

Examination of Commission IAs in the Council

in the context of the consideration of Commission proposals

- Indicative Checklist for Working Party Chairs –

Ministry of Enterprises and Made in Italy – DGMCTCNT/UNIT IX – Italy

Title of proposal	
Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules promoting the repair of goods and amending Regulation (EU) 2017/2394, Directives (EU) 2019/771 and (EU) 2020/1828. COM(2023) 155 final 2023/0083 (COD).	
Lead DG	JUST - COMPET 1
1. <u>Context of the IA</u>	
a) Is the IA carried out at the initiative of the Commission, the Council, or the European Parliament? X Commission <input type="checkbox"/> Council <input type="checkbox"/> Parliament	
b) Is the policy context explained clearly? X Yes <input type="checkbox"/> No <input type="checkbox"/> Partly Comments:	
c) Is the legal basis of the initiative clear and appropriate? X Yes <input type="checkbox"/> No <input type="checkbox"/> Partly Comments:	

2. Problem definition

a) Are the existence, scale and consequences of the problem clearly demonstrated?

Yes No Partly

Comments:

b) Is the analysis of the problem supported by evidence, including comments and studies submitted by Member States or stakeholders during consultations?

Yes No Partly

Comments: The I. A. should have better analysed the evidence of the dynamics related to driver 2 (lack of specificity), driver 3 (lack of analysis of enforcement) and finally driver 4 (lack of assessment of the price).(See point 6b).

c) Is any gap in evidence acknowledged?

Yes No Partly

Comments: See point 6b.

3. Methodology

Is an appropriate methodology applied? Are the methodological choices, limitations and uncertainties clearly set out?

Yes No Partly

Comments: See point 6b.

4. Policy objectives

a) **Does the IA set out clear policy objectives, including general aims and more specific/operational objectives?**

Yes No Partly

Comments: Our evaluation of I.A. is positive in general. Notwithstanding, the I.A. should have better analysed the evidence of the dynamics related to some drivers (see point 6b).

b) **Do the policy objectives correspond to the identified problems?**

Yes No Partly

Comments: See point 6b.

c) **Are the policy objectives consistent with the broad EU policy strategies and the Strategic Agenda?**

Yes No Partly

Comments: Regarding the I.A. we have to consider that currently there is a certain heterogeneity of discipline between the Member States (as “inter alia” declared in the I.A.) and some (big) producers ⁽¹⁾ which already launched their own “repair program” where individuals/companies can get parts, tools, training, service guides, diagnostics and resources to perform a variety of out-of-warranty repairs.

d) **Are the objectives linked to measurable monitoring indicators?**

Yes No Partly

Comments: Considering points above - and relative adaptations of objectives of the proposal - related measurable monitoring indicators would follow.

⁽¹⁾ See the so called “Apple case”.

5. Subsidiarity & Proportionality

a) **Is the Union's competence clearly established?**

Yes No Partly

Comments:

b) **Does the IA analyse whether the proposed action is consistent with the principle of subsidiarity, and are necessity and added value of EU action clearly demonstrated?**

Yes No Partly

Comments:

c) **Does the IA analyse whether the proposed action is consistent with the principle of proportionality?**

Yes No Partly

Comments:

d) **Does the IA take into account action already taken or planned at EU or MS level?**

Yes No Partly

Comments: Considering what indicated at point 4c and 4d, the I.A. would have been more appropriate to analyse the dynamics of the action already taken or planned at EU or MS level.

6. Policy Options

a) Which of the following options does the IA identify to meet the objectives?

(more than one answer is possible)

- No EU action X Policy alternatives
 Alternatives to regulation Further harmonization

Comments: The options identified by the I.A. (to promote repair and reuse of goods within the legal guarantee and to facilitate and encourage repair and reuse of goods beyond the legal guarantee amending Regulation (EU) 2017/2394, Directives (EU) 2019/771 and (EU) 2020/1828) corresponds to the indications provided by the sector authorities, including Italian ones.

b) Are the most affected public/stakeholders identified?

