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# **DRAFT REPORT**

Towards a more sustainable single market for business and consumers  
(2020/2021(INI))

Committee on the Internal Market and Consumer Protection

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### Towards a more sustainable single market for business and consumers (2020/2021(INI))

*The European Parliament,*

- having regard to the Treaty on the Functioning of the European Union (TFEU), and in particular Article 114 thereof,
- having regard to Articles 169, 191, 192 and 193 TFEU,
- having regard to Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market<sup>1</sup>,
- having regard to Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights<sup>2</sup>,
- having regard to Directive 2019/771/EU of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods<sup>3</sup>,
- having regard to the proposal for a regulation of the European Parliament and of the Council establishing the Programme for single market, competitiveness of enterprises, including small and medium-sized enterprises, and European statistics (COM(2018)0441),
- having regard to the Commission communication of 11 December 2019 entitled ‘The European Green Deal’ (COM(2019)0640),
- having regard to the Commission communication of 19 February 2020 entitled ‘A European Data Strategy’ (COM(2020)0066),
- having regard to the Commission communication of 11 March 2020 entitled ‘A new Circular Economy Action Plan – For a cleaner and more competitive Europe’ (COM(2020)0098),
- having regard to its resolution of 4 July 2017 on a longer lifetime for products: benefits for consumers and companies<sup>4</sup>,
- having regard to its resolution of 13 September 2018 on the implementation of the ‘circular economy’ package: options to address the interface between chemical, product and waste legislation<sup>5</sup>,

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<sup>1</sup> OJ L 149, 11.6.2005, p. 22.

<sup>2</sup> OJ L 304, 20.11.2011, p. 64.

<sup>3</sup> OJ L 136, 22.5.2019, p. 28.

<sup>4</sup> OJ C 334, 19.9.2018, p. 60.

<sup>5</sup> OJ C 433, 23.12.2019, p. 146.

- having regard to its resolution of 15 January 2020 on the European Green Deal<sup>6</sup>,
  - having regard to the Commission's publication of October 2018 entitled 'Behavioural Study on Consumers' Engagement in the Circular Economy',
  - having regard to the Joint Research Centre's 2019 study entitled 'Analysis and development of a scoring system for repair and upgrade of products',
  - having regard to the European Environment Agency's report of 4 December 2019 entitled 'The European environment – state and outlook 2020',
  - having regard to the study carried out in March 2020 at the request of its Committee on the Internal Market and Consumer Protection, entitled 'Promoting product longevity',
  - having regard to the in-depth analysis carried out in April 2020 at the request of its Committee on the Internal Market and Consumer Protection, entitled 'Sustainable Consumption and Consumer Protection Legislation',
  - having regard to French law No 2020-105 of 10 February 2020 concerning waste prevention and the circular economy,
  - having regard to the report entitled 'Pour une consommation plus durable en phase avec les enjeux européens', drafted in December 2018 by Thierry Libaert and published by the French Ministry for an Inclusive Ecological Transition,
  - having regard to the report of the European Consumer Organisation (BEUC) of 18 August 2015, entitled 'Durable goods: More sustainable products, better consumer rights — Consumer expectations from the EU's resource efficiency and circular economy agenda',
  - having regard to Rule 54 of its Rules of Procedure,
  - having regard to the opinion of the Committee on the Environment, Public Health and Food Safety,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0000/2020),
- A. whereas dwindling natural resources and the proliferation of waste make it essential to establish patterns of production and consumption which are commensurate with planetary boundaries and focus on the effective and sustainable use of resources;
  - B. whereas a sustainable internal market must be supported by a horizontal strategy that addresses the issue of premature obsolescence, while supporting innovation and jobs;
  - C. whereas consumers are ready to embark on the journey towards a circular economy, but many obstacles remain, including, firstly, information asymmetry;
  - D. whereas the culture of repair and reuse and the second-hand goods markets are sources

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<sup>6</sup> Texts adopted, P9\_TA(2020)0005.

- of economic and social opportunities, create jobs, and drive industrial competitiveness;
- E. whereas the increasing digitalisation of our societies must help forge a sustainable market based on transparency, information-sharing and moderation;
- F. whereas public procurement is a strategic tool that can be used to support Europe's industrial fabric in its transition;
- G. whereas advertising is used to persuade consumers to buy more, and this has environmental repercussions;

