

23/07/2021



AMTA Submission

Productivity Commission

Right to Repair | Draft Report June 2021



About AMTA

[AMTA](#) is the peak industry body representing Australia's mobile telecommunications industry. Its mission is to promote an environmentally, socially and economically responsible, and sustainable industry in Australia, with members including the mobile network operators, service providers, handset manufacturers, network equipment suppliers, retail outlets and other suppliers to the industry.

The industry's product stewardship scheme, [MobileMuster](#) is a successful AMTA program established in 1998. AMTA manages the program on behalf of the program's members who fund it voluntarily. MobileMuster members include handset manufacturers (Alcatel, Apple, HMD Global, HTC, Huawei, Google, Motorola, Oppo, Samsung, vivo Mobile, ZTE) and mobile network operators (Optus, Telstra, TPG Telecom (Vodafone)).

Introduction

The Australian Mobile Telecommunications Association (AMTA) welcomes the opportunity to respond to the Productivity Commission's Draft Report and recommendations on the Right to Repair, released in June 2021. We have provided some overview commentary below as well as responded to some of the specific recommendations in the Draft Report.

AMTA considers the mobile phone repair market is competitive and well supported by industry members in Australia. Australian consumers are readily able to access repair services for mobile devices via an established mobile phone repair industry, which includes manufacturers, retailers as well as independent repairers.

The consumer's right to repair is similarly well protected under the Australian Consumer Law (ACL). The ACL provides a robust regulatory framework for consumer protection, including the right to repair, replacement or refund if a mobile phone fails to meet a consumer guarantee.

Handsets sold in Australia all have a manufacturer's warranty and Australian network providers also provide a warranty for a phone sold under a handset payment plan that covers the term of the contract. Mobile phone manufacturers provide Australian consumers with both in- and out-of-warranty repair services for all their devices.

AMTA members strive to design products that are both durable and serviceable and do not engage in planned obsolescence as a strategy. We concur with the commissioner's findings in the report that there is no evidence of planned obsolescence in the Australian mobile phone market.

Market research conducted by IPSOS for AMTA¹ also indicates that consumers are holding onto their devices for longer length of time. The research showed that while some consumers choose to purchase the latest handset as soon as it is released; many others retain their mobile phones for much longer, with the average consumer retaining a device for 30 months before passing it on, selling it or finally, recycling it. This trend could be an outcome of the ability to update the software on handsets without having to replace the hardware. Manufacturers offer regular software and security updates for a minimum of two years with some brands offering updates up to five years from purchase.

We believe that any further regulation of repair, beyond the ACL, would serve to be confusing for consumers and could potentially jeopardise consumer privacy, health and safety, as well as create issues for cybersecurity and intellectual property rights as outlined in our comments below.

¹ [Mobile Phone Use, Reuse and Recycling](#) IPSOS report, 2020

Software updates

Requiring manufacturers to provide software updates for a reasonable period.

AMTA submits that mobile manufacturers currently provide software and security updates for a reasonable period to Australian consumers. Generally, manufacturers offer support updates for operating systems for a minimum of two years, and 3 years for security updates. Some manufacturers provide update support for devices for up to five years.

Amending Copyright Laws

Amending copyright laws to enable third-party repairers to copy and share repair manuals, and access repair data hidden between digital locks

AMTA supports an ecosystem that enables third-party repairers to be authorised by a manufacturer so that they receive appropriate training, including safety and security training. AMTA members do not prevent third-party repairers from carrying out repairs. We encourage repair as it extends the lifecycle of the device for the consumer.

It is critical that consumers, including small and large businesses, can have reasonable assurance that repairs to their devices will not compromise the security of personal or business data, or the security features of their device. Cybersecurity is an increasing issue for Government and industry alike and our members are committed to protecting customers from risks associated with hacking or interference with devices. AMTA therefore does not support a requirement for providing the ability for repairers to bypass security that a customer has set, for example a locked screen or password protected device. Requiring manufacturers to disclose data behind digital locks to unauthorised third-parties would weaken privacy and security protections and increase cybersecurity and data risks.

Manufacturers also have a reasonable need to protect their intellectual property rights in a highly competitive market. We note the significant investment manufacturers make in the development of products and services and the protection of intellectual property is a legitimate and critical aspect of sustaining healthy competition in the sector.

AMTA members currently work closely with certified repair providers to provide access to parts, tools and repair manuals. The industry continues to grow their network of authorised and third-party approved repairers to meet customer needs. This ecosystem also provides a number of channels for consumers to access repair, providing customers with an estimate of costs involved and the ability to track repair.