- Yes No X Partly

Comments: The I. A. should have better analysed the evidence of the dynamics related to driver 2 (lack of specificity), driver 3 (lack of analysis of enforcement) and finally driver 4 (lack of assessment of the price).(See point 6b). In particular:

1. DRIVER 2 "lack of specificity" - The I.A. provides for the obligation of manufacturers to inform about the products they are obliged to repair. In our view, this solution lacks specificity, particularly regarding how this information should be provided to reach consumers. In fact, they could be more effective if provided directly by the sellers, who could, for example, highlight them at the time of negotiation.
2. DRIVER 3 - "Lack of analysis of some aspects of enforcement" - Based on the proposed changes to the I.A. consumers have a right of redress against producers for technically repairable products under Community law, upon expiry of the legal guarantee they have with sellers. This new right fills the gap that often occurred when the product malfunctioned immediately after the legal guarantee had expired, or when it was not possible to find the non-conformity at the time of delivery. However, the scope of application and enforcement of this new right is rather limited and unclear, even considering the existing legislation in each Member State.
We also believe that, in order for consumers to enjoy more choices to have their products repaired, it would be appropriate for the website to which the proposal refers to be created at European rather than national level. In this way, competition between repairers would be stimulated, with benefits for consumers in terms of prices and quality of service.
Another problem in the field of enforcement concerns the notion of a good that is impossible to repair, with respect to which the producer is exempted from the obligation to repair. To avoid pretentious refusals by manufacturers, it would be advisable to introduce an obligation to state reasons in the event of refusal to repair a product;
3. DRIVER 4 - "Lack of assessment of the price": the new approach proposed by the I.A. compared to the "status quo" is that starting with this change, consumers will have to accept the repair even if it was not their first choice. **Infact** the evaluation concerns the fact that it is up to the producers to choose whether to repair for free (use of the commercial guarantee) or for a fee (with the hope that market pressures will keep the price reasonable). We believe

that manufacturers could be discouraged from providing this right for free as it would certainly drive up the prices of their products, unless there is a clever and clear way to highlight the free provision of repairs. It will be interesting to see whether consumers' transactional choices will be affected by the difference in the provision of repair services.

c) Does the IA contain elements on how public and stakeholders consultations informed the policy options ?

X Yes No Partly

Comments:

d) Where relevant, are there reasons given for discarding options that were favoured during public and stakeholders consultations?

X Yes No Partly

Comments:

7. Analysis of impacts

a) Are the criteria used to determine the impact of the different policy options transparent?

X Yes No Partly

Comments:

b) Are the impacts of the different policy options set out in a comparable format?

X Yes No Partly

Comments:

c) Where appropriate, are both the short and long-term costs and benefits of the different policy options taken into consideration?

X Yes No Partly

Comments:

d) Are impacts on affected public and stakeholders clearly analysed, for each policy option, in particular for the selected option?

X Yes No Partly

Comments:

8. <u>Specific aspects included in the IA</u>	
Where applicable, indicate whether the impact has been sufficiently assessed, both in qualitative and quantified terms, and whether the data and evidence used were appropriate.	
a) Economic impacts	
Impacts on competition	
Sufficiently assessed	<input type="checkbox"/> Yes X No
Based on appropriate data/evidence	<input type="checkbox"/> Yes X No
<p>If not, please elaborate: The economic impacts should be better analysed and assessed in the I.A. (on appropriate data/evidence as well) considering our general and horizontal comment (also expressed at points above): The I. A. should have better analysed the evidence of the dynamics related to driver 2 (lack of specificity), driver 3 (lack of analysis of enforcement) and finally driver 4 (lack of assessment of the price).(See point 6b).</p>	
Impacts on consumers	
Sufficiently assessed	<input type="checkbox"/> Yes X No
Based on appropriate data/evidence	<input type="checkbox"/> Yes X No
<p>If not, please elaborate: The impacts on consumers should be better analysed and assessed in the I.A. (on appropriate data/evidence as well) considering our general and horizontal comment (also expressed at points above): The I. A. should have better analysed the evidence of the dynamics related to driver 2 (lack of specificity), driver 3 (lack of analysis of enforcement) and finally driver 4 (lack of assessment of the price).(See point 6b).</p>	
Impacts on competitiveness	
Sufficiently assessed	<input type="checkbox"/> Yes X No
Based on appropriate data/evidence	<input type="checkbox"/> Yes X No
<p>If not, please elaborate: The impacts on competitiveness should be better analysed and assessed in the I.A. (on appropriate data/evidence as well) considering our general and horizontal comment (also expressed at points above): The I. A. should have better analysed the evidence of the dynamics related to driver 2 (lack of specificity), driver 3 (lack of analysis of enforcement) and finally driver 4 (lack of assessment of the price).(See point 6b).</p>	