### ***Consumer rights and clamping down on premature obsolescence***

1. Calls on the Commission to devise a horizontal strategy that includes measures to:
  - a) specify the pre-contractual information to be provided on the durability and reparability of a product and make this one of the main characteristics of a product pursuant to Directives 2011/83/EU and 2005/29/EC,
  - b) introduce mandatory labelling, on the basis of common transparent standards, which, for comparison purposes, informs consumers at the time of purchase of the estimated lifetime of a product and sets out the options for repair,
  - c) equip certain categories of goods with a usage meter to facilitate reuse,
  - d) bring the duration of legal guarantees and periods of presumed conformity into line with the estimated lifetime of products and harmonise these at European level,
  - e) oblige manufacturers to assume liability for the legal guarantee,
  - f) add to the list in Annex I to Directive 2005/29/EC practices which curtail the life of a product, such as preventing repairs, introducing a design fault, or slowing performance following an update;
2. Stresses that digital devices require particular attention, in that:
  - a) security updates must continue throughout the estimated lifetime of the device, and for a minimum of five years,
  - b) security updates should not coincide with optional updates, which must be reversible;
3. Points out that consumers are all too often ill-informed about their rights and means of redress; calls for funding for measures to address this asymmetry of information and offer consumer associations support with their initiatives;

### ***Facilitating repairs***

4. Calls for the following information to be given at the time of purchase: whether spare parts are available or not, period of availability from date of purchase, price of spare parts, delivery and repair times;
5. Calls on the Commission to establish a consumers' right to repair with a view to making

repairs systematic and affordable:

- a) by guaranteeing unrestricted access to repair and maintenance information and spare parts for all those involved in the repair industry and all consumers,
- b) by imposing standardisation of spare parts, for the sake of interoperability,
- c) by setting a minimum period for the provision of parts and reasonable maximum delivery times,
- d) encouraging repair over replacement by extending guarantees for consumers who choose this option,
- e) facilitating repairs by establishing, at EU level, a legal guarantee covering the repair of goods no longer under guarantee;

### ***Global strategy to promote a culture of reuse***

6. Calls for a ban on the destruction of goods in working order so that they can be reused instead, and for quantified targets to be set for reuse;
7. Points out that transferring the guarantee in the event of the resale of a product which is still covered would boost consumer confidence in this market, and calls for guarantees to be linked to the item rather than the buyer;
8. Calls for a system of extended guarantees for reconditioned goods to be introduced on a broad scale, to supplement the initial legal guarantees, in order to support consumers and prevent malpractice;
9. Welcomes the development of commercial models that separate consumption from material ownership, and calls for a robust assessment of the impact of the functionality economy and its potential rebound effects;

### ***A digital strategy for a sustainable market***

10. Welcomes the announcement of a common database and of a ‘product passport’ to improve traceability and transparency; calls for these tools to be developed in such a way as to:
  - a) facilitate decentralised data storage;
  - b) ensure system interoperability, in order to forestall technical lock-ins or the emergence of new obstacles;
  - c) standardise data structures to enable processing at EU level;
  - d) involve the adoption of guidelines and ambitious minimum standards on data exchange and protection, to be applied to both business-to-business transactions and business-to-consumer transactions, thereby significantly improving product traceability;
11. Takes note of digital technologies’ contribution to innovation and in forging a more

circular economy; calls for derogations to be made from intellectual property law to allow full use to be made of such technologies when in the public interest, for example during a health crisis;

12. Stresses that, whether we consider its manufacturing or services, the digital sector has a significant environmental footprint, and calls for the introduction of an EU digital sustainability index based on an analysis of product life cycles;

#### ***Changes in approach required from public authorities***

13. Takes the view that public procurement should be central to the EU's economic recovery plan, in line with the European Green Deal; calls for absolute priority to be given to stimulating demand for eco-innovative goods and services and ensuring access for small and medium-sized enterprises by introducing, inter alia, preferential award criteria;
14. Calls for the revision of EU public procurement legislation to make the use of sustainability criteria systematic through the setting of binding targets, aligned with EU environmental and climate policies, which foster sustainable and short supply chains;

#### ***Responsible marketing and advertising***

15. Recommends tight policing of the environmental claims made by manufacturers and distributors before a product or service is placed on the market and tougher penalties for misleading claims, through the application of Directive 2005/29/EC;
16. Stresses the major role that advertising plays in 'psychological obsolescence', the phenomenon whereby a functioning product comes to be viewed as outdated; concludes that a regulatory framework in this area is crucial for the creation of a sustainable market;
17. Calls for a ban on the advertising of services or products that are disproportionately damaging to the environment or consumer health;
18. Calls for the introduction of an EU advertising tax in order to offset negative externalities resulting from increased consumption;
19. Urges strict regulation of targeted advertising to ensure it is not based on widespread user tracking or the gathering of personal data;
20. Instructs its President to forward this resolution to the Council and the Commission.

