Right to Repair Europe's Position on the EU initiative
"Sustainable consumption of goods – promoting repair and reuse"

Right to Repair (R2R) Europe welcomes the Commission's initiative to directly address repair and reuse in the context of sustainable consumption of goods. Considering that e-waste is one of the fastest growing waste streams in the world, and that the amount of household appliances failing within 5 years of purchase is skyrocketing, this is an area that requires urgent and focused policy attention. To date, EU policy related to the Right to Repair has been limited to some product-specific ecodesign regulations (for products to be able to be sold on the European market) which require the availability of spare parts for a specified time period, plus provision of disassembly information. Although reparability is also considered in some voluntary instruments such as the EU Green Public Procurement criteria or the EU Ecolabel, by their nature voluntary measures are insufficient to establish a genuine *right* to repair.

As a campaign, we emphasise the need for a **universal** right to repair: to ensure that all parties can collaborate to make the EU a thriving market for repair. Horizontal measures are necessary, that are applicable across all categories of electric and electronic goods and preferably even beyond (furniture, textiles, clothing, shoes, shoes and bicycles). These need to be compulsory across the board and very clearly specified in order that they have an impact on the market. They must also address the right to repair beyond the warranty period, secure the right for consumers (and other parties such as volunteers in community repair initiatives) to repair products themselves.

The current policy options are very vague in terms of the requirements that would be specified and how they would be implemented, and are significantly lacking in scope and ambition. With this in mind, we list below our comments on the specific policy options proposed:

Discounting Option 1, voluntary commitments:
Based on the performance of existing voluntary agreements under Ecodesign, the "voluntary commitment" policy option proposed by the Commission would be ineffective. **We therefore recommend this option is removed from the analysis**. We have previously highlighted the failures of voluntary commitments - for example for printers and video game consoles - because they lack ambition and tend to lock in the status quo. To promote repair and reuse, we need to make these activities the default, preferential options, which will simply not happen through voluntary initiatives.

Improving Sub-option 2A, Moderate intervention to extend warranty for repaired and refurbished goods:
Sub-option 2A aims to extend legal guarantee periods for i) new goods that are repaired instead of replaced and/or (ii) for second-hand and/or refurbished goods. This would be

achieved via amendments to the Sale of Goods Directive. Whilst exploring how warranties can be improved is important, if the legal warranty is extended but repair is not made the primary remedy, then such an approach would foster replacement of failed products with new ones. **It is essential that repair is established over replacement as the primary solution for product failures regardless of the cost balance in order for changes to warranties to be effective.** It will be important in this case to define very clearly how the decision will be made as to whether a repair is possible or not. Further, warranty by definition covers only a very limited portion of repair both in duration and scope, and it is important that the EU also fosters repair outside of warranty circumstances (see our suggested additional policy options).
In addition, products refurbished by third-parties as well as second hand products should not need to come with the same level of legal guarantees as brand new products. Consumers should however be made more aware of their rights regarding second-hand and refurbished products.

Improving Sub-option 2B, Moderate intervention to require manufacturer repair of goods at reasonable price beyond warranty period:
Sub-option 2B aims to make repair the preferred option only when it is less expensive than or as expensive as replacement. **This policy option is not likely to notably increase repair** due to the market failure where the environmental costs of product replacement over repair are not reflected in new product prices, and the environmental benefits of repair not reflected in lower prices for repair. Therefore, **this option should be amended to specify that instead of manufacturers being obliged to repair or replace products in the event of a warranty failure, repair would be the primary remedy (regardless of cost)** and replacement would only be offered in the event that repair is not possible. **It could be combined with option 2A and/or be expanded using the additional options specified later in this paper.**
This sub-option also proposes to oblige producers or sellers to repair goods beyond the legal guarantee period for a reasonable price, either via a new right to repair clause within the Directive or via a separate instrument. **We strongly support the need for a separate instrument to address the right to repair, as there will be limitations in what can be specified within the established Sale of Goods Directive. There are two important considerations that need to be specified when addressing such an approach:** i) If "reasonable price" is not well defined then it will be left entirely open to the interpretation of manufacturers and will result in policy requirements being unverifiable. Therefore the price of repair needs to be limited as a percentage of the original recommended retail price of the product. ii) The range of repairs that need to be made available by manufacturers for an extended time would need to be specified product by product within an annex or similar within the new instrument, otherwise manufacturers could limit the repairs to a very basic subset and the effectiveness of the legislation would be poor. This list should be based on the most frequent failures of the product (e.g. to include water or shock damage), rather than the most frequent repairs currently carried out by the manufacturer (e.g. simple battery or keyboard replacement). A mini-preparatory study may be necessary to determine which repairs should be compulsorily offered.

