



TCF submission on Consumer Guarantees (Right to Repair) Bill

3 April 2025

Introduction

1. Thank you for the opportunity to comment on the [Consumer Guarantees \(Right to Repair\) Bill](#) (the Bill). This submission is made on behalf of the New Zealand Telecommunications Forum (TCF).
2. The TCF is the telecommunications sector's industry body which plays a vital role in bringing together the telecommunications industry and key stakeholders to resolve regulatory, technical and policy issues for the benefit of the sector and consumers. TCF member companies represent 95 percent of New Zealand telecommunications customers. Our members include network operators, retail service providers and the tower companies that own and operate cell towers.
3. The sector is committed to reducing impact on the natural environment through emission reduction and circular economy initiatives. Our members participate in existing e-waste, phone recycling and repair and refurbishment programs. This includes [RE:MOBILE](#), the TCF's product stewardship scheme which encourages New Zealanders to donate their unwanted mobile phones and accessories for re-use, refurbishment or recycling. Through RE:mobile we have collected over 800 000 phones, diverting 144.6 tonnes of waste from landfill.
4. While TCF members support the intent of the Bill, to extend the lifespan of products, reduce waste, and mitigate climate change, we think the Bill will have unintended consequences if it proceeds.
5. The Bill does not strike the appropriate balance between empowering consumers with additional repair options, and:
 - a. the commercial reality that the New Zealand telecommunications sector has little control over the manufacturing of the products the sector ultimately provides, and
 - b. the highly specialised nature of the equipment in sectors such as telecommunications where a right to request repair is not appropriate, given the

more efficient, effective, safe and secure option for consumers is an authorised repair or replacement.

6. The TCF does not support the Bill proceeding in its current form. If the Government wishes to consider the right to repair issues in legislation, we recommend it start with a policy process to identify issues and options, including the appropriate scope of any legislation. The Bill has not had the benefit of this policy work.
7. If a decision is made to legislate, we suggest there be appropriate carve-outs for telecommunications and related equipment. If telecommunications equipment is captured, then the existing gap in the Consumer Guarantees Act 1993 (CGA) (discussed in paras 12-15) needs to be addressed first and provisions to decline a repair request on reasonable grounds should be added.

Submission overview

8. In this submission we discuss:
 - a. How consumer telecommunications equipment is sourced from large overseas manufacturers who would not have right to repair obligations under the Bill (as they do in Australia).
 - b. The practical constraints on telecommunications retailers that would make complying with the proposed right to repair obligations difficult or impossible. These include lack of control over manufacturing and supply chain, contractual obligations, intellectual property rights, and the highly integrated nature of the components and software used in technology products.
 - c. Safety and security issues that make unauthorised third party repair problematic.
 - d. Our view that if the Government wishes to progress right to repair issues, a policy process should first be undertaken. We suggest issues to consider as part of that process.

Telecommunications consumer goods in New Zealand

9. Many of our members offer a range of home mobile and home broadband equipment and related goods. This includes phones, modems and accessories.
10. These goods are largely manufactured overseas by companies that have little or no local presence in New Zealand. If consumers have issues with products, they generally go to the retailer to arrange for repair or replacement, because the manufacturers usually don't have a local presence.
11. Retailers of consumer telecommunications goods have very little influence on large overseas manufacturers due to the relatively small size of the New Zealand market¹.

¹ This issue came to light in a recent Disputes Tribunal ruling where Noel Leeming was ordered to reimburse the customer the full cost of the Apple Watch that was bought in the Noel Leeming store three years prior because this Apple Watch model did not support Apple's latest WatchOS software upgrade, see [here](#).

Retailers are being asked to take on the obligations of offshore manufacturers

12. The CGA already creates a legislative gap between what offshore manufacturers offer in terms of warranty and product support and what the CGA requires. Because most manufacturers are not “ordinarily present” in New Zealand, the CGA obligations on manufacturers automatically fall on the New Zealand suppliers (in telecommunications this is usually a retailer).
13. The question of who pays for a manufacturing defect is a commercial one that depends on the arrangement a retailer has been able to negotiate with the manufacturer. As noted above, negotiating power is limited due to the small size of the New Zealand market. New Zealand retailers are usually left to comply with CGA obligations without manufacturer support. This situation contrasts to the position in Australia, where the manufacturer is legally required to take responsibility and bear the cost, irrespective of where in the world they are ordinarily based.
14. The gap we have described would be exacerbated under the Bill with the new right to repair obligations falling on New Zealand retailers.
15. Electronic goods retailers have previously advocated for this issue to be addressed, in line with Australian consumer law, by: i) amending the CGA to introduce a statutory indemnity from manufacturers to retailers if the retailer suffers claims due to a manufacturer failure; and ii) creating a prohibition on contracts that try to exclude, restrict, modify or contract out of the statutory indemnity. Any legislative changes to promote the right to repair should not proceed until this existing issue is addressed.

