EastWaste

28 January 2020

Right to Repair Inquiry
Productivity Commission
Locked Bag 2
Collins Street East
Melbourne Vic 8003
Sent via email: 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 Eastern Waste Management Authority (East Waste) to comment on the *Right to Repair Inquiry*. As a waste management Organisation, focused on reducing waste to landfill, East Waste has a keen interest in this matter.

For context, East Waste is a regional subsidiary of seven South Australian Councils, being Adelaide Hills Council, City of Burnside, Campbelltown City Council, City of Mitcham, City of Norwood Payneham & St Peters, City of Prospect, and the Corporation of the Town of Walkerville. On behalf of these Member Councils, East Waste handles approximately 20% of Adelaide's kerbside municipal waste, organics and recycling with a modern fleet and shared services model and completes over 9 million kerbside bin collections and 40,000 hard waste collections every year. East Waste has long been involved in the waste industry with our origins commencing in 1928.

Through our work East Waste and our Member Councils see a high level of repairable items regularly discarded to landfill principally due to the poor design, inability and/or lack of accessibility to suitable repair facilities. Our response to the request for information are detailed on the following pages.

Thank you once again for the opportunity to provide comment. We welcome staying engaged in the conversation and should you wish to discuss any elements of this submission further, please don't hesitate to contact the undersigned on or email

Yours sincerely

ROB GREGORY
GENERAL MANAGER

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EAST WASTE RESPONSES TO 'RIGHT TO REPAIR' PRODUCTIVITY COMMISSION ISSUES PAPER

JANUARY 2020

INFORMATION REQUEST 1

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

A manufacturer of any physical item/product should allow for the 'right to repair' as a priority and in doing so, original equipment manufacturers (OEMs) should provide clear information on repair options such as an 'approved repairer contact list' when the products are purchased. The parts and types of repairs that are covered under warranty should also be clearly provided.

This could be managed by allowing for a broader network of "authorised/certified repairers" to have access to the necessary repair manuals and tools through a licence type agreement.

Repair options outside of existing product manufacturer companies should be further supported and implemented with consideration of existing repair cafes and maker spaces. These organisations currently are predominantly run by volunteers which include specialised technicians that may have or had previously worked in a trade eg. electricians as well as 'self-taught' repairers. Examples in Adelaide include:

- The Hut Community Centre, Aldgate;
- Gawler Repair Café, Gawler Environment Centre;
- Repair Café, Campbelltown SA;
- Repair Café Payneham;
- Unley Repair Café, Unley;
- Makerspace ,Adelaide;
- Tea Tree Gully Repair Café, Tea Tree Gully; and
- Parks Library Repair Cafe, Angle park.

Warranties should cover the repair and/or replacement of parts which extend for a minimum of 2 years. The suitability of this could be determined by the type of product however rather than warranties being offered voluntarily, there should be a product warranty standard/benchmark that prescribes how long warranties should last for specific products.

An itemised list of parts and software that may need repairing with advice on how and where to repair them should be made available when purchasing the product as well as on the manufacturer's website.

A service and repair support number eg. 1300 REPAIR should be made available to provide customers with advice and support on sourcing repairs.

Various options on how goods can be repaired should include; taking the product to an authorised repair service centre/repair café, having a technician visit your residence or business to repair the product for larger items, and free postage options for smaller items to send them back to the manufacturer for repair.

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INFORMATION REQUEST 2

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

b) Are there common characteristics that these products share (such as embedded technology and software or a high/low degree of product durability), and which characteristics would allow policy issues to be considered more broadly?

c) If there are particular products that the Commission should focus on, what are the unique issues in those product repair markets that support such a focus?

Due to the planned obsolescence of many electronic items, in particular iPhones, TV's, and Computers (subsequently creating the fastest waste stream) these items should be the main focus. A possible solution is 'product life extension' where the lifecycle of products is extended by remanufacturing, repairing or remarketing. Eg. Ara, a modular smartphone made from separate modules, processors, displays, cameras and other specialised parts which can be upgraded as needed. This design would allow a device to be upgraded over time with new capabilities and upgraded without requiring the purchase of an entire new device, providing a longer lifecycle for the device and potentially reducing electronic waste. (Project Ara – Wikipedia https://en.wikipedia.org/wiki/Project_Ara) Although this project was shelved in 2016, it still has merit for possible future applications.