Improving Sub-option 3A, High intervention to require manufacturer repair of goods for free beyond warranty period:

This sub-option aims to limit consumers' choice of solution by prioritising repair over replacement via the Sale of Goods directive. **We have recommended that options 2A and 2B be combined to this effect instead**. It is also proposed that some cases of repair should be required to be free beyond the legal guarantee period, either through a new right to repair clause within the Directive or a separate instrument. This is not likely to be a high impact intervention as it would only impact a small subset of repairs and would have similar limitations to sub-option 2B above. Therefore **further work is required to define this policy option so that it more effectively prioritises repair over replacement.** This could be done by integrating some of the additional policy options we suggest.

Improving Sub-option 3B High intervention via extended legal guarantee period for new goods:
This sub-option simply proposes to extend the legal guarantee period beyond the current minimum period of 2 years via an amendment to the Sale of Goods directive. **Clarification is necessary to make clear what the extended period would be, and if this would be consistently applied across all products, all customer types**. Further, this does not appear to be a "high intervention" and we suggest this proposal is downgraded to moderate or low. We have suggested more ambitious "high intervention" approaches that would have a greater impact later in this document.

Reducing the impact of Sub-option 3C, High intervention via encouraging replacement of defective products with refurbished rather than new ones
This sub-option aims to "enable" the seller to replace defective products with refurbished goods and not new ones (via an amendment to the Sale of Goods Directive. However, we understand that this is already the status quo for some products (e.g. printers, see the imaging equipment voluntary agreement). Further, as the option is not a requirement but simply making the option available, it is unlikely to have a strong influence on the market beyond what manufacturers would normally do. Therefore it could not be considered a high intervention option. **We suggest that this option is downgraded to a low intervention option.**

Additional policy options:
The current policy options are very focused on repair in relation to the warranty period, and therefore focus primarily on the direct role of manufacturers and vendors in repairing products. Requiring manufacturers to offer a repair service for their products at a reasonable cost even after the legal warranty period has expired can be an important step. However, it cannot be the only solution: **the right to repair goes beyond just the legal guarantee duration and scope. The policy measures need to also address i) the right to repair after the legal guarantee has expired, ii) the right to carry out repairs at any time that are outside the scope of the warranty, and iii) the right for consumers (and other parties such as volunteers in community repair initiatives) as well as independent professional repairers to repair products themselves.** We therefore propose the following additional policy options for inclusion under a new policy instrument that would implement horizontal requirements across a wide range of products (beyond those addressed by ecodesign):

<u>1) Obligations on manufacturer product design:</u>

- **Overarching repair requirements:** These should be horizontal across all products (beyond the scope of ecodesign), addressing design for disassembly, tools necessary for repair, accessibility of batteries etc.
- **Prohibition of techniques that prevent or limit independent repair by consumers or independent repairers outside of manufacturers or distributor's certified networks:** These may be contractual, hardware, firmware or software based. For example, product designs that block the installation by independent repairers or consumers of non-OEM third party or second hand spare parts. It also includes designs where the OEM has to authorise a replacement part before full functionality is restored or where serial numbers of the part and product have to be synchronised (part pairing/serialisation).

2) Obligations on service provided by manufacturers, importers and resellers:

- **Limitations on the price of spare parts:** Preserving an open and competitive repair ecosystem, e.g. via access to spare parts and repair information at a reasonable price for all interested parties (including consumers, non-profit repair initiatives and independent professional repairers)
- **Free access to detailed repair information for all parties:** Free access to repair information rather than at a "reasonable price" as currently specified in some ecodesign regulations. The access should be without the need to register or provide proof of repair qualifications etc as is currently the case in existing ecodesign regulations. The level of detail in the information should be sufficient for consumers to be able to safely disassemble, repair and reassemble the product.
- **Provision of detailed diagnosis information:** Recent ecodesign regulations and product safety regulations consider fault diagnosis information a relevant attribute for repair. However, a recent study performed on 150 user manuals of different household appliances (Pozo Arcos, 2022) showed that the manuals lacked information to carry out the diagnosis when a product failure occurred. The manuals also lacked sufficient information on what to do about the fault, leaving "contact customer support" as the only option. Existing ecodesign regulations lack information on which diagnosis information should be provided to the consumer. The study concluded that future regulation should ensure that the diagnosis of at least the 5 most frequently failing components is facilitated by manufacturers. This would enable users to make informed decisions about repairs and potentially encourage higher rates of repair.
- **Obligatory in-store repair and spare part availability:** Requirement on manufacturers to carry out in store repairs for a subset of the most important repairs (those that are linked to most common failures), and to sell spare parts for these repairs in store.
- **Information to consumers on reparability of products at point of sale**: Provide accurate information on reparability of products at the time of purchase, and on nearby repair solutions. We for example strongly believe that the introduction of a mandatory point-of-sale repair score - such as the one already displayed in France - should be taken up at European level. Such a score can drive consumers towards the most durable and repairable products available on the market, while stimulating manufacturers to design more repairable products, thereby extending product lifetimes. However, for the repair score to have the desired effects, it will be key that the following elements are taken into account:

- The ***price*** of spare parts should be included in the repair score as one of the parameters, along with documentation, easy disassembly, availability of spare parts, and any specific criterion for the product family. It is crucial that price is taken into account given that the high price for repairs is one of the main barriers for people to
  repair. The repair costs are therefore an indispensable part of any repair-score system.
- The ***scope*** should not be limited to Ecodesign products only, but should cover all consumer products.
- A robust ***calculation method*** is needed, where bad points on a number of essential criteria cannot be compensated with good scores in other criteria, leading to an overall good score when the product is in reality not repairable.

