



## ETNO POSITION PAPER

# Empowering Consumers in the Green Transition



ETNO welcomes the opportunity to comment on the European Commission's proposal for a Directive on empowering the consumer in the green transition through better protection against unfair practices and better information.

The core of our members' business is the provision of digital infrastructure and connectivity. Digital technologies, and the services which they support, are a crucial enabler for a more sustainable economy and society, with the consumer at the centre. Next generation connectivity, such as 5G and fibre, as well as the deployment of smart network technologies, enables more efficient technologies and services, and allows for a more energy-efficient management of telecommunications networks.

We support more standardised and reliable information on sustainability, building on established good practices. The Commission's proposal makes important steps in this direction.

## Information on the reparability of products

In addition to the provision of access to communications services for consumers, our members provide telecommunications user devices, such as routers, set-top boxes, and mobile handsets, to allow customers to avail of the communications services to which they are subscribed. Our members also provide secondarily mobile devices such as watches, tablets, connected PCs, IoT devices. ETNO welcomes initiatives which promote a more circular economy, including information on the reparability of products, the RED revision on a universal charger, and the forthcoming initiative on the right to repair<sup>1</sup>.

Already today, telecoms operators have taken decisive measures to increase circularity in their business. These measures include selecting suppliers and products in compliance with environmental sustainability criteria, periodically checking along the entire 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.

It is worth also mentioning the Eco Rating initiative<sup>2</sup> that has been recently launched by Deutsche Telekom, Orange, Telefónica, Telia Company and Vodafone. The ambition is to create a 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. Existing initiatives have the added advantage that they are already known to consumers, saving public authorities the resources to develop and promote another initiative to the general public.

While the consumer must have clear and accurate information on the reparability of products, in order to fully benefit from this option, some clarifications must be made in the legislative proposal. The concept of a **reparability score** is helpful in so far as it could indicate to the consumer in an understandable way whether or not a product can be repaired, and the ease / cost with which this can

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<sup>1</sup> <https://etno.eu/library/positionpapers/458-right-to-repair.html>

<sup>2</sup> <https://www.ecoratingdevices.com>

be done. At present, the legislative proposal does not provide sufficient clarity on the nature of this score, or on the parameters to be considered when scoring a given product. It is imperative that the manufacturer, and not the seller, is held accountable with regard to reparability, as only the manufacturer controls the hardware design and determines the availability of spare parts and software updates.

Furthermore, in addition to a clear and transparent definition on the reparability score, the legislative framework should also take into account **existing voluntary initiatives** to assess the reparability of a product, which is already considered as part of the Eco Rating initiative (see above).

## Digital elements and digital services

Clearer definitions are needed for the concepts of ‘digital elements’, ‘digital content’, and ‘digital services’, in order that the corresponding obligations are clear to understand for producers and providers.

An important issue which should be taken into account with respect to ensuring the longer durability and useability of mobile devices is cybersecurity. Software on mobile devices, and indeed all connected devices, should be regularly updated to ensure the highest level of cybersecurity and consumer protection. Together with measures designed to encourage and facilitate the longer use and repair of devices, emphasis should be given to awareness raising for cyber-hygiene.

It is important that the consumer receive notification on the impact of a given software update on the sustainability, lifetime or energy consumption of a product or service (Annex (4) point ‘23d), however this must not in any way risk that a consumer is put in a position to make a trade-off between maintaining the status quo (no update) for the sake of maintaining the same level of sustainability or energy consumption, and exposing the product or service to cybersecurity threats.

Under EU Regulations 2019/770 and 2019/771, operators are obliged, as a seller, to deliver software updates, although they have no control of the creation and provision of updates in the mobile phone business. Developers control the source code of the device software, and as such, only they can create updates. Moreover, there are uncertain legal terms, such as the period for which updates have to be provided, which should be avoided for the sake of legal certainty. Commitments should come into play at the right point in the supply chain – more specifically those who can implement obligations – and legal terms should be as precise as possible.

## Prohibited practices

We welcome the prohibition of certain misleading actions on the part of economic operators, which could lead consumers to take a transactional decision on the basis of information provided prior to the signing of a contract or the purchase of a good or service.

We welcome in particular the prohibition to display potentially misleading certificates claiming the sustainability of a given product or service, and the use of labels or certification schemes which are not recognised. In addition to the use of sustainability labels developed by public bodies, it is important that industry initiatives have the opportunity to be recognised and rolled out as an indication of the sustainability of a product or service.

## Harmonisation across EU Member States

The legislative tool chosen is a Directive on the grounds that the proposed text needs to be implemented in two other Directives (namely the Unfair Commercial Practices Directive and the Consumer Rights Directive). However, fragmentation could be avoided by ensuring that the proposed measures be transposed under the principle of full harmonisation. This is for instance already the case with a number of provisions in the CRD (Art. 4), although it still allows for derogations in specific articles.

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