

# Position on the Sustainable Consumption of Goods Initiative (SCGI) and its right-to-repair (R2R)

Brussels, 2 June 2023

## EXECUTIVE SUMMARY

The European Ventilation Industry Association (EVIA) welcomes the Commission proposal for a R2R and appreciates the opportunity to provide feedback.

EVIA's main message is that the R2R should not duplicate nor contradict requirements established in product-specific ecodesign regulations. The R2R should be a framework legislation that sets objectives that are implemented more granularly in the appropriate ecodesign obligations. Much of that granular work is already in motion and progress in chemical, ecodesign, and waste legislation.

In essence, EVIA stresses that the R2R should not set prescriptive requirements at product level. These need to be sensitive to the specificities of products and thus should be addressed on a case-by-case basis under ecodesign. There already is an existing precedent for that under ecodesign and other existing EU legislation. Largely, this concern has been reflected in the Commission's proposal. However, the Commission's proposed approach to certain specific aspects is of concern in this respect.

As such, we recommend the legislators the following:

- 1. Issue guidelines that confirm the primacy of ecodesign in terms of reparability rules for products.**
- 2. Utilise ecodesign and energy labelling tools (DPP, EPREL) for information requirements on R2R.**
- 3. Avoid the fragmentation of the EU market by encouraging a proliferation of national R2R platforms.**

EVIA welcomes the Commission's [proposal for a Directive on the Sustainable Consumption of Goods and a Right-to-Repair \(R2R\)](#). The proposal aims to promote sustainable consumption by increasing the repair and reuse of viable defective goods purchased by consumers within and beyond the two-year legal guarantee under the Sale of Goods Directive. EVIA particularly welcomes draft Article 3 on the level of harmonisation, which would prevent the Member States from maintaining or introducing in their national law provisions diverging from those established by the proposed directive. Furthermore, the proposal recognises that manufacturers should be incentivised to conduct repair services as part of a guarantee of durability and as part of their commercial offering. As such, it does not prevent manufacturers from going over and above the minimum requirements.

From a legislative coherence and consistency perspective, EVIA understands that the R2R proposal is aimed at complementing the 'material efficiency' requirements that have been progressively and systematically integrated into the revisions of product-specific implementing regulations since the 2016-2019 Ecodesign & Energy Labelling Working Plan. This is the case for the ongoing revisions of relevance to EVIA, specifically GROW Lot 6 (ventilation) and ENER Lot 11 (fans).

## 1. Repairability requirements

From the definition of ‘repairability requirements’ in the proposal, the R2R Directive is intended to apply to the following subset of ‘material efficiency’ requirements that are an established feature of the approach to ‘material efficiency’ under Ecodesign. In practice, this gives effect to the following R2R:

- ease of disassembly;
- access to spare parts;
- access to repair and maintenance information (RMI); and
- access to tools applicable to products or specific components of products.

## 2. Obligation to repair

EVIA has supported the ongoing work of the Commission to introduce ‘repairability requirements’ that are being introduced in the revisions of GROW Lot 6 (ventilation) and ENER Lot 11 (fans). As such, EVIA supports the mechanism proposed by the Commission in the R2R proposal that, when a product-specific ecodesign implementing regulation is revised or newly adopted to introduce ‘material efficiency’ requirements, the product-specific ecodesign implementing regulation will be added to Annex II of the future R2R Directive. As such, this ecodesign requirement will then be subject to the obligation to repair under Article 5 beyond the minimum two-year guarantee under the Sale of Goods Directive, where repair is less or equally costly to replacement.

EVIA also supports the principle in the R2R proposal that the repair obligation under Article 5 applies to the period determined on the basis of the specificities of products in the product-specific ecodesign implementing regulations. This is the period for which access to be provided to the list of product-specific critical spare parts, i.e.,  $n$  years from last placing on the market of a unit of a product model. In the Working Documents for the draft revisions of GROW Lot 6 and ENER Lot 11 from February 2022, this period is 7 years from last placing on the market of a product model unit.

We also appreciate that the repair obligation is conceived with the intention to ensure that repairs are actually carried out, as consumers will have a right to directly claim repair, as a complement to the ‘repairability requirements’ that ensure that repair is possible in practice. In effect, the draft Article 5 sets an obligation to repair towards repair service practices that are already strongly encouraged by the ‘material efficiency’/‘repairability’ requirements in product-specific ecodesign implementing regulations to offer repair services, either in-house or via a sub-contracted partner. This is particularly true for HVAC products, which are long-lifetime electrical and electronic equipment (EEE) where commercial guarantees/warranties regularly extend beyond the two-year minimum guarantee period under the Sale of Goods Directive.