Impacts on Small and Medium Enterprises, including micro-enterprises²	
Sufficiently assessed	<input type="checkbox"/> Yes X No
Based on appropriate data/evidence	<input type="checkbox"/> Yes X No
If not, please elaborate: The impacts on SMEs should be better analysed and assessed in the I.A. (on appropriate data/evidence as well) considering our general and horizontal comment (also expressed at points above): The I. A. should have better analysed the evidence of the dynamics related to driver 2 (lack of specificity), driver 3 (lack of analysis of enforcement) and finally driver 4 (lack of assessment of the price).(See point 6b).	
Administrative burdens and compliance costs, especially for businesses	
Sufficiently assessed	X Yes <input type="checkbox"/> No
Based on appropriate data/evidence	X Yes <input type="checkbox"/> No
If not, please elaborate: We consider the administrative burdens and compliance costs, especially for businesses sufficiently assessed even if we must also consider that the insights referred to in the previous points could affect these costs.	
Digital aspects (including on the development of the Digital Single Market)	
Sufficiently assessed	<input type="checkbox"/> Yes X No
Based on appropriate data/evidence	<input type="checkbox"/> Yes X No
If not, please elaborate: See our comments on point 6b.	
Futureproofing (degree to which proposal is future proof and innovation-friendly?)	
Sufficiently assessed	<input type="checkbox"/> Yes X No
Based on appropriate data/evidence	<input type="checkbox"/> Yes X No
If not, please elaborate: See our comments on point 6b.	

(²) Impact assessments should assess SME impacts, and should also analyse the case for allowing (a) exemptions for micro-enterprises with <10 employees and <€2 mio turnover or balance sheet, and (b) lighter regimes for SMEs. See http://ec.europa.eu/governance/impact/key_docs/docs/meg_guidelines.pdf.

b) <u>Social impacts</u>³	
Sufficiently assessed	X Yes <input type="checkbox"/> No
Based on appropriate data/evidence	X Yes <input type="checkbox"/> No
If not, please elaborate:	
c) <u>Environmental impacts</u>⁴	
Sufficiently assessed	X Yes <input type="checkbox"/> No
Based on appropriate data/evidence	X Yes <input type="checkbox"/> No
If not, please elaborate:	
d) Impacts on individual Member States, regional or local authorities (territorial impacts)	
Sufficiently assessed	X Yes <input type="checkbox"/> No
Based on appropriate data/evidence	X Yes <input type="checkbox"/> No
If not, please elaborate:	
9. <u>Opinion of the Regulatory Scrutiny Board</u>⁵ (RSB) of the Commission	
Are the comments and recommendations of the RSB considered in the IA report?	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Partly	
Comments: All comments and recommendations of the Regulatory Scrutiny Board Opinion of 30.9.22 and 24.1.23 have been taken in account. However, we would have liked more details and insights in relation to driver 2 (lack of specificity), driver 3 (lack of analysis of enforcement) and finally driver 4 (lack of assessment of the price).(See point 6b).	

³ e.g. impacts on employment and labour markets, social inclusion and protection of particular groups, public health and safety, etc.

See also Guidance for assessing Social Impacts within the Commission Impact Assessment system (http://ec.europa.eu/smart-regulation/impact/key_docs/docs/guidance_for_assessing_social_impacts.pdf)

⁴ e.g. impacts on climate, air and water quality, use of the renewable or non-renewable resources, the likelihood or scale of environmental risks, use of energy etc.

⁵ Available by searching by Commission DG and date of publication at the following website http://ec.europa.eu/governance/impact/ia_carried_out/cia_2012_en.htm

10. Monitoring, transposition, compliance

a) Will the proposed indicators enable the intended effects to be measured?

X Yes No Partly

Comments:

b) Are those responsible for monitoring (and compliance) identified?

X Yes No Partly

Comments:

c) Are operational monitoring and evaluation arrangements proposed?

X Yes No Partly

Comments:

d) Does the IA address the impact of the proposed transposition deadline for MS ?

X Yes No Partly

Comments:

11. Summary

Main issues proposed for discussion during the WP meeting on the Commission's IA:

The I. A. should have better analysed the evidence of the dynamics related to driver 2 (lack of specificity), driver 3 (lack of analysis of enforcement) and finally driver 4 (lack of assessment of the price).

Rome, 21.4.23
