

## Knowledge Rights 21 - Response on the Right to Repair: Don't Let Repairability Become a False Promise

The **Commission's proposal** on common rules promoting the repair of goods has the right goal - to support sustainability - but has a major flaw: its **failure to ensure** that **consumers enjoy clear rights** around their own devices when it comes to the software embedded in them **or access to repair information**.

### 5 Changes Must Be Introduced to Fix the Right to Repair:

1. **No contractual overrides:** In order to create a "right to repair and improve" a clear and simple step would be to underline that contract terms that undermine the rights to repair and improve are unenforceable. This could be achieved, for example, by an Article 14A, alongside the relevant updates to the Computer Programmes and InfoSoc Directives to ensure that all three Directives work together.
2. **No digital locks:** Technological protection measures (aka "digital locks") that stand in the way of repair rights should not benefit from protection under law, whether they are impeding individual consumers or professional repairers. Similarly to the prohibition on contractual override, this could be achieved by adding an Article 14A clarifying this.
3. **Go beyond just fixing things:** There is no definition of Repair in the proposal, while existing legislation (such as the Computer Program Directive) focuses on mere "error correction". The Directive should therefore have a definition of 'repair' which includes both correction and improvement. This would recognise the benefits to consumers, environment and the health sector in having more efficiently operating products. (Art. 2)
4. **Don't limit who can repair:** Art. 5.3 of the Directive offers a welcome extension of the right to repair information and spare parts to independent repairers. It would be powerful to ensure that owners in general are able to access this information, both in order to fix and improve the functioning of their devices.
5. **Broaden the scope of what can be repaired:** The Directive should not be limited just to the products covered by the legislation listed in Article II but should apply to any product. (Art. 2 and 5)

### Medium to Long Term: Towards More Flexible & Open Principles-Based Copyright Norms

We need open and more flexible and open principles-based copyright norms that cover a wide range of current and unforeseeable technological uses, including for repair and improvement. Europe needs to modernise and be competitive in science and technology markets and create a regulatory environment that supports this. East Asian countries as well as the US and Israel have adopted this approach - it is time for Europe to do the same.

## Background

The EU's current provisions, set out in the Computer Programmes Directive ([2009/24/EC](#)), are far from complete. Consumers' rights to repair are narrow, and there is no guarantee against these being taken away by contract terms, while the sharing or professional use of tools to enable access to software is forbidden.

Similarly, Article 5.3.L of the Information Society Directive ([2001/29/EC](#)) allowing Member States to create a copyright exception for repair of equipment is purely optional, and also is too easily prevented or hindered by contracts or digital locks.

The explanatory memorandum to the Right to Repair Directive makes clear its focus on ensuring that the contracts agreed between buyers and manufacturers sellers support the possibility to repair. However this falls far short of what is needed.

## About [Knowledge Rights 21](#) (KR21)

The KR21 programme is built on a conviction that **knowledge is essential for education, innovation and cultural participation**, and that everyone should have the possibility to access and use it, in particular through libraries, archives and digitally.

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