

## LEGAL UPDATE

### Proposal European Directive on common rules promoting repair of goods

Date: 9 May 2023

On 22 March 2023, the European Commission issued two proposals for new European directives on ESG:

- (i) The proposal on common rules to promote the repair of goods
- (ii) A proposal on sustainability claims.

In episode 82 of our podcast 'Licht op Legal' ['Sustainability claims: What should you consider as an organisation?'](#) (in Dutch only) we discussed the proposal on sustainability claims.

This Legal Update focuses on the proposal that looks at a new directive on common rules to facilitate the repair of goods.

### BACKGROUND

#### European Green Deal

The proposal to promote the repair of goods is part of the European Union's broader ESG goal of becoming the first climate-neutral continent by 2050. Like the proposal on sustainability claims, it is part of the third package of proposals to promote the circular economy, as envisaged in the European Green Deal.

#### Background proposal: from replacement to repair

Many end-of-life products can still be repaired, but are instead thrown away prematurely. This leads to additional waste and emissions, but also results in consumers who opt for replacement rather than repair losing an estimated nearly €12 billion a year. The 'common rules to promote the repair of goods' proposal aims to remove barriers that prevent consumers from applying for repairs due to inconvenience, lack of transparency or difficult access to repair services.

### PROPOSAL NEW EUROPEAN DIRECTIVE RIGHT TO REPAIR

#### Supplement to directive on sale of goods

The Sale of Goods Directive (Directive (EU 2019/771) aimed to improve the functioning of the internal market while providing a high level of consumer protection. The proposal for the new European Repair Promotion Directive aims to promote consumption, complementing the objective of the Selling Goods Directive.

#### Right to repair

The proposal introduces a new 'right to repair' for consumers, both within and outside the legal guarantee period.

*Within* the legal guarantee period, the proposal provides for amendment to the Sale of Goods Directive by requiring sellers to offer repair, except where it is more expensive than replacement.

- Sale of Goods Directive amendment

The Sale of Goods Directive already provides that consumers can choose between repair and replacement. This does not apply if repair is impossible or if repair compared to replacement entails disproportionate costs for the seller. While maintaining this principle, the new proposal adds an additional sentence to encourage repair over replacement, clarifying that the seller must always repair the goods when the cost of replacement is equal to or higher than the cost of repair.

*Outside* the legal warranty period, consumers will have a new set of rights and tools, making "repair" an easy and accessible option:

- Repair obligation

The proposal introduces the right for consumers to require producers to repair products that are technically repairable under EU law, such as washing machines or hoovers. The producer may carry out the repair obligation free of charge or for a fee. In doing so, it was considered that competitive pressure from other operators in the repair market is likely to keep the price acceptable. Manufacturers may additionally have an interest in offering repairs free of charge, for example as part of a commercial warranty.

- Information on the repair obligation

Manufacturers subject to the repair obligation must inform consumers about that obligation and provide information about repair services. The information obligation should ensure that consumers are aware of the repair obligation, thereby increasing the likelihood of repair. The proposal provides flexibility in how the information is made accessible, provided the manufacturer makes it available in a clear and understandable way.

- European repair information form

The proposal introduces an obligation for repairers to provide standardised key information about their repair services through the so-called European Repair Information Form. Consumers can request this form from any repairer, which should make repair conditions and prices more transparent and make it easier for consumers to compare repair offers.

- Online platform for repair and refurbished goods

The proposal introduces an obligation for Member States to provide at least one national (online) repair platform to connect consumers with repairers and sellers of repaired goods in their neighbourhood. The platform should allow for searches based on location and quality standards, allowing consumers to find attractive offers and increasing the visibility of repairers.

- European standard for repair services

The proposal announces the development of a (voluntary) European quality standard for repair services to help consumers find repairers who provide quality work. The aim of this European standard for repair services is to increase consumer confidence in repair services across the Union. The standard is open to all repairers in the EU who want to commit to meeting minimum quality standards, for example based on product lifetime or availability.

## **Continued**

The proposal for the new European directive will now have to be adopted by the European Parliament and the Council under the ordinary legislative procedure.

# VAN BENTHEM & KEULEN

ADVOCATEN | NOTARIAAT

We will keep you updated on the state of play and further developments in this area through our Legal Updates.

This is a Legal Update by Ilse Bakker and Mariska Nijenhof-Wolters.

For more information:

Ilse Bakker

+31 30 25 95 610

[ilsebakker@vbk.nl](mailto:ilsebakker@vbk.nl)

Mariska Nijenhof-Wolters

+31 30 25 95 618

[mariskanijenhof@vbk.nl](mailto:mariskanijenhof@vbk.nl)