

The EU Right to Repair

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FRDO-CFDD Product Policy
New Challenges for Products and Sustainability
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Legal Framework

Sales of Goods Directive

- Sellers of goods must replace or repair goods sold to consumers if they are not in conformity with the contract or consumers' reasonable expectations during the two-year legal guarantee

Product Regulations under the Eco-Design Directive (replaced by the Sustainable Products Regulation)

- Regulations require manufacturers to ensure that their products meet repairability requirements and availability of spare parts
- Regulations apply to specific categories of products (*e.g.*, smart phones, data storage products)
- Similar requirements under the Sustainable Batteries Regulation

Greenwashing Directive

- Prohibits, as unfair trade practices, behaviors and claims on the durability and repairability of products (*e.g.*, presenting a good as allowing repair when it does not; falsely claiming the durability of the products in terms of usage time or intensity; presenting software updates as necessary when it only enhances features)
- Requires to provide information on repairability to consumers

Right to Repair Directive (“R2RD”)

The R2RD

- Requires manufacturers to repair goods upon request of consumers
 - Obligation only covers products covered by regulations listed in Annex I (specific product regulations under the Eco-Design Directive and products with LTM batteries under the Sustainable Batteries Regulation)
 - Obligation does not apply if repair is “impossible”
 - Manufacturers may charge reasonable price for repair and spare parts
 - Manufacturers must also make easily accessible and in a comprehensive manner information on their repair services
- Allows (but does not require) all repairers to provide consumers with an “European Repair Information Form” after the consumer’s request for repair and before she is bound by the repair contract
 - *E.g.*, nature of defect, time, price
- Requires the Commission to create an European Online Platform for Repair
 - With national sections or links to national platforms
 - Intended to allow consumers to identify repairers, sellers of refurbished goods and buyer of defective goods for refurbishment, or community-led initiatives
 - Participation is voluntary
- Extends +12 months the guarantee period under the Sales of Goods Directive where repair is chosen to bring the goods into conformity

The R2RD: Examples of Legal Issues

What is
“reasonable”
price”?

What is a repair
that is “factually or
legally
impossible”?

Foreign goods:

Authorized
representatives,
importers,
distributors,
sellers?

Manufacturers’
dealers v.
independent
repairers

Repair of goods
and competition
on spare parts v.
intellectual
property rights and
safety
considerations

National Implementation

Member States must transpose the R2RD by July 31, 2026

R2RD includes harmonization clause

- But we expect national variations

Belgium and France already have a Repairability Index

- Belgian Law of March 17, 2024; Royal Decree of May 25, 2024
 - Eight categories of appliances
 - Different deadlines for large and small companies
 - Index is based on 5 different criteria (technical documentation, ease of dismantling, availability of spare parts, price of spare parts, specific criteria per category)
- Pending Belgium Draft Royal Decree on Sustainability Index

About the Author



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- Dr. Cándido García Molyneux is a Spanish Of Counsel in the Brussels office of Covington & Burling LLP. His practice focuses on EU environmental and product safety law, and international barriers to trade. He advises clients on legal issues concerning environmental product regulation, safety standard, chemical law, waste management, climate change, renewable energies, and energy efficiency
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Thank you!