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

b) 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?

c) Should consumer guarantees seek to balance the broader societal costs of remedy choices (such as the environmental impacts of replacements) with consumer rights, and if so how? For example, should repairs be favoured as a remedy?

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? What would be the best way to deliver this information? What other measures would be more effective?

a) Access to repair remedies are provided through a limited warranty, most people are aware of this however may not be provided with adequate information or support to access repair or replacement options.

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b) It seems the 'need for new' often outweighs the motivation for people to choose to repair items. 'Afterpay/buy now pay later' allows people easier access to new products and in doing so further encourages them to purchase new items rather than getting existing items repaired.

c) Highlighting the significant environmental, societal and economic benefits of repairing would perhaps encourage people to repair and restore items more. Alternatively developing and mandating the publishing of a 'life cycle' cost/environmental impact statement of goods, may assist consumers in their purchasing decisions.

Eg: **Benefits of repairing:**

- Reduces waste sent to landfill
- Reduces collection and processing cost associated with waste
- Supports a Circular Economy model where items or parts of, are reused and circulated for longer therefore conserving our natural resources
- Maintains the resale value of a product

d) Extending warranties and prioritising repair options and accessibility would improve awareness of these options. Also allowing for warranties to be extended to items that are repaired for resale through second-hand goods.

INFORMATION REQUEST 4

a) The Commission is seeking information on the nature of repair markets in Australia, including detailed data on the repair markets for specific products, covering: • market size — by employment, revenue, number of businesses, profit margins • market composition — such as market share between authorised, independent and DIY repairers. (continued next page)

b) 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?

c) Are there available examples of the contracts between OEMs and authorised repairers? Do these contracts limit effective competition in repair markets (such as by limiting the number and reach of authorised repairers or requiring authorised repairers to not be authorised by a competing brand)? • What is the process to become authorised? Is it open and competitive?

d) Are there specific examples or other evidence of practices by OEMs or their authorised repairers that create barriers to competition in repair markets? • Do other factors also create barriers to competition in repair markets, such as short-sighted consumer behaviours, switching costs, poor information availability or consumer lock-in?

e) What is the relationship between the intensity of competition in the primary product market and the risk of consumer harm from a lack of competition in repair markets? Can competitive primary markets compensate for non-competitive repair markets? • Is an absence of effective competition in the primary market a necessary condition for consumer harm from non-competitive repair markets? • To what extent would measures that enhance competition in the primary market address concerns about a lack of competition in repair markets?

f) Are the restrictive trade practices provisions of the CCA (such as the provisions on misuse of market power, exclusive dealing or anti-competitive contracts) sufficient to deal with any anti-competitive behaviours in repair markets?

g) What policy changes could be introduced if there is a need to increase competition in repair markets and improve consumer access to, and affordability of, repairs? • What are the costs and benefits of any such proposal to the community as a whole? How does it balance the rights of manufacturers and suppliers, with those of consumers and repairers?

Expanding the options of 'authorised repairers' to include repair cafes and other skilled technicians, will increase the competition in the repair market and in doing so, reduce the cost of repairs, particularly when volunteers may also be involved.

We need to make more products with less available resources, moving to a circular economy model allows us to do this by reusing and repairing items we already have. As resources are becoming increasingly scarce, the cost of producing new products is increasing, despite the increased efficiency in producing products.

There are significant business opportunities to be gained through reusing, repairing and repurposing items and essentially creating a circular economy model. 'A shift to a circular economy model could generate by 2025 an estimated $1 trillion annually in economic value and create 100,000 new jobs and prevent 100 Million tonnes within the next 5 years. (Sustainability Defined, Podcast Ep 22: Circular Economy with Jennifer Gerholdt et al. May 2017)

Providing products that last longer and that can be repaired easily, can improve customer relationships as customers will be more satisfied with better products that last longer. The producers of the products will also have increased interaction with the consumers through providing services and repairing of products and in doing so, further strengthen the relationship with their consumers (*McKinsey & Company and the Ellen MacArthur Foundation).*

INFORMATION REQUEST 5

a) To what extent do current IP laws already facilitate repairs by consumers or independent third parties (e.g. the spare parts defence under the Design Act)?

b) Are there any aspects of IP laws where consumers' rights with respect to repairs are uncertain?

c) Do current IP protections (e.g. intellectual property rights, technological protection measures, end-user licencing agreements) pose a significant barrier to repair in Australia?

