

AWHF

Australian Water Heating Forum

2 February 2021

Australian Government
Productivity Commission

Submission to 'Right to Repair, Productivity Commission Issues Paper, December 2020

Thank you for the opportunity to respond to the issues paper. Member companies of the Australian Water Heating Forum (AWHF) supply more than 95% of all water heaters installed in Australia, and directly employ approximately 2,500 Australians. The purpose of the Forum is to represent the industry and work with governments and other industry stakeholders to develop and implement workable, safe and practical standards and regulations that address water heating's unique role in Australian homes. It seeks to do this whilst ensuring that an important Australian industry remains viable and competitive.

AWHF supports the submissions from AiGroup and the Consumer Electronics Association of Australia (CESA) on this matter. Unlike many other consumer goods covered by the ACL, water heaters are complex and installed consumer appliances and are relatively expensive and long lasting. In the context of water heaters, some key R2R considerations are:

- a. Water heaters are not portable appliances, Rather, they are a fixed, installed component of a larger system necessary for delivering sufficient, safe and reliable heated water to consumers. Often the water heater is not the root cause of consumer complaints or failures regarding hot water delivery.
- b. Depending on their design, water heaters interact with electricity and/or gas and can emit combustion products (including carbon monoxide) and hydrogen gas. Hot water can also cause serious scald injuries. To mitigate against these potential risks and dangers, all states and territories require that water heaters are installed, serviced, repaired and replaced by suitably qualified and licensed technicians.
- c. Water heaters are subject to mandatory product certifications and the requirements of local technical regulatory authorities. The use of non-OEM replacement parts or the repair or restoration of such parts may adversely impact safety, functionality and reliability and may breach product certification rules and the requirements of technical regulatory authorities.
- d. Repairs carried out under consumer guarantee or manufacturer warranty are a special case and should be treated as such. This situation is not covered in the issues paper (see further comments under information request 1).

The above considerations are addressed in more detail in our responses to the information requests below.

1. *What would a 'right to repair' entail in an Australian context? How should it be defined?*

The 'right to repair' relates to the ability of consumers to have their products repaired at a competitive price by the repairer of their choice. With respect to water heaters we do not believe there are unnecessary barriers to achieving this as consumers have abundant choice in repair services, parts are readily available and market forces result in competitive pricing.

In our view, repairs under consumer guarantee or manufacturer warranty are a special case not covered in the issues paper.

In the Australian water heater market, manufacturers typically employ their own specialist technicians and/or appoint contractors 'accredited' by them for warranty repairs. These have received specialist information and training from the manufacturer specific to the products supplied and are best placed to safely and effectively diagnose faults and repair such products. The skill and competence levels of repair persons whom have not received such specialist training and accreditation from manufacturers/suppliers varies widely, even though they may be licensed in the applicable jurisdiction to undertake repair work.

Under the ACL, manufacturers have an obligation to repair, replace or provide a refund when a product is defective and is covered by consumer guarantee or express warranty. We support this, however, in the context of R2R, there is no reciprocal obligation in the ACL for consumers to approach the manufacturer in the first instance in such cases.

At present the ACL does not provide protections for manufacturers in cases where a consumer engages a third party for repairs in the first instance and afterwards seeks re-imbursement from the manufacturer, even when the product was not the root cause of the problem in the first place or the repairs were not carried out correctly, and often at a cost that is far higher than would have been the case if the manufacturer had appointed their own technician or accredited contractor in the first place. We believe that any right to repair legislation should ensure that manufacturers are provided with a first option to repair products under warranty.

Of course, if the consumer approaches the manufacturer for warranty repair in the first instance, and the latter fails to resolve the issue satisfactorily then the consumer should have the right to approach an alternative third party and it would then be reasonable for the consumer to seek re-imbursement from the manufacturer for reasonable costs associated with repair.

2a What types of products and repair markets should the Commission focus on?

Products and repair markets where there is evidence of problems. We do not believe this is the case in the water heater market.

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? Are there barriers to repairing products purchased using new forms of payment technologies, such as 'buy now pay later'?

We do not believe there are barriers for access to repair remedies for defective water heaters.

3b Is the guarantee of available repair facilities and spare parts effective in providing access to repair services and parts? Or is the opt out clause being widely used, making the guarantee ineffective?

We do not believe there is a lack access to repair services and spare parts in the hot water market. We are not aware of instances of the opt-out clause being used in this market.

Information requests 3c, 3d and 4a

No comments.

4b Is there any evidence of a difference in quality, safety or data security between authorised repair networks and independent repairers? Are there ways to address concerns around quality, safety or data security while promoting a vibrant independent repair market?

In the Australian water heater market there is some evidence of lower levels of quality and safety from independent repairers, that is, repairers that have not been trained and/or accredited by manufacturers of hot water systems. This situation is best addressed by increasing the competency levels required for individuals to gain and keep the necessary licenses to carry out servicing and repair of water heaters. This responsibility would rest with the state regulatory authorities for plumbing, gas and electricity.

Some independent repairers also use non-OEM replacement components and/or repair or restore existing components in a water heater rather than replace them with new OEM parts. This may adversely impact safety, functionality and reliability of the product and may be in breach of product certification rules and the requirements of local technical regulatory authorities. Again, the responsibility for enforcement of the regulatory requirements in this regard rests with the state regulatory authorities for plumbing, gas and electricity.

Information requests 4c to 4g

No comments.

5c Do current IP protections pose a significant barrier to repair in Australia?

We do not believe IP protections pose a significant barrier to repair in the water heater market.

IP protections apply to manufacturer service and repair information which contain the specific and detailed information for fault diagnosis and repair applicable to their products. In an R2R context we believe it is in the interests of consumer safety and achieving successful repair outcomes that this information is available and used by licensed persons that have the requisite specialist knowledge and skills to use it safely and successfully. This is not necessarily the case for those whom have not received specialist training from manufacturers, even though they may be licensed in the applicable jurisdiction to undertake service and repair work.

Information request 5d

No comments.

6a What evidence is there of planned obsolescence in Australian product markets? Do concerns about planned obsolescence principally relate to premature failure of devices or in them being discarded still working when more attractive products enter the market?

The majority of water heaters sold in the market have a minimum of 10 years product warranty and as such usually continue to perform effectively for a number of property occupants over their working life. As such, we do not believe there is any evidence of planned obsolescence in the Australian water heater market.

Information requests 6b to 6f and 7

No comments.

8a What policy reforms or suite of policies (if any) are necessary to facilitate a 'right to repair' in Australia?

We do not believe there are barriers to access to repair remedies for defective water heaters in Australia but recognise these may exist for other product categories. As such, water heaters should be excluded from any policy reforms in this regard.

We believe that any right to repair legislation should ensure that manufacturers are provided with a first option to repair products under warranty.

Please do not hesitate to engage with us further on this matter.

Best regards

Australian Water Heater Forum
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Chair