There are a number of ways that consumers can access repair including:

- Online support and technology based self-diagnostic tools such as apps.
- Manufacturer or accredited service and repair centres.

- Take-back services through retail outlets including manufacturer stores and retail stores such as Telstra, Optus, Vodafone, JB Hi-Fi, Harvey Norman that provide a significant geographical footprint throughout Australia.
- Access to free mail-in repair services through Australia Post.
- Included accidental repair services and benefits to consumers who have purchased additional protection for their device, for example, some manufacturers offer value-adds, such as a free screen repair within the first year of purchase.

Industry continues to increase the number of authorised repairers throughout the country and provide rigorous training and support to ensure they can undertake the repairs. Manufacturers want to ensure that mobile phones are serviced and repaired by professionals. There could be serious health risks if mobile phones are not safely repaired. For example, there is a risk of catastrophic damage to products due to electro static discharge (ESD) if devices are not repaired in an ESD safe environment as all components and boards have a certain tolerance to ESD. If repairs or the repairer is not ESD compliant this can result in severe damage to the product or shorten the lifespan of the device. Similarly, if some components, such as batteries, are not handled carefully there can be health risks to the repairer or customer.

Warranties

Prohibiting manufacturer warranties from being voided if consumers do not use the repairers and spare parts specified by the manufacturer.

Handsets sold in Australia all have a manufacturer's warranty and Australian network providers also provide a warranty for a phone sold under a handset payment plan that covers the term of the contract. Mobile phone manufacturers provide Australian consumers with both in- and out-of-warranty repair services for all their devices. These warranties complement the rights consumers have under the ACL.

Customers who are within their warranty, will quite reasonably, risk some loss of their warranty if they attempt to repair a device themselves or seek repair outside the manufacturer's authorised network. Damage caused by third-party repairer tends not to be covered by warranties and we believe this is reasonable.

It is our understanding, however, that manufacturers will continue to cover their warranty obligations for any operational failure not impacted by an unauthorised repair.

Similarly, some brands will honour their warranty even where a consumer has opted to use an independent repairer, provided genuine parts are used in the repair process. These brands also make parts available to independent repairers.

Product durability/repairability labels

Developing a product durability or repairability labelling scheme to help consumers identify products that best meet their needs.

AMTA supports labelling schemes that provide value to the consumer. In our view, the suggested durability or repairability labelling scheme would likely not provide improved value to consumers due to its inherent subjectiveness. There are such a range of highly variable factors that contribute to product durability, including lifestyle, occupation, and usage that make it difficult to derive a standard value for any device.

We therefore believe this could contribute to consumer confusion rather than provide useful information. While we understand the objective here, we do not consider it to be similar to other labelling schemes, such as those that measure energy efficiency of an appliance or recycled content of a product, as it is not able to be based on proven scientific data.

As noted in the Draft Report, France has implemented a repairability rating scheme. AMTA suggests that any introduction of a similar scheme in Australia, should seek to build and improve on the French model, noting that the French model has several shortcomings as outlined by the Productivity Commission in the Draft Report.

Role of Product Stewardship Schemes

Amending regulated product stewardship schemes, that remove current incentives that focus solely on product recycling.

AMTA, through its successful voluntary accredited product stewardship program, MobileMuster, takes a proactive position in educating the community and encouraging responsible repair and reduce. Research conducted by IPSOS for AMTA², indicates that consumers are concerned about the security of data on their devices and their ability to trust in the recycling process, which impacts on the propensity to recycle old devices when they have reached the end of their useful life.

Requiring stewardship schemes to meet repair and reuse targets could amplify these consumer concerns and in turn increase storage rates of product if consumers perceive a higher risk in donating a phone when it may be reused instead of only recycled, as per MobileMuster's current model where customers are guaranteed that all phones are fully recycled. An unintended consequence of such a requirement could be a disincentive for some consumers to recycle and result in a missed opportunity to increase the recovery of material through the recycling process.

² [Mobile Phone Use, Reuse and Recycling](#) IPSOS report, 2020

Further, we note that the mobile industry is already supported by a mature reuse market and repair network. Setting targets for reuse and repair for stewardship schemes would mean that programs like MobileMuster would be duplicating the efforts of its members, as our members already have mature commercial reuse programs. Similarly, the independent repair network supports a second-hand market that already provides an established channel for reuse.

MobileMuster will continue to work with the Department of Agriculture, Water and the Environment (responsible for managing product stewardship accreditation under the *Recycling and Waste Reduction Act 2020*), to better understand the role of product stewardship when it comes to reuse and repair.

Contact:

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