

1 February 2020

Right to Repair Inquiry  
Productivity Commission  
Locked Bag 2  
Collins Street East  
Melbourne Vic 8003

Sent via email: [repair@pc.gov.au](mailto:repair@pc.gov.au)

Dear Sir/Madam,

### **Submission to the Productivity Commission on the Right to Repair Inquiry**

Thank you for the opportunity to allow comment on the Right to Repair Issues Paper.

I am a waste and circular economy researcher at BehaviourWorks / Monash Sustainable Development Institute. BehaviourWorks has made its own submission based on its own recent research. This, my personal submission, draws on over 10 years' experience in applied social research for sustainable resource use, and particularly, broader research over the last 3 years in understanding how to achieve household-level, organisational and society-wide changes towards a more circular future.

This includes desktop research on international best practice circular economy approaches underpinning the NSW Circular Economy Policy; interviews with key industry players to understand the current level of 'readiness' for a circular economy in different Queensland sectors for the Queensland Treasury; a major BehaviourWorks research collaboration between Commonwealth, Victorian and NSW environmental departments/agencies to understand what works to encourage Australian households and businesses to adopt Circular Economy approaches; and baselining research to understand the extent of 'low waste' behaviours (like repair) amongst the Victorian community, and the availability of circular 'services' in the Victorian economy.

I have limited my submission to those Information Requests related to my recent circular economy research. A brief summary is provided first, followed by more detailed responses to each question including references to the broader academic literature.

Yours sincerely,

Jenni Downes

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## SUMMARY OF RESPONSES

### **3a. Do the consumer guarantees under the ACL provide adequate access to repair remedies for defective goods? If not, what changes could be made to improve access to repair remedies?**

No, the current 'guarantees' under the ACL do not seem sufficient on their own to ensure accessibility, given both the onus on consumers to enforce their right or seek redress, and the existence of other factors that influence accessibility beyond a legally enshrined right.

### **3d. Are consumers sufficiently aware of the remedies that are available to them, including the option to repair faulty products, under the ACL's consumer guarantees? If not, would more information and education be a cost effective measure to assist consumers understand and enforce guarantees? What would be the best way to deliver this information? What other measures would be more effective?**

No, recent research has found that only 60% of people reported being aware of rights under the ACL, but it is not clear exactly how knowledgeable these people are. The other 40% of people were not at all aware of rights under the ACL. Furthermore, as noted in the previous response to 3A, existence and awareness of a right is not always sufficient to ensure consumers feel able to enforce this right. While carefully-designed education campaigns may achieve greater levels of awareness, they are very unlikely on their own to be effective in assisting consumers to *enforce* guarantees, as both attention and action are hindered by a much broader myriad of factors than awareness/knowledge.

### **8b. Are there any other barriers to repair and/or policy responses that the Commission should consider?**

There are a number of common barriers to greater uptake of repair documented in the international academic literature, many of which are likely to be pertinent in Australia, which we share below. However specific research should be commissioned to clearly map the context in which repair does or does not happen in Australia and identify the key barriers that must be addressed in order to successfully improve consumers' right to repair.

# DETAILED RESPONSES TO INFORMATION REQUESTS

## INFORMATION REQUEST 3.A

**Do the consumer guarantees under the ACL provide adequate access to repair remedies for defective goods? If not, what changes could be made to improve access to repair remedies?**

**The current ‘Guarantees’ under law do not seem sufficient on their own to ensure accessibility.**

The ACL is commendable in providing a customer with the right to choose between a refund, repair or replacement when goods are faulty. However, I am not aware of any formal research into customers’ experience in requesting repair over a replacement, and at the same time, anecdotally through my work I have been told many stories of people being encouraged or coerced into a replacement over repair.

Indeed in the UK, although repair was legally introduced as a consumer right, it’s availability is still restricted: in many cases where goods are faulty, consumers are more likely to be given a replacement or refund. Therefore, consumers seeking to have products repaired (eg. for environmental reasons) still generally have to bear the financial cost of this, rather than relying on their legal entitlement (Twigg-Flesner, 2017<sup>1</sup>).