If yes, please comment on any or all of the following: • the specific IP protections that prevent consumers from sourcing competitive repairs and/or inhibit competition in repair markets • the types of products or repair markets these barriers mainly affect • the prevalence of these barriers • the impacts of these barriers on third party repairers and consumers (e.g. financial cost, poorer quality repairs) (continued next page) • options for reducing these barriers and their associated benefits, costs and risks (including potential impact on market offerings).

d) In what ways might government facilitate legal access to embedded software in consumer and other goods for the purpose of repairs? What are the pros and cons of these approaches?

Various issues around sharing of IP and companies restrictions to repair manuals and tools should be managed by a clear Policy framework.

If 'authorised repairers' are certified and trained through a regulated process managed by government or another independent authority, this should allow for regulated access to embedded software and other associated IP to the 'approved/authorised repairers' once they are certified. This would minimise the risk to the original equipment manufacturers (OEMs).

INFORMATION REQUEST 6

a) 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?

b) How can the Commission distinguish between planned product obsolescence and the natural evolution of products due to technological change and consumer demand?

c) How does planned obsolescence affect repairers, consumers and the broader community in Australia?

d) What measures do governments currently use to prevent planned obsolescence or mitigate its effects (in Australia and overseas)? How effective are these measures?

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

f) Do consumers have access to good information about durability and reparability when making purchases? If not, how could access to information be improved?

Planned obsolescence is evident, particularly with Smartphones, that either slow down or stop working and need replacing every couple of years, as battery life fades and software updates change. "Given the waste problem that we have here in Australia and around the world, planned obsolescence should be something of the past" as stated by executive director Ryan Lung of the Canberra Environment Centre.

Improvements in accessibility as well as affordability of repairs are needed. The cost of repairs should mostly be absorbed by the producer of a product through a Product Stewardship arrangement.

Providing a reparability rating system, similar to an energy efficiency rating, would also be a good idea to increase awareness for consumers.

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INFORMATION REQUEST 7

a) What data are available on the amount of e-waste generated in Australia? • What data is there on the composition of e-waste in terms of particular materials (such as hazardous materials) by product type? • How does hazardous e-waste compare to hazardous general waste in its prevalence and risks? Is there merit in distinguishing between hazardous e-waste and non-hazardous e-waste? And if so, how could this be done in practice?

b) What estimates are available on the costs of e-waste disposal on the environment, human health and social amenity, in Australia and internationally? • How do the impacts differ by disposal type, or by the type of product or hazardous material?

c) How much of Australia's e-waste is shipped overseas for recycling? Is there evidence of circumstances where this creates problems for recipient countries? • Are there barriers to the expansion of domestic recycling facilities or the adoption of new recycling technologies in Australia (such as plasma arc incinerators)? d) What are Australia's current policy settings for managing the potential environmental and health effects of e-waste (such as landfill bans, the National Television and Computer Recycling Scheme or Mobile Muster)? Are these policy settings broadly right — that is, are they proportional to the impacts of e-waste on the community?

e) How can a right to repair policy further reduce the net costs of e-waste in Australia, and would such an approach be an effective and efficient means of addressing the costs of e-waste to the community?

Most of the information (for questions a – c) should be available through the National Television and Computer Recycling Scheme, Mobile Muster and their associated recycling facilities such as Tech-Collect and Electronics Recycling Australia as well as government departments such as state government Environment Protection Authorities EPA and Green Industries SA.

A right to repair policy should require product producers to provide clear details on what items or parts of can be repaired, how and where items can be repaired locally and who bares the cost of the repairs. This would allow consumers better access to and choice of repairers.

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