

29th January 2021

Productivity Commission
4 National Circuit
Barton ACT 2600
Australia

Re: Initial Submission regarding Right to Repair Issues Paper

PROFESSIONAL EXPERIENCE

I am a service and technology professional with 30 years experience leading and developing circular economy initiatives for multinational organisations.

My industry experience covers the telecommunications, business equipment, consumer electronics, and air conditioning sectors.

I have consistently demonstrated sound executive leadership while managing the introduction of numerous initiatives focused on delivering long term benefits and sustainable outcomes to stakeholders in the follow areas;

- Product Life Cycle Management and Product Repair strategies
- Field Service delivery and Repairer Network Management
- Technical Support and Engineering services
- Spare Parts sales, distribution, harvesting and reclaim
- Reverse Logistics, Product Refurbishment, and Second Inventory Sales
- Product Stewardship, end of life recycling, and e-waste management

My technical skills are grounded in the telecommunications field, specifically data communications and have expanded to other areas including the electro-mechanical, audio visual, and information technology fields.

EMPLOYMENT HISTORY

Dates	Position	Organisation
2020 - present	Director – Engagement & Technology	Battery Stewardship Council
2013 - 2020	Director – Consumer Service, Technology & Environment	Panasonic
2006 - 2013	Director – Consumer Services	Panasonic
1999 - 2006	National Service Manager	Konica Minolta
1996 – 1999	Service Business Development Manager	Canon
1994 - 1996	Branch Service Manager	Canon
1990 - 1994	Field Service Supervisor	Canon
1986 - 1990	Field Service Engineer	Canon
1981 - 1986	Telecommunications Engineer	Telecom (Telstra)

INDUSTRY ENGAGEMENT AND REPRESENTATION

As a leader in my field, I have passionately participated in representing both personal and professional interests in the following areas: -

- Member of the International Service Management Committee (ISMC) for Konica Minolta focusing on the development and delivery of global service initiatives. [2000 to 2006]
- Member of the Board of the Consumer Electronics Suppliers Association (CESA) [2007]
- Member of the Australian Industry Group (AiG) Consumer Electronics Advocacy Group. Key initiatives: - Digital TV switchover and National TV and Computer Recycling Scheme (2012 to 2020)
- Member of the Battery Working Group (BWG) focusing on battery recycling & stewardship issues (2013 to 2015)
- Member of the Industry Working Group (IWG) focusing on Product Stewardship of used batteries (2015 to 2018)
- Member of the Battery Stewardship Council (BSC) focusing on the design of an industry-led Battery Stewardship Scheme (2018 to 2020)

SUBMISSION SUMMARY

It is my contention, based on my professional experience, that a Right to Repair is a critical requirement in establishing a Circular Economy and that this is a vital contribution to addressing the environmental challenges we face today.

Consumers are looking for more than just cheaper and better goods, they are expecting companies to contribute to the common good. We use to receive information when we purchased a product explaining how we can fix that product. Today, we receive information when we purchase a product explaining that trying to fix that product might void your warranty.

Design for Repair, free and open repair information, financial and policy support to foster a vibrant repair industry, policies and consumer law that promotes repair as a priority, and the introduction of a rating system to advise consumers at the time of purchase about repairability are all critical initiatives required to address this imbalance in the repair industry.

This submission provides a response to the information requests of the Productivity Commission. I would be please to expand on any of the items I have raised or to respond to other items not tabled in this submission either directly with the Commission or by appearance at a public hearing if requested.

RESPONSE TO REQUESTS FOR INFORMATION

INFORMATION REQUEST 1

What would a 'right to repair' entail in the Australian context? How should it be defined?

Most consumer electronics products I have been involved with are designed for global or regional distribution. The ability to overtly influence product design is limited in Australia due to the relatively small size of the Australian marketplace. There is some ability to influence design when considering safety or environmental regulation but if design change is significant for the Australian market alone then, in most cases, the product is not introduced to the Australian marketplace.

Focusing on 'design for repair' is an important and long-term requirement to achieve a strong circular economy but trying to influence international manufacturers through local distribution arms will yield little success. A 'right to repair' in the Australian context should therefore consist of two separate streams:

- 1) A focus on regulatory or policy change to enhance the ability to repair or reuse products currently in the marketplace. Specifically, open and free access to repair information, policy reform to support repairability and Circular Economy initiatives, and shared responsibility in Product Stewardship Schemes sharing the end-of-life cost with all stakeholders.
- 2) Secondly, facilitate consultation across local and global industry associations and relevant international government entities to influence the introduction of 'design for repair' concepts into products sold in Australia but that are designed for regional or global distribution.

INFORMATION REQUEST 2

a) What types of products and repair markets should the Commission focus on?