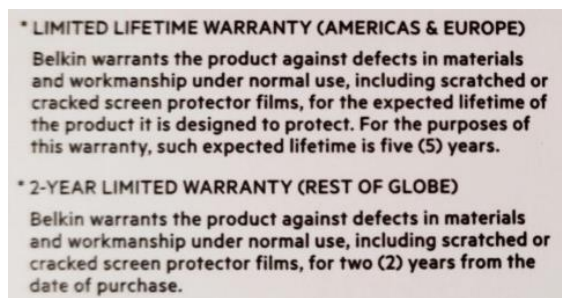
Furthermore, Choice’s latest national survey<sup>2</sup> found that 20% of people are still purchasing extended warranties for products in cases where they probably don’t need to, because they wanted ‘peace of mind’ that they could get a repair or replacement if their product broke. Within this 20%, people who indicated knowledge of their rights under the ACL purchased the extended warranty as often as people who weren’t aware of their rights. Furthermore people often reported buying the warranty after experiences with previous product failures. This suggests that having and knowing about their rights is not sufficient for people to be able to enforce those rights.

Certainly, research on regulatory solutions to waste issues in Europe<sup>3</sup> has found that regulatory efforts on their own often fail to reverse undesirable trends or change consumer behaviour. This is particularly the case where active monitoring and enforcement of compliance are not built into the regulation, but instead place the responsibility on individuals to seek redress.

In addition to issues of compliance with the ACL, there are also many other factors that govern ‘accessibility’ beyond the right being enshrined in law.

For example, Choice has identified that the lack of guidance on what reasonable product lifetimes are, is a major barrier to people being able to enforce their right to repair (or refund/replacement) beyond the standard manufacturer warranty advertised on a product<sup>4</sup>. Certainly the lack of specified timeframes has allowed at least one manufacturer to offer a much more limited warranty to Australian customers compared to international jurisdictions that do have such guidance, as shown in the photo to the right.

**Photo of warranty details on Belkin screen protector purchased in an Australian Big W store in 2020:**



<sup>1</sup> Twigg-Flesner, C. (2017) *Consumer Product Guarantees*, Taylor & Francis. ISBN: 9781351949309

<sup>2</sup> Choice (2020) *Customers still buying extended warranties they don't need – survey*.

<https://www.choice.com.au/shopping/consumer-rights-and-advice/your-rights/articles/consumer-pulse-extended-warranties>

<sup>3</sup> Summarised in Downes, J., McKenna, K. & Dubash, J. (2018) *Waste behaviours and how to change them: a literature review*.

Prepared for Waverley Council by the Institute for Sustainable Futures, University of Technology Sydney.

<sup>4</sup> Choice (2018) *CHOICE sheds light on the life expectancy of electrical goods*. <https://www.choice.com.au/about-us/media-releases/2018/appliance-life-expectancy>

### INFORMATION REQUEST 3.D

Are consumers sufficiently aware of the remedies that are available to them, including the option to repair faulty products, under the ACL’s consumer guarantees? If not, would more information and education be a cost effective measure to assist consumers understand and enforce guarantees?

**Information/education on its own is very unlikely to be effective in assisting consumers to understand and, more importantly, enforce existing guarantees.**

Choice’s latest national survey<sup>5</sup> found that only 60% of people reported being aware of rights under the ACL, but it is not clear exactly how knowledgeable these people are. The other 40% of people were not at all aware of rights under the ACL. Furthermore, as noted in the previous response to 3A, existence and awareness of a right is not always sufficient to ensure consumers feel able to enforce this right.

