

3rd April 2025

Committee Secretariat
Economic Development, Science and Innovation Committee
Parliament Buildings
Wellington

Submission on the Consumer Guarantees (Right to Repair) Amendment Bill

Right to Repair Aotearoa Coalition

1 Introduction

Thank you for the opportunity to make a submission on the Consumer Guarantees (Right to Repair) Amendment Bill (the Bill). This submission is from the Right to Repair Aotearoa Coalition.

The Right to Repair Aotearoa Coalition formed in 2021 with the goal to generate support for Right to Repair legislation in New Zealand. Its members include representatives from Repair Network Aotearoa, Para Kore, Reuse Aotearoa, and WasteMINZ, along with product repair consultants, and legal academics at Auckland and Waikato Universities.

Our mission is to drive the progress of repair legislation in Aotearoa, and raise awareness of repair and the need for legislation with the wider public. We focus our work on

1. Research and knowledge sharing
2. Advocacy and communication.

We are a coalition with expertise in the right to repair field. We are motivated to help the Committee return the best possible version of this Bill to the House to enable pragmatic and functional right to repair legislation in New Zealand. We are happy to engage further on this matter given our informed position, to suggest practical and sensible improvements to the Bill, and we welcome the opportunity to speak to our submission in the Committee.

2. General comments on the Bill

The Right to Repair Aotearoa Coalition strongly supports the Bill and the introduction of right to repair legislation in New Zealand.

2.1 Why encouraging repair is important

2.1.1 Repair is in our DNA

New Zealanders are proud of our ‘No 8 wire’ attitude, which originally emerged from necessity due to our geographical location and protectionist economic policies, both of which made overseas products and spare parts prohibitively expensive.

Over the last few decades, New Zealanders’ ability to apply that Number 8 wire approach to digital devices, in particular, has been greatly restricted by various factors. A Consumer NZ survey from 2021 reported that 76 percent of Kiwis would rather get a faulty appliance or device repaired than replace it, while 49 percent felt bad about throwing it away.¹ However, finding a repairer and spare parts for a reasonable cost are barriers to getting items repaired, with under half of respondents saying it was easy to find someone to repair goods, and only 24 percent saying it was easy to find spare parts.²

In a nationally representative survey conducted by Repair Network Aotearoa in October 2024, 77 percent of respondents supported Right to Repair legislation in New Zealand.³ Reporting on their most recent experience with a broken electronic device, 77.5% said the product was not repaired.⁴ In 25% of responses, the device was taken to a professional repairer but the repair was either impossible or too expensive to complete.⁵

2.1.2 Repair creates resilience

New Zealand is highly dependent on imports for many raw materials and finished goods. Supply chain disruptions, such as those seen during the COVID-19 pandemic, highlight the risks of over-reliance on global production networks. A repair-friendly

¹ Consumer NZ 2021, as cited in Pritchett, S, Hannah Blumhardt, Graeme Austin and Paul Smith (2022) *What happened to No 8 wire? Give us back our right to repair*.

² Ibid.

³ Ozanne, L. K., Prayag, G., & Sistig, B. (2025) Understanding repair in Aotearoa New Zealand: Attitudes, experiences, and the right to repair. University of Canterbury & Repair Network Aotearoa.

⁴ Ibid.

⁵ Ibid.

economy mitigates these risks by reducing the need for constant imports and ensuring that existing materials and products remain in use for longer.

2.1.3 Repair strengthens the domestic economy

Repair is a local activity – when a trusted product becomes faulty, a timely solution is often required, which requires the availability of local skills and parts. Demand for repair has seen the growth of local pop-up Repair Cafes throughout NZ, which have grown over the past four years from around 15 to over 75 Repair Cafes associated with Repair Cafe Aotearoa NZ.⁶ Repair Cafes are at the frontlines of the unfavourable conditions for repair in New Zealand, currently; they rely on repair experts volunteering time and skills. Despite the skills of volunteer repairers at Repair Cafes, some goods cannot be repaired as products are designed to not be accessible for repair, no spare parts are available, or the cost of the spare part is higher than a replacement of the complete item.

Supporting the right to repair in New Zealand would turn this situation around and support a thriving repair industry, which is good for New Zealand because it would keep money circulating within New Zealand instead of flowing offshore when replacement products are purchased. Local repair services create jobs and develop skills, benefiting small and medium-sized enterprises (SMEs) and fostering economic resilience.