**EVIA recommends** that from a process perspective some clarity would be welcome as to the exact process that the Commission intends to use to adopt Delegated Acts under the proposed R2R Directive following the introduction of ‘material efficiency’ requirements in product-specific ecodesign implementing regulations. Does the Commission intend for this to be in fully synchronised with, in essence automatic, from a procedural perspective when product-specific ecodesign implementing regulations are revised or newly developed, or does the Commission intend a regular schedule of updates to Annex II via a new Delegated Act under the R2R proposal? EVIA would note that DG JUST is likely to retain responsibility for the R2R Directive whilst DG GROW and DG ENER are responsible for the product-specific ecodesign

implementing regulations. EVIA would suggest that best practice is established within the Commission that revisions or newly developed product-specific ecodesign implementing regulations are added via Delegated Act to Annex II of the R2R Directive within 6 months from their entry-into-force.

### 3. Informing consumers

Draft Article 6 requires the Member States to ensure that consumers are informed that the manufacturer is subject to an obligation to repair and to provide information on the repair services.

**EVIA recommends** that it is considered sufficient that consumers are informed of their R2R at the point of sale in the sales contract. It should also be sufficient that the requirement to provide information on repair services is considered to be fulfilled by a manufacturer's compliance with the 'reparability requirements' to make the list of critical spare parts and the procedure for ordering them publicly available on their free access website. In respect to the planned introduction of Digital Product Passports (DPP) under the Ecodesign for Sustainable Products Regulation (ESPR), it could be possible for this information to be stored and made accessible to the consumer and, when necessitated by legitimate product-specific safety concerns, to 'professional repairers' on the basis of differentiated access rights, via the DPP. Commission guidance should be issued bearing in mind the maximum harmonisation nature of the R2R Directive is to assist the Member States from the perspective of consistent interpretation and application.

### 4. Member State online repair platform

EVIA notes that under draft Article 7 that each Member State will be obliged to create an online voluntary repair platform for consumers to use in essence as a market comparison website/'yellow pages' style directory to search and to compare repairers. Manufacturers would be able to fulfil their information requirement via registering their services on the Member States online platform. EVIA welcomes this initiative to help consumers find attractive repair services.

**EVIA recommends** it is unlikely that a manufacturer would choose to fulfil its obligation to inform consumers via the Member States' online repair platforms as this would require the registration of its repair services on 27 individual repair platforms. The administrative burden involved in registering with 27 unique systems would be challenging in comparison to the harmonised approach in the product-specific ecodesign implementing regulations to provide this on the manufacturer's publicly accessible website or in the future via the DPP, as the R2R Directive is a maximum harmonisation instrument.

Further, EVIA stresses the need to ensure that consumers are sufficiently protected from fraudulent activity and that repairs are safe. As such the Commission should be empowered to adopt an Implementing Act setting out the administrative minimum requirements that Member State online repair platforms must meet to ensure the verification of repair services providers with EU and national legal requirements; inspiration could be drawn in this respect from the draft Implementing Regulation on administrative supplier verification requirements for EPREL registration. EVIA recommends that access to Member State online repair platforms is restricted to the manufacturer subject to the repair obligation under Article 5, to 'professional repairs' authorised by manufacturers to access RMI and selected spare parts pursuant to the product-specific ecodesign implementing regulations, and to repair service providers that meet the new voluntary European quality standard for repair services that is to be

developed by the Commission. EVIA encourages the Commission to expedite work on the repair quality standard which must have safety at its heart, as well as cybersecurity and data protection.

## About EVIA

The European Ventilation Industry Association's (EVIA) mission is to represent the views and interests of the ventilation industry and serve as a platform between all the relevant European stakeholders involved in the ventilation sector, such as decision-makers at the EU level as well as our partners in EU Member States. Our membership is composed of more than 40 member companies and 6 national associations across Europe, realising an annual turnover of over 7 billion euros and employing more than 45,000 people in Europe.

EVIA aims to promote highly energy efficient ventilation applications across Europe, with high consideration for health and comfort aspects. Fresh and good indoor air quality is a critical element of comfort and contributes to keeping people healthy in buildings.