# EXPLANATORY STATEMENT

## INTRODUCTION

There can be no denying that Europe is living well beyond planetary boundaries<sup>7</sup>, and that European consumption is largely fuelled by resources that are extracted and processed outside Europe<sup>8</sup>. It is with this in mind that the EU's 7th Environmental Action Plan<sup>9</sup> aspires to see a Europe which, by 2050, is 'living well, within the limits of our planet'. Despite making progress and setting an example for the world to follow, we still have a very long way to go. According to statistics, in 2019 EU Overshoot Day, which is the day when the continent's ecological footprint exceeds the capacity of the planet's ecosystems, fell on 10 May, and it would take 2.8 planet Earths to meet needs if all of Earth's inhabitants were to consume as much as Europeans.<sup>10</sup>

The COVID-19 crisis has revealed the fragility of our economies, which, teetering on the brink, could be brought down by any sudden shocks.

Our patterns of production and consumption in Europe are, therefore, in need of a radical overhaul. The way in which we view our single market and protect our consumers will be key in bringing about this paradigm shift to a model where sustainability and social justice are the most important criteria.

The EU has already taken steps in this direction. In 2016, the European Parliament adopted almost unanimously the report 'On a longer lifetime for products: benefits for consumers and companies (2016/2272(INI))', as a follow-up to the EESC's report on the topic<sup>11</sup>. In its Circular Economy Action Plan, the EU set out measures for a more sustainable economy, which related to waste prevention<sup>12</sup> and product design.

These early initiatives are promising and show that both businesses and consumers would welcome legislation in this regard. Now it's time to build on this by bringing about a genuine paradigm shift towards a robust, less-consumerist economy.

## Towards sustainable products in Europe

Our economic model is based on a system of overconsumption in which producers hasten the replacement of products by precipitating their obsolescence.

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<sup>7</sup> The European environment - state and outlook 2020, European Environment Agency, p. 50.

<sup>8</sup> Ibid, p. 49

<sup>9</sup> Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet': 'In 2050, we live well, within the planet's ecological limits. Our prosperity and healthy environment stem from an innovative, circular economy where nothing is wasted and where natural resources are managed sustainably, and biodiversity is protected, valued and restored in ways that enhance our society's resilience. Our low-carbon growth has long been decoupled from resource use, setting the pace for a safe and sustainable global society.'

<sup>10</sup> EU Overshoot Day, Living Beyond Natures' Limits, 10 May 2019, WWF and the Global Footprint Network

<sup>11</sup> Own-initiative opinion: Towards more sustainable consumption: industrial product lifetimes and restoring trust through consumer information

<sup>12</sup> Directive 2018/851/EU (amending Directive 2008/98/EC)

Since the largest part of a product's carbon footprint is attributable to the manufacturing process, it is essential that we rethink our manufacturing system and move towards truly sustainable products. Smartphones are a well-known case in point: 80 % of a device's carbon footprint is generated during its manufacture and only 15 % of phones are collected and recycled at the end of their life.

Success in setting up a circular economy hinges on product design. Material and design choices determine whether a product is long-lasting, repairable, easy to take apart and recyclable at the end of its life. While consumers seem ready to do what it takes, a number of barriers are still to be overcome: information asymmetry, high cost of repairs, repairs made difficult by a lack of spare parts or information, lack of awareness of rights if a product has a defect, etc.

### **Putting an end to premature product obsolescence**

The goal is to champion producers that design sustainable products and penalise those whose products are flawed and unsustainable. Planned measures range from providing consumers with clear and consistent information to clamping down on unfair commercial practices which deliberately curtail the life of a product or block its repair. Digital devices call for special attention to ensure that software updates do not trigger obsolescence. It is also essential that the duration of legal guarantees of conformity be based on the estimated lifetime of products: extended product lifetimes must be covered by adequate consumer protection against non-conformity. These measures combined should raise product quality across the board and secure consumers' trust in the European single market by granting them rights that are commensurate with products' quality claims.

### **Establishing a genuine right of repair in Europe**

To be sustainable, products must be repairable, so that they can remain on the market for as long as possible. It is time to stamp out practices which prevent or hinder product repairs. On average, 70 % of Europeans would prefer to repair rather than replace a faulty product.<sup>13</sup> However, sellers still tend to be much keener on product replacement.

We need to open up Europe's product repair market by making repairs simple and affordable. This can be achieved by efforts upstream to provide information on the degree of reparability of a product and also downstream of the value chain to ensure the availability of spare parts, quick repair times and access to information on repairs for sellers, independent repairers and also consumers, to encourage home repairs. In particular, we must support local, independent repairers. It is unacceptable that intellectual property mechanisms make carrying out product repairs the prerogative of the designer or distributor. Logistical and financial support mechanisms must be deployed to help these local tradespeople.

