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Ms Julie Abramson  
Mr Paul Lindwall  
Commissioners – Right to Repair Inquiry  
Productivity Commission  
4 National Circuit  
BARTON ACT 2600

Dear Ms Abramson and Mr Lindwall

Thank you for the opportunity to comment on the Productivity Commission's draft report on the *Right to Repair*. I am writing to draw your attention to linkages between the discussion in the draft report on product labelling and software updates, and possible reforms being considered by the Government to uplift cyber security across the digital economy. The Department of Home Affairs is jointly leading this work with Treasury and the Department of Industry, Science, Energy and Resources, and welcomes the opportunity to further engage with you on these matters.

The Australian Government made a commitment as part of the *Cyber Security Strategy 2020* to clarify cyber security obligations for businesses in the digital economy, including with respect to the security of consumer grade devices. On 13 July 2021, the Minister for Home Affairs and Minister for Industry, Science and Technology released a discussion paper titled *Strengthening Australia's Cyber Security Regulations and Incentives*, outlining possible reform options. I have enclosed a copy of the discussion paper for your reference.

The discussion paper outlines the Government's initial view that two key market failures act against more widespread adoption of effective cyber security controls: negative externalities and information asymmetries. Buyers of technology often lack the relevant information about cyber security to make informed purchasing decisions, and frequently share the costs of cyber security incidents with manufacturers of technology. As outlined in the draft *Right to Repair* report, consumers face similar challenges with premature obsolescence.

The Government is considering the following cyber security reform options that are of relevance to the Inquiry:

- *Cyber security labelling for smart devices*: Cyber security labels may help consumers make more informed purchasing decisions at the point of sale. The Government is seeking industry feedback on a graded label similar to energy efficiency ratings, an 'expiry date label' which would indicate the length of time a smart device is guaranteed security updates, or the status quo. The Department of Home Affairs is also undertaking research in partnership with the Behavioural Economics Team of the Australian Government to test consumer reactions to different label designs.
- *Cyber security standards for smart devices*: As a complement or alternative to cyber security labelling, the Government is considering mandatory standards for consumer grade smart devices. The Government is seeking feedback on applying some or all of the standard ESTI EN 303 645, which requires manufacturers to deploy security updates in a timely way.
- *Planned reforms to consumer guarantees*: There are limited legal options for consumers to seek remedies or compensation for cyber security incidents. Currently, there are a number of challenges in applying consumer guarantees to cyber security, including determining that a digital transaction is for a good or service; identifying a responsible business; determining the cause of an incident; and

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practical barriers to consumers exercising their rights under the law. Treasury is leading work to develop a regulatory impact assessment of specific options to improve compliance with the consumer guarantees, which will examine whether a civil prohibition should be introduced for failing to provide a consumer guarantee remedy. Such a prohibition could address some of the barriers outlined above.

I would be happy to share feedback received from industry and the broader community on these issues at the conclusion of our public consultation process on 27 August 2021. Please contact Andrew Ghobadi, A/g Assistant Secretary Technology Policy Branch if you wish to discuss further.

Yours sincerely

**Hamish Hansford**

First Assistant Secretary

Cyber, Digital and Technology Policy Division

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