My professional experience is based on service and repairs across a vast array of electronic products, I support the inclusion that all electronic products should be considered by the Commission.

b) Are there common characteristics that these products share?

These products all display the following common attributes:

- They contain rare and precious metals and many products contribute to an existing e-waste problem
- Declining product durability due to either natural evolution or planned obsolescence.
- A reducing number of repair facilities throughout Australia due to the declining financial viability of repair.

c) Are there specific product that the Commission should focus on?

I have no comment to make on this item.

INFORMATION REQUEST 3

a) Do consumer guarantees under the ACL provide adequate access to repair for defective goods?

No. Firstly, the definition of major and minor fault is generally not well understood and the risk of receiving a fine for a breach of the ACL is real. Retailers are known to err on the side of caution and consider a minor fault to be major,

handing over the determination of the remedy to the consumer rather than risk the potential of infringement. In most cases the consumer will choose replacement or refund over repair.

Secondly, repair delays under the ACL definition can constitute a major fault giving the consumer the right to replacement or refund. From a manufacturer's perspective, effective management of the repairer network is required to deliver speedy repair and avoid unnecessary replacement or refund.

Invariably, in both cases, the faulty products not repaired are passed back to the manufacturer and will be sent for destruction adding to the current e-waste problem.

b) Is the guarantee of available repair facilities effective or is the opt-out clause being widely used?

No. It is important to understand that manufacturers consider repair services as a cost of selling the product and do not view it as a revenue opportunity. I have seen a steady and consistent rise in the cost to repair products and a corresponding decline in the FOB price of consumer electronics. A viable service strategy for manufacturer's continues to be the shift towards replacement rather than repair as the FOB price continues to decline.

c) Should consumer guarantee's seek to balance the broader societal costs of remedy choices?

Yes. Although there are areas of the ACL that require further refinement it has provided both industry and the consumer with far better clarity and understanding of each other's obligations. As a policy and regulatory mechanism it provides an excellent platform to further promote the concepts of shared responsibility and a circular economy within the framework of consumer law.

d) Are consumer sufficiently aware of the remedies available to them under the ACL?

In many instances consumers are well informed about their rights and remedies. There are instances where their understanding of terms and definitions is insufficient resulting in the consumer having an over-inflated expectation of their rights.

Although better informed than at the introduction of the ACL, consumer education is still an important item to address.

INFORMATION REQUEST 4

a) Information request on the nature of repair markets in Australia?

I have no comment to make on this item

b) Is there any evidence of a difference in quality, safety, or data security between authorized repairers and independent repairers?

During my career I have been provided written and photographic evidence on a number of occasions where repair activity conducted by independent and/or unqualified repairers presented a clear safety risk to the consumer.

c) Are there available contracts between OEM's and authorised repairers?

The key driver, in my experience, for repairer authorisation is to ensure mechanisms are in place to control repair speed and deliver repair quality.

Repairers were openly invited to apply to become an authorised repairer. This practice of openly seeking new repairers was actively promoted as there were never enough authorised repairers within certain parts of the network to provide adequate service coverage.

The process to become an authorised repairer required the repairer to demonstrate evidence of certain service practices and reporting capabilities that support speedy and high-quality repair, provide evidence of relevant qualifications and insurances, and provide relevant financial information to establish a credit account. All contractual arrangements that I was involved with did not limit or restrict repair competition.

It was also common practice to use independent repairers when there was no authorised repairer available. This was usually a one-off instance and the work instruction was provided once the independent repairer provided evidence of qualifications and insurances and this evidence was validated.

Items d) thought to g)

I have no comment to make on these items.

INFORMATION REQUEST 5

Items a) through to d)

I have no comment to make on these items

INFORMATION REQUEST 6

a) What evidence is there of planned obsolescence in Australian product markets?

The Commission's definition of planned obsolescence suggests it is an overt strategy to manufacture products that have an early life failure. Based on this definition I have not witnessed any evidence of planned obsolescence throughout my professional career.

b) How can the Commission distinguish between planned obsolescence and the natural evolution of products?

The natural evolution of products and the overt strategy to manufacture products with early life failure (planned obsolescence) are two very different manufacturing strategies. Unfortunately though, they do both lead to similar outcomes over the long term.

During my career I observed the natural evolution of products with a production strategy based on increasing features and functions, decreasing price, and reducing early life failure. Over the short term, this approach works well to produce consistently affordable and high-quality products. Over the long term this strategy still results in a reduced life span of the product, but not directly by design.

The difference between planned obsolescence and natural evolution is that with natural evolution the value proposition to the consumer is a core component of the design and manufacturing strategy resulting in the value proposition being maintained over the life of the product.

