



Australian Information Industry Association

Submission on

Consumer Guarantees (Right to Repair) Amendment Bill

3 April 2025

Introduction

The Australian Information Industry Association (AIIA) welcomes the opportunity to provide input to the New Zealand Economic Development, Science and Innovation Committee on the Consumer Guarantees (Right to Repair) Amendment Bill ('Bill'). While the AIIA supports the Bill's objectives to enhance product longevity, reduce waste, and empower consumers, we believe the current drafting raises significant concerns for technology manufacturers, particularly regarding implementation practicality, Intellectual Property (IP) protection, consumer safety, and commercial viability. This submission outlines key recommendations to ensure the Bill achieves its intended outcomes without unintended consequences for industry, consumers, or the environment.

Scope of the Bill

The Bill applies broadly to all consumer goods, which presents challenges given the diversity of goods available to consumers including electronics and technology-based products. A uniform approach that treats all consumer goods equally may lead to unintended consequences, such as disproportionate compliance burdens for low-risk items.

Recommendations:

- Introduce a minimum goods value threshold to exempt low value and short lifecycle goods.
- Introduce a phased or tiered approach, applying obligations first to certain categories of goods before expanding.
- Obligations should only apply to products manufactured and first sold after the amended Act is in force, ensuring no retroactive application. Similar legislation in the US¹ ² defines the scope as a product manufactured for the first time and first sold or used after a specified date.

Intellectual Property and Confidentiality Risks – s12

The Bill requires manufacturers to provide consumers with "any information, spare parts, software, and other tools that the manufacturer uses for diagnosing, maintaining, or repairing the goods". This overly broad language creates significant risks as there is no clear distinction between general repair information and sensitive IP, potentially forcing manufacturers to divulge technical schematics, source codes, and diagnostic tools. Specialised diagnostic and calibration tools, often unique to certain brands, require technical expertise to use safely. Unregulated access could lead to improper repairs, quality degradation, and increased liability for manufacturers. Furthermore, the Bill's

¹ *Consumer Right To Repair Digital Electronic Equipment*, HB24-1121, 74th General Assembly of Colorado, 2024.

² *Right to Repair Act*, California Senate Bill No. 244, 10 October 2023.

current drafting does not adequately safeguard cyber security concerns in cases where repair processes involve software patches, firmware, or embedded security measures.

Recommendations:

- The requirement for manufacturers to make available information, spare parts and tools (including software) used for diagnosis maintenance and repair should be limited to the information, parts and tools provided to authorised third parties for repair.
- Limit the obligation to provide information, parts, software, and tools strictly to those genuinely required for the diagnosis, maintenance, or repair of the specific product, and exclude any unrelated or non-essential materials.
- Ensure intellectual property is protected by limiting specialised repair tool access to authorised third parties.
- Ensure that the Act does not require an Original Equipment Manufacturer (OEM) to divulge any trade secret (i.e. Schematics, BOMs) or license any intellectual property, including copyrights or patents, to any unauthorised third parties.
- The requirements under this section should not apply where the manufacturer offers the original purchaser a readily available replacement product (equivalent or better) at a price equal to or less than the total cost of the parts required for the repair.

Implementation Time

Currently, the Bill lacks clarity on the timeframe between enactment and enforcement, creating uncertainty for manufacturers.

Recommendations:

- Provide an initial grace period (minimum 12 months) before the amended Act is enforced to allow for manufacturers to prepare and implement operational changes.
- The lead time for the information, parts, software and tools being made available to consumers under s12 after a new product is released should be aligned with the time frame for these materials being provided by the manufacturer to authorised third parties.

Price Controls on Repair Parts – s12

The Bill stipulates that manufacturers cannot charge consumers for repair parts beyond a “reasonable estimate” of their net profit margin. This requirement is overly restrictive and economically unfeasible. The cost of re-manufacturing and distributing spare parts often exceeds the original production cost due to smaller-scale production runs.

Recommendation:

- Remove price control measures to allow manufacturers to adopt market-driven pricing strategies reflective of actual costs and investment requirements. This will ensure that manufacturers can recover costs and invest in innovative, sustainable repair solutions.