We also hope to boost consumer trust in repaired products and propose introducing a guarantee to cover product repairs.

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<sup>13</sup> Behavioural Study on Consumers' Engagement in the Circular Economy - Final report, European Commission, October 2018, ISBN: 978-92-9200-885-7, p. 11.

## **Towards a culture of reuse**

Sustainable, repairable products are designed to stay on the market for longer and to be exchanged. If consumers are to trust second-hand products, they need transparency, as well as guarantees certifying the condition of products. Linking the guarantee to the product rather than the buyer will extend the legal protection of such products and put paid to the misconception that a product necessarily declines in value whenever it changes hands. If guarantees were to be extended following repairs, this would boost confidence further. The premature destruction of goods has no place in a sustainable market. Business models based on customers renting goods rather than purchasing them seem to point in the right direction, but should be examined more closely to ensure their long-term viability.

## **Harnessing digital technology to promote a sustainable market**

Digital technology has revolutionised the ways in which we communicate, produce things and shop. Now we need to regain control over digital technology and steer it towards a desirable digital future in a sustainable market. To this end, clearly stating the environmental and social impact of technologies is crucial for guiding investment decisions and innovation efforts towards those which are more mindful of environmental and human concerns. Determining whether a technology is environmentally friendly will require an analysis of the entire life cycle, from raw material extraction and the reuse of secondary raw materials to end-of-life processing, not forgetting its manufacture, transport and use. We need to reinvent the concept of innovation to make way for sustainable digital technology.

If legislative decisions are to be well informed, decision-makers need access to reliable data. Public access to data on products and services is a prerequisite for the creation of a circular economy, and is also essential if we are to respond swiftly to a crisis, in particular a health crisis.

We can utilise digital tools to promote a sustainable market by setting up a common database and a product passport. This will make for better tracking of products and their parts along the entire value chain, information exchanges between producers and consumers, and more effective market surveillance.

With technology, we need to watch out for any rebound effects that could be triggered by technological advances. A rebound effect occurs when efficiency gains from a technology make a product or service less expensive, thus driving up consumption and production. This phenomenon is the reason why, if left unchecked, free market forces would not automatically fashion more sustainable societies. We therefore need regulatory tools in place to ensure our societies are sustainable and resilient.

## **The role of public procurement**

Public procurement is an important tool for a number of reasons. First of all, public authorities should lead by example. Furthermore, since they account for 16 % of European GDP, they are in a position to send a strong signal to markets in order to change current practice.

If we are to forge a sustainable market, public authorities therefore need to lead the way in sustainable public procurement by introducing criteria which set product sustainability standards and a reuse rate for second-hand goods. One sustainability criterion could be to

prioritise short value chains and local products. Since the employment aspect also comes into play, public procurement should also favour SMEs, which, despite accounting in total for two-thirds of jobs in Europe's non-financial private sector, are often penalised by public procurement rules.

Public procurement should encourage those who perform well and innovate sustainably.

### **Recognising the responsibility of advertisers**

Every year, companies worldwide spend 1.3 trillion on commercial communication and 600 billion on advertising. Whereas, in the past, advertising played an informative role in guiding consumers in their choices, today it is predominantly used to persuade them. Advertising not only drives up global consumption artificially, but also steers consumers towards the brands which invest more in advertising, rather than those that are the most sustainable and responsible. Moreover, advertising is the preserve of but a few companies – mainly large multinational corporations. VSEs and SMEs cannot compete.

Online advertising is one area that has grown considerably with the internet's expansion. In a quest to boost sales figures further, the drive for increasingly targeted and personalised adverts has led to aggressive practices for retrieving personal data from internet users and digital devices. Such practices have prompted some academics to describe the present day as the age of surveillance capitalism. It is now more essential than ever that we uphold the principles laid down in the GDPR and regulate the advertising industry's practice of systematically extracting personal data.

Against this background, it is fundamental that we recognise the responsibility of the advertising industry and regulate its practices. Regulating content would be a good start, with a ban on baseless claims of green credentials and on adverts for products or services that are harmful to public health or the environment.

This should be followed by the regulation of practices such as the mass extraction of consumers' personal data and the sale of such data. Social and environmental actors should be given a platform to air their views.

Finally, we need financial accountability in the form of full transparency with regard to the amount companies spend on advertising and a European advertising tax.

## **CONCLUSION**

The aim of this report is to move the single market into a new era where all products and services are socially responsible and environmentally friendly. We are calling for a market with a robust circular economy in which consumers can be sure that they are buying safe, accessible products and services and are in a position to make informed choices, and in which the most responsible producers are able to reap the market's rewards, irrespective of their size or starting budget. We hope to empower European consumers and responsible companies in the fight for a socially and ecologically desirable world.