The best example I have is the Microwave Oven (MWO). In the 1980's a MWO cost about \$500 (\$1500 in today's dollars) and would last 25 years, as attested to by consumers to me on numerous occasions. (\$60 per year in today's dollars) In 2020 a similarly featured MWO would cost about \$180 and last 3 - 5 years (\$60 - \$36 per year)

Items c) and d)

I have no comment to make on these items.

e) What are the benefits, costs and risks of Australia adopting measures similar to those used overseas, such as design standards and reparability ratings?

Establishing design standards to promote reparability is a key initiative to foster the 'right to repair'. However, as I have stated earlier such an initiative undertaken by Australia, in isolation, would most likely result in a reduction of product variety for the Australian consumer. Design standards to facilitate repair are essential to make repair a viable option moving forward. However, it needs to be introduced collaboratively on a global or regional basis with industry.

Reparability ratings, in contrast, are something that could be introduced in Australia with minimal risk and cost. Such measures, similar to star rating for energy and water consumption, would provide consumers with information to make an informed purchasing decision regarding reparability.

f) Do consumers have good information about durability and reparability when making purchases?

No. Consumers have very little understanding of durability and reparability at the time of purchase. In many cases, consumers will rely on their past experience with a similar product assuming that the new product should last as long as a product they purchased many years ago.

As with star ratings for energy consumption a similar mechanism could be used to communicate durability and reparability to the consumer.

I recommend that some form of 'Circular Economy Rating System' might be established that aggregates a number of attributes and provides an overarching holistic rating of the product. Attributes that might be considered within this rating system could be Durability, Reparability, Reusability, Recyclability, Material Recovery.

INFORMATION REQUEST 7

Items a) to c)

I have no comment to make on these items.

d) What are Australia's current policy settings for managing the potential environmental and health effect of e-waste? Are these policies broadly right?

My involvement has been with the National Television and Computer Recycling Scheme (NTCRS) as a representative of a liable party and involvement in the design and establishment of the impending Battery Stewardship Scheme (BSS).

I would suggest that the NTCRS is proportional to the impacts of e-waste on the community. However, by design, the NTCRS has an indirect negative impact on the facilitation of a 'right to repair'.

By design the cost of the Scheme is borne by the producer and the competitive nature of the TV industry did not allow for this additional cost to be passed on to the consumer. This Producer Responsible scheme added to the cost of the product causing the producer to either seek design and manufacturing changes to reduce production cost or to exit the Australian marketplace.

Adopting a Shared Responsibility for Product Stewardship shares the cost across the supply chain. Adopting such an approach reduces the full impact of Product Stewardship on the producer and has a positive effect on maintaining repairability.

e) How can a right to repair policy further reduce the net costs of e-waste in Australia?

A decade ago, under the Trade Practices Act 1974, the right to repair was the predominant remedy offered to consumers. Those faulty products not repaired were returned to the manufacturer where refurbishment and resale via seconds retailers was financially viable.

Today the ACL gives the consumer the right, in many cases, to determine the remedy and repair is the least likely option to be chosen. Secondly, the financial viability of product refurbishment is now all but non-existent in my most recent experience.

Over this time I witnessed a consistent decline in the quantity of repairs and refurbishment of products and a corresponding increase in the quantity of product sent to destruction and adding to the cost, and environmental impact, of e-waste.

Making amendments to the ACL to encourage repair as a preferred option and establishing product design standards aid in the financial viability of repair and refurbishment and will positively reduce e-waste in Australia.

INFORMATION REQUEST 8

a) What policy reforms or suites of policies are necessary to facilitate a 'right of repair' in Australia?

I believe there is opportunity for policy reform in the following areas:

- ACL reform to promote repair as a preferred remedy rather than replace or refund
- Establish a 'Circular Economy Rating System' that provides consumers with information at point of sale to make an informed decision with respect to repairability and other Circular Economy attributes.
- Allow for the free and open access to repair information.
- Provide support to industry (financial or other) to establish viable new business activities that support the ongoing viability or the repair economy. (e.g. establish business activity to harvest, reclaim, test, validate and resell spare parts at affordable prices.)
- Provide support to industry (financial or other) to facilitate a vibrant resurgence of a flagging repair and refurbishment industry

b) Are there other barriers to repair and/or policy responses that the Commission should consider?

The traditional consumer electronics repairer has been a small business operator accepting consumer goods for repair at his shop or undertaking the odd in-home repair visit.

Over the past 2 decades it was not uncommon for me to receive advise that a repairer was closing their business as it was no longer a viable operation. They could not continue the business activity and make a profit and they could not sell their business as an ongoing concern.

If we are to adopt a Right to Repair then fostering a strong repair industry requires a vibrant culture to repair, but until this time comes many in the repair community needs support via policy reform and/or financial assistance to transition to new, more viable business models.

Items c) and d)

I have no comment to make on these items

Yours Sincerely,

Brett Buckingham