Risks Associated with Unauthorised Repairs & Parts - s14

Preventing manufacturers from requiring consumers to use authorised repairers or genuine parts could significantly increase consumer safety risks, as unauthorised third parties may lack necessary training and expertise, potentially leading to hazardous outcomes such as electrical faults or product malfunctions. Additionally, reliance on non-genuine parts can compromise the quality, compatibility, and performance of products, undermining warranty integrity and consumer trust. This approach may also negatively impact environmental sustainability efforts, as non-authorised repairs and parts could reduce product lifespan and increase unnecessary electronic waste.

Recommendations:

- The AIIA opposes the proposed amendment to s14, and we recommend maintaining manufacturers' rights to mandate the use of authorised third parties and genuine parts.
- If the proposed amendment is to be retained, we recommend manufacturers to be absolved of liabilities for repairs done by unauthorised third parties.
- Limit access to specialised repair tools exclusively to authorised third parties.

Right to Repair - s19A

If the manufacturer is able to replace the goods at no cost to the consumer, it is unreasonable to allow the consumer to instead have the goods repaired elsewhere, as is provided under subsection (3). This draft provision could create substantial operational and financial risks, as manufacturers will lack control over the quality and cost-effectiveness of unauthorised repairs, potentially leading to unreasonable financial burdens. Consumer safety, including data protection and privacy, remains paramount. Not all repairs can be carried out safely or successfully by consumers or unauthorised third parties, highlighting the necessity for safeguards. It is essential that manufacturers are not held liable for any damage or injury resulting from repairs performed by unauthorised third parties or consumers themselves.

Moreover, forcing manufacturers to repair some highly complex products under subsection (1) could be commercially unviable. In cases where repair parts do not exist, replacement should be allowed to provide the most suitable option beneficial to both the environment and the convenience of the consumer. Additionally, where repair is technically possible, yet replacement offers a better solution in terms of speed, logistics,

costs, customer-friendliness and even sustainability, manufacturers and sellers should have the flexibility to offer a replacement instead of a repair. This should include the option to replace defective products with refurbished ones. Where a replacement occurs, many manufacturers ensure, where and to the extent possible, the returned product will be refurbished and further used for future replacements. Where repair is not possible, manufacturers ensure proper end-of-life treatment in accordance with existing waste regulations and components or secondary raw materials can be reused. This way, businesses advance environmental goals and avoid the generation of unnecessary waste.

Recommendations:

- Addition of reasonable liability caps to protect manufacturers from unlimited repair costs and ensure that reimbursement obligations reflect industry-standard repair costs.
- If a manufacturer is to be responsible for the cost of repairs it is only reasonable to allow the manufacturer to ensure that the repair is completed properly by a manufacturer “authorised third party”, at a reasonable cost to the manufacturer.
- The term “authorised third party” should be defined as ‘a person who has been approved in advance by the manufacturer, to conduct a repair and has demonstrated compliance with applicable standards for electrical equipment repairs’
- Allow manufacturers flexibility to provide replacements when repairs are impractical, commercially unviable, or when replacements offer better outcomes in terms of sustainability, convenience, and overall cost-effectiveness.
- Limit manufacturer-funded repair obligations under this section to one repair per item, after which the manufacturer may elect to provide a replacement.

Conclusion

The AIIA supports the intent of the Bill to promote sustainability and consumer empowerment. However, to ensure the framework is workable and effective, it must carefully balance consumer rights with industry realities, commercial feasibility, and safety and privacy considerations. We would welcome the opportunity for further dialogue to support the development of a workable and effective right to repair framework.

Should you require further information, please contact Ms Siew Lee Seow, General Manager, Policy and Media, at siewlee@aiaa.com.au or 0435 620 406, or Mr David Makaryan, Advisor, Policy and Media, at david@aiaa.com.au.

Thank you for considering our submission.

Yours sincerely
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About the AIIA

The AIIA is Australia's peak representative body and advocacy group for those in the digital ecosystem. Since 1978, the AIIA has pursued activities to stimulate and grow the digital ecosystem, to create a favourable business environment for our members and to contribute to Australia's economic prosperity. We are a not-for-profit organisation to benefit members, which represents around 90% of the over one million employed in the technology sector in Australia. We are unique in that we represent the diversity of the technology ecosystem from small and medium businesses, start-ups, universities, and digital incubators through to large Australian companies, multinational software and hardware companies, data centres, telecommunications companies and technology consulting companies