- **Open availability of spare parts for extended time periods**: Spare parts should be available to all parties, for extended time periods that reflect longer lifetimes.
- **Open access to spare part designs for 3D printing**: Manufacturers should be obliged to release spare part designs for these to be 3D printed where possible to encourage ease of repair. This could address some of the manufacturer concerns about holding extended parts inventory for long periods. This would need to be supported by a Commission-led initiative to ensure the quality and safety of printed spare parts.
- **Increased transparency on manufacturer repair policies:** Businesses should be required to publish details within their sustainability reports/ESG on their repair initiatives, including key performance indicators that rate their efforts to increase repair and prolonging the lifetime of products.

3) Initiatives to support the wider repair sector outside and beyond the warranty period:

- **Fiscal support for the repair sector:** To address the market failure of the environmental costs of product replacement over repair not being reflected in product prices, and the environmental benefits of repair not being reflected in lower prices for repair, fiscal incentives are necessary. We call for a broad policy framework that does not only cover administrative and informational instruments, such as product standards and labels, but that also proposes economic measures like taxes and subsidies. Such incentives are crucial, since high repair costs are a decisive factor in consumers' decisions not to repair, and the cost of local European repair labor is at a disadvantage to manufacturing labor in third countries.There is broad consensus among researchers that economic measures are important to address environmental and climate challenges. However, they are rarely used to stimulate repair.

These financial incentives should exist at EU-level, and could be built upon the following examples already existing in member states:

- ***Austrian and German Repair vouchers***: The setup of the system varies according to the region, but citizens are generally reimbursed up to 50% of their repair costs via a repair voucher, usually with a capped amount up to eg

100 euros per repair or per year. The Austrian federal government decided to expand the repair voucher nationwide from 2022. It is also important to ensure that the vouchers are used by local repairers. This can be done by drawing up a list of repair companies where the checks may be used. The EU should stimulate Member States in using these kinds of instruments.

- ***French Repair fund:*** The fund is financed with the French eco-contribution, resulting from the EU WEEE obligations. Every French consumer who goes to a -certified- repairer, will receive a significant discount on his/her repair bill. The fund then reimburses the repairers for the discounts. With this measure, France does not only want to reduce the cost of pressure on repairs, but also make the recovery sector more visible and better structure it. This is done by imposing quality criteria on repairers who want to join the fund and by investing in shared tools for online diagnosis. It is time for the EU to extend the scope of its WEEE Directive and EPR scheme - see below.

- ***Swedish governments tax break*** programme for repair, where VAT is halved from normal levels (although currently not for electricals), and consumers can apply for tax breaks for repairs of electricals performed by professionals at their home.

VAT incentives could also be provided on reused, remanufactured and refurbished goods. The EU Directive on a common system of value added tax could be revised to reduce further the VAT that should be applied on the cost of the labour of repair.

- **Revision of Extended Producer Responsibility systems for repair:** The Extended Producer Responsibility fees currently support collection for recycling but not repair. This is at odds with the waste hierarchy and has not resulted in a genuine prevention of waste or reduction of resource use. Extended Producer Responsibility should be revised to integrate the need to first repair products wherever possible before they are channelled into recycling streams. However, a balance may need to be reached in order to establish a fair and open market for repair, refurbishing etc.
- **Inclusion of repair in Product Environmental Footprints (PEF):** Repair should be an integral criteria in PEF to support the Right to Repair. In the PEF project on textiles, reparability has already begun to be addressed, based on whether companies offer a repair service, but approaches should go much further.
- **Improvements to regulations on reused (donor) parts:** Regulations for using donor parts should be adapted to facilitate repair by a wider range of organisations. For example, in the Netherlands unless organisations have a specific certificate (Cenelec, Weelabex) they are not permitted to use parts from existing products to repair other products when they cannot be repaired as a whole. Many organisations do not have such certification, yet using a donor part can often be the difference between being able to repair a product or not. Additionally, practices such as serialisation and part-pairing, which are increasingly used by manufacturers, are at risk of creating new barriers to repair, and prevent the reuse of parts which are not directly provided by the manufacturer. Such approaches, that discourage the use of donor parts, should be avoided.