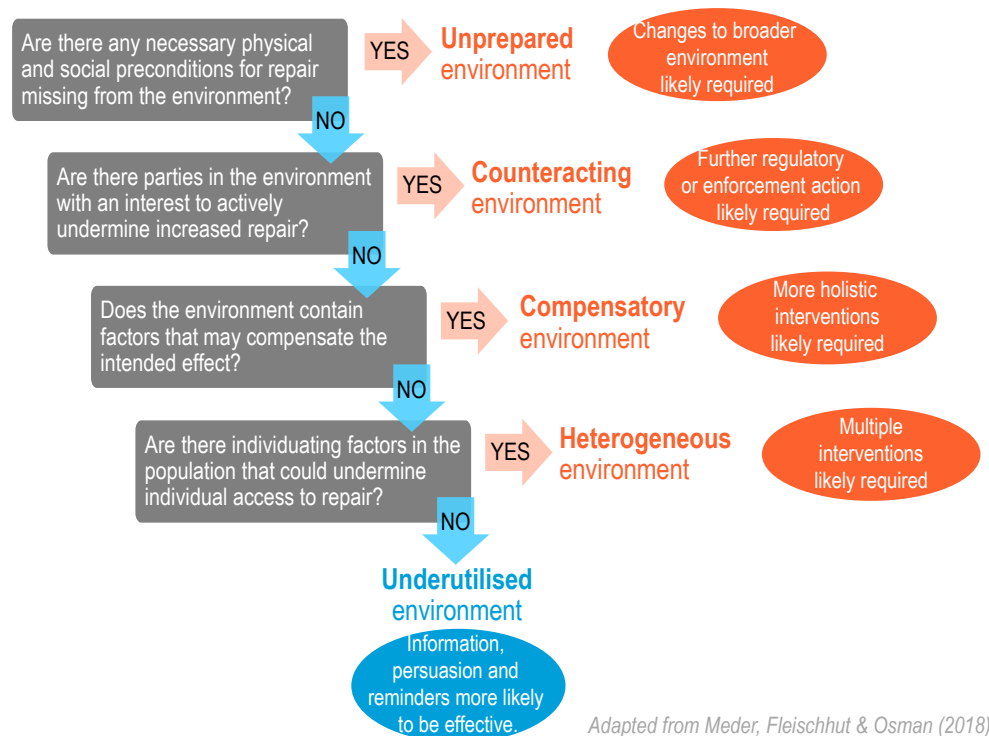
While carefully-designed education campaigns may achieve greater levels of awareness, they are very unlikely on their own to be effective in assisting consumers to *enforce* guarantees, as both attention and action are hindered by a much broader myriad of factors than awareness/knowledge.

According to Steg & Vlek (2009)<sup>6</sup> informational strategies have been demonstrated to be effective when pro-environmental behaviour is relatively convenient and not very costly (in terms of money, time, effort and/or social disapproval), and when individuals do not face severe external constraints on behaviour. However in general, attention and action are hindered and/or enabled by a much broader myriad of factors than awareness/knowledge, and so broader policy responses are generally required.

For example, recent research on the effectiveness of education and persuasive prompts (information) for public policy issues identifies a number of key characteristics that suggest when greater intervention beyond awareness, knowledge and general motivation is required (Meder, Fleischhut & Osman, 2018<sup>7</sup>).

Consideration of the barriers summarised in response to 8B below certainly suggest at the least, an *Unprepared* and *Heterogenous* environment requiring multiple, broader interventions to ensure that consumers can, and do, enforce their rights under the guarantee.

#### Considerations guiding whether information will be sufficient



*Adapted from Meder, Fleischhut & Osman (2018)*

<sup>5</sup> Choice (2020) *Customers still buying extended warranties they don't need – survey*. <https://www.choice.com.au/shopping/consumer-rights-and-advice/your-rights/articles/consumer-pulse-extended-warranties>

<sup>6</sup> Steg & Vlek, 2009, Encouraging pro-environmental behaviour: An integrative review and research agenda, *Journal of Environmental Psychology*, 29(3): 309-317

<sup>7</sup> Meder, B., Fleischhut, N. & Osman, M. (2018) Beyond the confines of choice architecture: A critical analysis, in *Journal of Economic Psychology*, 68:36-44.

## INFORMATION REQUEST 8.B

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

### There are many barriers hindering consumers' current and broader right to repair.

There are a number of common barriers to greater uptake of repair documented in the international academic literature, many of which are likely to be pertinent in Australia. According to work by Nazli (2021)<sup>8</sup> and Laitala et al (2021)<sup>9</sup>, these often include supply-side barriers, such as sufficiently-skilled personnel, availability of spare parts, repairability of product design, quality of product materials, liability concerns, and demand-side barriers, such as consumer awareness, negative stigma, emotional attachment, affordability perceptions, etc. One of the most significant barriers is the ubiquitous presence of low-cost alternative products which hinders both: businesses from offering to repair products (instead preferring to replace or refund and simply throw the broken product out), and consumers from spending the effort to get something repaired (Laitala et al, 2021). This is compounded by a particularly concerning barrier, which is the inbuilt incentive for companies that practice planned obsolescence to concomitantly work to minimise any repair that would extend the product life beyond the 'planned' period (Kinokuni, 2002<sup>10</sup>).

In addition, barriers specific to the Australian context have also been raised that are likely to impact on consumer enforcement of right-to-repair, such as the lack of clear guidance on how long products should remain functional.

Given the wide array of barriers, it is therefore vital that, before deciding on the appropriate policy response(s), a comprehensive systems perspective is taken to understanding the problem. This will ensure that policy responses target the most critical barriers, and are not undermined by counteracting or compensatory elements in the system. One way to do this is to construct a systems or context map<sup>11</sup> to identify the key barriers and then rate them by significance of impact, and responsibility to address.

