on a standard between businesses, public authorities and other stakeholders or by issuing a</del></p>

<p>stakeholders or by issuing a standardisation request to the European standardisation organisations. A European standard for repair services could boost consumer trust in repair services across the Union. Such standard could include aspects influencing consumer decisions on repair, such as the time to complete repair, the availability of temporary replacement goods, quality assurances such as a commercial guarantee on repair, and the availability of ancillary services such as removal, installation and transportation offered by repairers.</p>	<p>standardisation request to the European standardisation organisations. A European standard for repair services could boost consumer trust in repair services across the Union. Such standard could include aspects influencing consumer decisions on repair, such as the time to complete repair, the availability of temporary replacement goods, quality assurances such as a commercial guarantee on repair, and the availability of ancillary services such as removal, installation and transportation offered by repairers. <b>When developing this standard the European Standardisation organisations should ensure the involvement of SMEs and SMEs associations.</b></p>
<p><b>Justification:</b> CEN, CENELEC and ETSI act as catalysts of voluntary cooperation between businesses, consumers, European standards associations (Annex III), public bodies, and other stakeholders. A standard developed by the ESOs would ensure the uptake of European standards by national standards bodies of the European Economic Area (and beyond) and offers the advantages of trustworthiness, expertise, broad representation, legal integration, efficiency, and market acceptance. SME representation should be ensured because they are key for the success of the directive: they make 99% of the European companies and repair services are mostly performed by SMEs.</p>	

Text proposed by the Commission	Proposed change
	<p><b>Recital 28a (new)</b> To support consumers and to reduce the inconvenience for them of not having the goods while they are being repaired, outside the legal guarantee period the seller may offer the possibility of substituting the defective item with a refurbished one seller as an alternative to repair.</p>
<p><b>Justification:</b> The directive should allow for replacing defective products with refurbished ones outside the legal guarantee period, to maximise sustainability and product circularity whilst also offering consumers and businesses a quicker solution.</p>	

Text proposed by the Commission	Proposed change
<p><b>Article 4(1-2)</b> 1. Member States shall ensure that, before a consumer is bound by a contract for the provision of repair services, the repairer shall provide the consumer, upon request, with the European Repair Information Form set out in Annex I on a durable medium within the meaning of Article 2 (11) of Directive 2019/771/EU. 2. Repairers other than those obliged to repair by virtue of Article 5 shall not be obliged to provide the European Repair Information Form where they do not intend to provide the repair service.</p>	<p><b>Article 4(1)</b> <i>1. Member States shall ensure that, before a consumer is bound by a contract for the provision of repair services, the Repairers shall may provide the consumer, upon request, with the European Repair Information Form set out in Annex I on a durable medium within the meaning of Article 2 (11) of Directive 2019/771/EU.</i> <i>2. Repairers other than those obliged to repair by virtue of Article 5 shall not be obliged to provide the European Repair Information Form where they do not intend to provide the repair service.</i></p>
<p><b>Justification:</b></p>	

A right to repair should be proportionate and follow the Think Small First principle. It is unlikely that a legal obligation to use a European Repair Information Form for quotes could improve consumers' willingness to repair.

Text proposed by the Commission	Proposed change
<p><b>Article 5(1)</b> 1. Member States shall ensure that upon the consumer's request, the producer shall repair, for free or against a price or another kind of consideration, goods for which and to the extent that reparability requirements are provided for by Union legal acts as listed in Annex II. The producer shall not be obliged to repair such goods where repair is impossible. The producer may sub-contract repair in order to fulfil its obligation to repair.</p>	<p><b>Article 5(1)</b> 1. Member States <del>shall</del> <b>should</b> ensure that upon the consumer's request, the producer <del>shall is responsible for the repair, for free or against a price or another kind of consideration, of</del> <b>shall is responsible for the repair, for free or against a price or another kind of consideration, of</b> goods for which and to the extent that reparability requirements are provided for by Union legal acts as listed in Annex II. The <del>producer shall not be obliged to repair</del> <b>producer shall not be obliged to repair obligation does not include</b> such goods where repair is impossible. <del>The producer may sub-contract repair in order to fulfil its obligation to repair.</del> <b>The producer may discharge its responsibility by arranging measures able to fulfil its obligation to repair. These measures include the obligation to provide all information, specifications and elements so that the repairer, at the request of the consumer, can actually provide the repair service. The producer may replace goods with refurbished goods of the same kind in order to fulfil its obligation to repair.</b></p>
<p><b>Justification:</b> The replacement of a defective good with a repaired one would create a circular system for repaired machines. This should thus be considered as equivalent to repair. This amendment provides for attribution of responsibility to the manufacturer that is more functional to the various roles of the subjects involved, explicitly providing that it is not necessarily the manufacturer who carries out the repair but rather adopts the necessary measures to ensure that the consumer's right to repair is guaranteed.</p>	