It would be practically difficult to comply with the right to repair obligations

16. The Bill would amend the CGA, requiring manufacturers amongst other things to ensure that repair facilities for goods are available to consumers where reasonable and where requested provide third parties with spare parts, software and tools for repairing goods. Manufacturers would be required to pay reasonable costs of third party repair if unable to repair the product. Consumers could use alternative (non-authorised) repairers or parts without voiding any manufacturers’ express guarantee.
 17. There are practical constraints that limit the ability of telecommunications retailers to comply with the right to repair requirements. These include:
 - a. Retailers cannot provide to consumers on request any information, spare parts, software, and other tools that the manufacturer uses for diagnosing, maintaining, or repairing goods. This is because retailers do not control the manufacturing process or supply chain. The Bill does not allow for any reasonable limits to this requirement.
 - b. Contractual obligations with manufacturers (and intellectual property rights) also limit the ability to provide parts, information or software. If the intention is for this Bill to override these contracts and intellectual property rights (e.g. copyright over software, and patented technology), then this could discourage manufacturers from
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supplying their products to New Zealand. It could also put New Zealand at risk of not complying with international intellectual property obligations. The implications of this need to be considered further.

- c. Products need to be designed and manufactured to enable third party repair. This means that any repair will most likely need to be done in partnership with suppliers. At this stage, we are not seeing third party repairable products being made available. As a small market, New Zealand does not have the necessary influence to get manufacturers to change their designs and approach.
 - d. The requirement to supply information or spare parts within 20 days is unrealistic, especially when parts may need to be imported. Additional costs would eventually flow through to the price of the goods to cover the cost of air freighting parts. Cost increases will disadvantage consumers.
 - e. Unauthorised third party repair is likely to be unworkable, due to the components and software used in technology products being highly integrated. Even where repair can be designed within these products, specialised tools and applications are required to safely repair products. For these reasons, many manufacturers have implemented authorised repair programmes.
18. Given the above constraints, retailers would have no way of complying with the right to repair obligations. Some of these issues could be addressed if resellers of goods produced by overseas manufacturers are excluded from the definition of manufacturer in the CGA. At a minimum, if this Bill were to proceed, section 12 needs to be amended to recognise that manufacturers who are simply resellers of goods produced by overseas manufacturers can only supply what is made available to them by the overseas manufacturer.

Safety and security issues with third party repair

19. Telecommunications equipment is highly complex. Products often include intricately crafted hardware and software that the average consumer or independent technician is not trained to repair on their own. Specialised tools and applications are required to safely repair products. Improper repairs can cause damage and safety risks, such as electrical hazards and overheating.
20. Devices such as smart phones rely on regular software updates to maintain security, improve performance and ensure interoperability. If unauthorised or unskilled repairers do not fully understand this software, they could compromise security, putting customers at risk of data breaches and cyber attacks.

Impacts on consumers

21. The right to repair obligations are likely to increase upfront costs for consumers, contrary to the Bill's intent to reduce household expenses. Repair parts and facilities would need to be readily available across a huge range of products. Where the cost of supply and repair parts inventory is too high, this is passed through the supply chain to the consumer. These costs are likely to be passed on to consumers in the form of higher product purchase prices.

22. Right to repair could also result in less product availability in New Zealand, if it overrides contractual obligations imposed, and intellectual property rights held, by global manufacturers. It could also reduce the likelihood of manufacturers having a local presence in New Zealand, depriving consumers of the benefits of having support and parts close to hand.

Issues to consider as part of a policy process on right to repair

23. The TCF recommends that the Bill not proceed in its current form. If the Government wishes to progress right to repair legislation, it should start with a policy process considering the issues that have been put before the Committee, and engage with stakeholders on the options.
24. We suggest the following issues be considered as part of the policy process, in addition to the usual policy questions:
- a. The anomaly in the CGA (that would be exacerbated by the introduction of right to repair) that means offshore manufacturers do not have to comply with CGA obligations if they are not ordinarily present. Australia has fixed this loophole in its consumer legislation. The gap could be closed in New Zealand by clearly applying CGA obligations to manufacturers supplying goods for sale in New Zealand, irrespective of the location of these manufacturers, as has been done in Australia.
 - b. The practical limitations New Zealand resellers of goods produced overseas would have in meeting the right to repair obligations. Policy options could include amending the definition of manufacturers to exclude resellers of goods produced by overseas manufacturers. Another option would be to recognise that manufacturers who are simply resellers of goods produced by overseas manufacturers can only supply what is made available to them by the overseas manufacturer.
 - c. The scope of consumer products that would be covered by the right to repair obligations. Policy options with a more targeted scope should be considered. For example, right to repair regimes in most other countries exclude complex electronics and telecommunications equipment or are limited to more simple consumer goods. For example, in the UK, the right to repair obligations are limited to washing machines, washer-dryers, dishwashers, fridges and televisions.
 - d. Public safety and security issues and how these can be addressed within a right to repair regime. For example, enabling manufacturers to stipulate equipment that can only be fixed by an authorised person for safety or security reasons.
 - e. Liability issues (for manufacturers or suppliers) where damage to a device is caused by the owner or a third party repairer.
 - f. How existing legislation, such as the Waste Minimisation Act, meets circular economy policy objectives and whether additional legislation is genuinely required.

25. If there are questions about this submission please contact kim.connolly-stone@tcf.org.nz in the first instance. The TCF would like to speak to this submission if the Committee holds hearings.