A basic example of a map of the context of consumer repair behaviour is shown over the page, drawn from the above literature. It demonstrates how a wide array of factors come together to produce the conditions in which repairs do, or (more likely) don't occur, highlighting the complex root causes that defy narrow or simplistic responses.

A rapid review of evidence combined with a multi-stakeholder workshop could quickly and easily map the context in which repair does or does not happen in Australia at the present time, and from this, identify the key causal chains / barriers that most critically need be addressed through regulatory responses in order to successfully improve consumers' right to repair.

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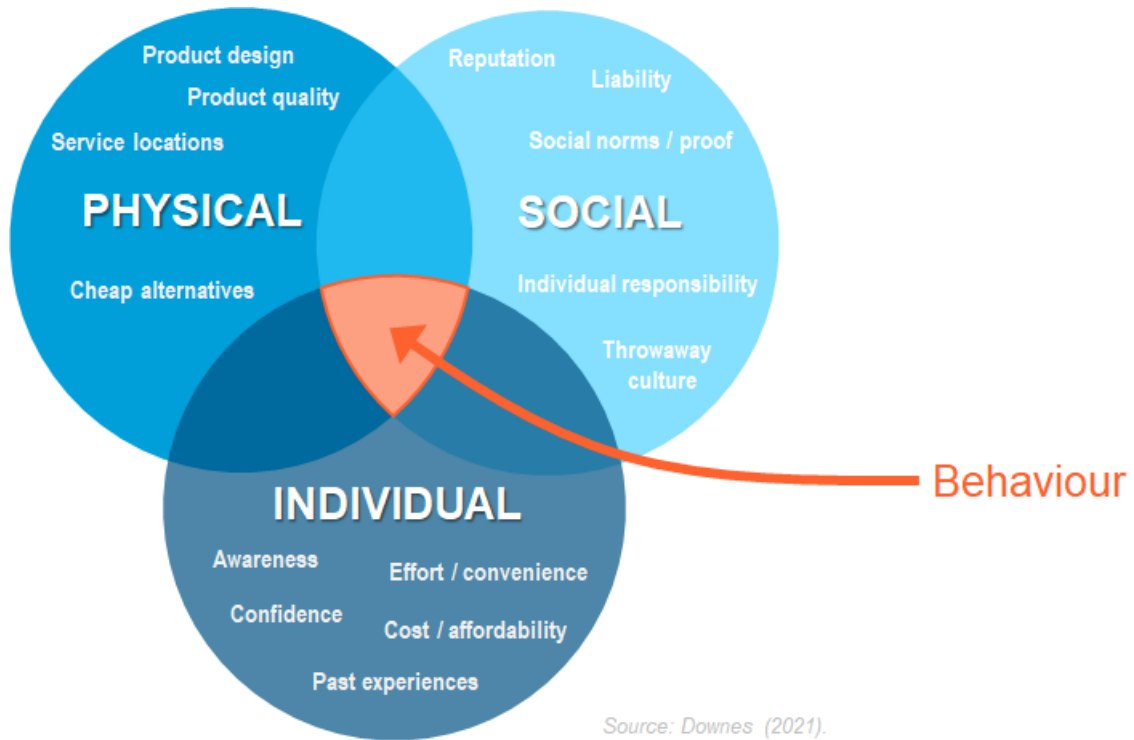
<sup>8</sup> Nazli, T. (2021) Repair motivation and barriers model: Investigating user perspectives related to product repair towards a circular economy, in *Journal of Cleaner Production*, vol 289.

<sup>9</sup> Laitala, K., Grimstad Klepp, I., Haugrønning, V., Throne-Holst, H. & Strandbakken, P. (2021) Increasing repair of household appliances, mobile phones and clothing: Experiences from consumers and the repair industry, in *Journal of Cleaner Production*, vol 282.

<sup>10</sup> Kinokuni, H. (2002) Repair market structure, product durability, and monopoly, in *Australian Economic Papers*, 38(4): 343-353.

<sup>11</sup> BehaviourWorks (2021) *Method Book Chapter 2: Systems Thinking and Behaviour*. <https://www.behaviourworksaustralia.org/the-method-book/chapter-2-systems-thinking-and-behaviour/>

**Context(s) in which repair behaviours do or don't occur**



Source: Downes (2021).  
Barriers sourced from Nazli (2020) and Laitala et al (2020)