Text proposed by the Commission	Proposed change
<p><b>Article 5(2)</b> 2. Where the producer obliged to repair pursuant to paragraph 1 is established outside the Union, its authorised representative in the Union shall perform the obligation of the producer. Where the producer has no authorised representative in the Union, the importer of the good concerned shall perform the obligation of the producer. Where there is no importer, the distributor of the good concerned shall perform the obligation of the producer.</p>	<p><b>Article 5(2)</b> 2. Where the producer obliged to repair pursuant to paragraph 1 is established outside the Union, its authorised representative in the Union shall perform the obligation of the producer. <del>Where the producer has no authorised representative in the Union, the importer of the good concerned shall perform the obligation of the producer. Where there is no importer, the distributor of the good concerned shall perform the obligation of the producer.</del> <b>3. If the producer's business ceases to exist, the seller or distributor should not be held responsible for repair obligations.</b></p>
<p><b>Justification:</b> If there is no authorised representative or the producers' business ends, distributors should not be made financially responsible for producers' obligations.</p>	

Text proposed by the Commission	Proposed change
<p><b>Article 7(3)</b> 3. Registration on the online platform for repairers, as well as for sellers of goods subject to refurbishment and for purchasers of defective goods for refurbishment, shall be voluntary. Member States shall determine the access to the platform in accordance with Union law. The use of the online platform shall be free of charge for consumers.</p>	<p><b>Article 7(3)</b> 3. Registration on the online platform for repairers, as well as for sellers of goods subject to refurbishment and for purchasers of defective goods for refurbishment, shall be voluntary <b>and cost-free</b>. Member States shall determine the access to the platform in accordance with Union law. The use of the online platform shall be free of charge for <del>consumers</del> <b>all</b>.</p>
<p><b>Justification:</b> If the platform is not accessible for independent repairer SMEs for free there is a risk that independent repair businesses will not use the platform because of the cost factor. Subsequently, the success of the directive could be hindered.</p>	

Text proposed by the Commission	Proposed change
	<p><b>8(NEW)</b></p> <p><b>Small and medium sized enterprises</b></p> <p><b>Member States shall take appropriate measures to help small and medium sized enterprises within the meaning of Commission Recommendation 2003/361/EC apply the requirements set out in this Directive. Those measures shall at least include</b></p> <p><b>(a) guidelines or similar mechanisms to raise awareness of ways to comply with the requirements set out in this Directive;</b></p> <p><b>(b) tailored trainings for entrepreneurs and their staff;</b></p>
<p><b>Justification:</b> Concrete measures in favour of SMEs should be put in place to address the shortage of skilled workers in many Member States, which hampers the possibility of offering more comprehensive repair services.</p>	

- **IMCO AMENDMENTS SUPPORTED BY SBS**

**AM 4, AM 6, AM 25, AM 30, AM 31**

These amendments facilitate repairers' access to spare parts at a fair price and ensure that producers provide all necessary repair information for a reasonable period of time. The amendments also provide guidance on how to calculate the price.

**AM 7, AM 19**

These amendments better define the liability of the extra-EU economic actors, and producers' liability.

**AM 11, AM 12, AM 34, AM 35, AM 36**

These amendments promote an online, user-friendly and easily accessible repair platform and include strategies to promote its use.

**AM 14, AM 38**

These amendments promote incentives and initiatives to raise awareness and on repair options.

- **IMCO AMENDMENTS REJECTED BY SBS**

**AM 1, AM 3, AM 8, AM 23, AM 57, AM 58, AM 59, AM 60, AM 61, AM 62, AM 63, AM 64, AM 65, AM 66, AM 67, AM 68, AM 69, AM 70**

These amendments delete the reference to specific legal acts in connection with repairability requirements and hence create legal uncertainty. Adding more products not regulated by legal acts must be avoided. Further enlarging product groups not covered by legislation in Annex 2 or obligation to repair is disproportionate.

**AM 17, AM 28, AM 48**

The imposition to provide the loan of a replacement good, and the limit of 15 days to carry out the repair are disproportionate and do not consider specificities of different products and components.

**AM 33**

The exclusion of goods subject to refurbishment from the repair platform reduces the sustainability potential of the new measures.

**AM 53, AM 54, AM 55, AM 56**

These amendments shorten the necessary adjustment time for SMEs considerably.

Small Business Standards (SBS) is the European association representing and supporting small and medium-sized companies (SMEs) in the standardisation process, both at European and international levels.

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