Substantiating Green Claims and Right to Repair

Substantiating Green Claims

Telecom operators have taken decisive measures to increase sustainability of their operations and increase circularity in their business, bearing in mind the objective of increasing the useful life of devices. These measures include selecting suppliers and products in compliance with environmental sustainability criteria, periodically checking along the entire product life cycle, recycling and refurbishing devices, using labelling to enable customers' informed choice in favour of sustainable products and services, and reducing their own waste.

General comments

The scope of the Directive should be fully aligned with the scope of the Unfair Commercial Practices Directive. Furthermore, more clarity is needed on a number of points, including the definition of 'significant' and 'common practice' as referred to in article 3.

In order to achieve its objectives in an effective way, the Directive's requirements must remain realistic and feasible for companies to implement. The Directive should take into account the operational complexity of international companies, with wide supply chains and various product categories. It is also particularly important that requirements be harmonised across the EU Member States.

Furthermore, clarification is needed about whether the claims initially made under legislation listed under Article 2, paragraph 1, but further repurposed for marketing and communication purposes in business-to-consumer context, are covered by the Directive.

We also recommend a clear and sufficient transition period, to allow companies to review all their product-related information for the new requirements, and this should follow a phased approach, to allow companies to comply with new environmental laws.

Existing labelling schemes

A number of ETNO members and other telecoms companies[1] have developed the Eco Rating initiative[2]. The ambition is to create an independent and holistic methodology to identify more sustainable mobile phones, which combines various aspects of the ecological performance into a scoring system related to durability, reparability, recyclability as well as climate and resource efficiency.

The legislative proposal risks rendering obsolete such ambitious and holistic industry-led initiatives that provide a tool for more informed consumer decisions, encourage improvements by manufacturers and demonstrate European leadership on sustainability questions. The Regulation should instead enable such schemes (which go beyond environmental claims, and consider aspects like durability, recyclability, etc.) to continue being used.

At present, network operators make considerable communication and financial efforts to persuade customers to return terminals that are no longer in use, which are then professionally refurbished or properly recycled by the companies.

We also wish to point out the difference between the **certification of the eco-label process** – which is time-consuming but creates value – and **environmental claims about companies and products**: the

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need for certification and conformity in the run-up to the statement goes too far. This does not mean that the statements do not have to be substantiated, when necessary, but there should not be a requirement to have them tested in advance.

Certificate of conformity

We wish to raise a number of concerns on the issue of the certificate of conformity, in particular that it will create costs and delays for companies, as the expected number of claims across the private sector is expected to be vast, posing difficulties for verifiers in processing them in a timely manner. The process also does not allow for the reassessment of a claim once the certificate of conformity has been received (cf. art. 10). Furthermore, the introduction of a third-party verification would add an extra layer to placing products on the market, with no added value for consumers. It would be advisable that the **decision-making process be subject to certification**, and not the claims about products or companies themselves.

Right to Repair

We welcome this initiative that aims at promoting a more sustainable and longer use of goods throughout their useful life. It will encourage consumers to make more sustainable choices, which is something that ETNO members have been already encouraging to a large extent.

There nevertheless remain a number of concerns with the legislative proposal:

- **Warranty:** the rules introduced in the Right to Repair proposal should be consistent with warranty rules in force today, and be consistent with established consumer law in the EU and Member States − above all, the obligation to fulfil the consumer's right to repair should remain applicable to producers, and not sellers.
- **Availability and affordability of parts:** as technologies develop, and older models become obsolete, the continued manufacture, provision, shipping and storage of spare parts presents an important challenge to producers. A disproportionate burden should not be placed on producers or sellers to unrealistically store or source outdated spare parts, and consideration should also be given to the high price of such parts.
- **Reparability score:** EU legislators should avoid potential overlap and lack of clarity due to different stages of consumer files in the legislative procedure. For example, the reparability score was introduced in the Empowering Consumers proposal without being mentioned in the Right to Repair proposal. At present, there is unclarity on how the reparability score is to be drafted and by whom. There is no further elaboration on the degree of repairability of a product and who is best placed to perform this in the Right to Repair proposal. Business needs to be involved in the drafting of the reparability score. Furthermore, there needs to be a reasonable timeframe to transpose the requirements.

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[1] Deutsche Telekom, Orange, Telefónica, Telia Company, Vodafone

[2] Eco Rating | evaluating environmental impact of smartphones (ecoratingdevices.com).

- **Online Platform for Repair:** We welcome the provisions on Online Platforms for Repair, including information on sellers offering refurbished goods. Selling refurbished products is a new growing business model which has many advantages from an environmental sustainability point of view. Other measures to lower the cost of repairs could be considered, such as lower VAT rates. Regarding the development of the online platform by the Member States, it is important to harmonize the information and formats contained in these platforms between EU countries.

- **Repairs carried out by independent non-professional repairers:** It is important that repairs are carried out under appropriate conditions by **qualified repairers** to avoid health and safety risks for consumers. It should be recognised that not all repairs can be carried out safely and successfully by consumers themselves. When this is the case, the right to repair should be tailored to match appropriate repairs with appropriate providers. The Online platform for repair could play a role in this regard. It is important that consumers be informed of the risks associated with repairs carried out by independent non-professional repairers who are not trained in repair. Not only physical safety, but also **privacy and cybersecurity concerns** should be considered. Particularly where third-party repairs are concerned, sufficient safeguard must be put in place. The same awareness should be made for the risks of self-repair by consumers.

- **New models such as "Product as a Service" should be considered and encouraged**. This will help to give value to the real lifespan of the product as its economic potential comes from the number of uses rather than the number of units sold. This change would encourage more repairs to be carried out in order to maximize the number of "services" a product can offer. It must be borne in mind, however, that modifications to national legislation could be necessary in order to facilitate this in practice: for companies which have employees or branches in other Member States, devices must be registered in each country, and if they are delivered back to the country of establishment of the company, they must then be registered again.

ETNO (European Telecommunications Network Operators' Association) represents Europe's telecommunications network operators and is the principal policy group for European e-communications network operators. ETNO's primary purpose is to promote a positive policy environment allowing the EU telecommunications sector to deliver best quality services to consumers and businesses.

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