Other countries recognise the importance of repair for their domestic economies. The Australian Productivity Commission's Right to Repair Inquiry Report highlighted the economic advantages of accessible repair services.⁷ The UK has implemented regulations requiring manufacturers of certain household appliances to provide spare parts for up to ten years.⁸

2.1.4 Repair is a global trend we must be part of

The global Right to Repair movement is a response to demand from consumers for more repairable products. The movement aims to make repairs easier to access and more affordable. Ultimately, the movement will encourage manufacturers to design more repairable products. Bills such as the Consumer Guarantees (Right to Repair) Amendment Bill are the seeds of change – setting a minimum (and low) bar for repairability that manufacturers must clear.

⁶ Repair Cafe Aotearoa New Zealand, "Repair" <https://www.repaircafeaotearoa.co.nz/local-repair-cafes>.

⁷ Australian Productivity Commission (2021) *Right to Repair* (Inquiry Report no. 97, Canberra). <https://www.pc.gov.au/inquiries/completed/repair/report>.

⁸ The Ecodesign for Energy-Related Products and Energy Information Regulations 2021 (UK) cl 4(3)(a)-(c).

New Zealand is not alone looking at right-to-repair legislation. Australia has implemented the Motor Vehicle Service and Repair Information Sharing Scheme (“Competition and Consumer Amendment Act”), requiring car manufacturers to provide independent repairers with service and repair information at a fair price. The European Union has introduced a Right to Repair Directive, ensuring manufacturers provide spare parts and repair manuals for appliances and electronics to extend product lifespans. The UK has mandated repair for several large appliances through its Ecodesign for Energy-Related Products and Energy Information Regulations.⁹ And the United States has seen state-level right-to-repair legislation, with growing federal momentum to expand repair rights across multiple industries.¹⁰

By aligning with these global shifts, New Zealand manufacturers will make their products more competitive internationally and reduce compliance risks in export markets.

2.1.5 Repair reduces waste

New Zealand faces significant challenges in managing electronic and industrial waste. The right to repair extends the lifespan of products, preventing them from becoming waste prematurely and reducing the environmental burden of constantly manufacturing and distributing new goods.

Repair tackles our waste problem as most value can be maintained in the product when its function can be maintained with a simple intervention. Repairing goods and keeping them in use is far more efficient than buying new replacement items and throwing money at trying to recycle the broken items.

While recycling is part of the solution, it can only do so much. Many valuable materials—such as those in electronic devices—are difficult to recover efficiently, meaning recycling can only recover a small proportion of a product’s embedded energy and materials. A circular economy that prioritises repair over recycling and disposal is a more sustainable and cost-effective way to manage resources, and better aligns with the waste hierarchy, which is a guiding principle for all decision-makers in New Zealand’s Waste and Resource Efficiency Strategy.¹¹

⁹ The Ecodesign for Energy-Related Products and Energy Information Regulations 2021 (UK) <https://www.legislation.gov.uk/uksi/2021/745/>

¹⁰ Repair Association (USA) (2025) <https://www.repair.org/legislation>

¹¹ Ministry for the Environment (2025) *Waste and Resource Efficiency Strategy: Minimising Waste and Improving Waste Management*.

2.1.6. Repair reduces emissions

Repair also reduces carbon emissions compared to recycling because keeping products going by extending their lifespan keeps the embedded energy of a product in the economy for longer, displacing the need to mine and extract more materials to manufacture replacement products (which are all carbon intensive activities) and have other negative environmental impacts. To give one example, a study by the European Environmental Bureau calculated that extending the lifespan of smartphones in the EU by one year could prevent carbon emissions equal to the annual emissions of one million vehicles.¹² Making it easier to replace batteries and screens and make simple repairs on smartphones could help achieve this outcome by enabling many people to use their smartphones for much longer.

2.2. Why the CGA needs to be amended

This Bill proposes to amend the Consumer Guarantees Act 1993 (CGA) to better protect consumers' rights in relation to repair. We think this is an appropriate first step for addressing some of the gaps in realising a right to repair in New Zealand. The need to update consumer law to enable a right to repair in the New Zealand context has been repeatedly raised by various commenters over the past few years.¹³

2.2.1 The CGA currently allows manufacturers to opt-out of repairs

Newer products that become faulty are subject to a remedy required by New Zealand consumer law. The CGA includes options for consumers to get products repaired, but it also allows manufacturers and suppliers simple ways to opt out of supporting product repair. The CGA has allowed businesses to take the easy option of providing refunds or replacing entire products for minor faults that are easily repairable.

An investigation by Consumer NZ in 2022 discovered that many products returned to stores as faulty or simply unwanted were not repaired and resold, but instead discarded by suppliers and manufacturers as waste into landfill.¹⁴ The unintended consequence of the CGA's opt-out provisions has been to contribute to a culture of waste.

¹² EEB (2019) *Coolproducts don't cost the earth - full report*. www.eeb.org/coolproducts-report

¹³ Austin et al, 2022; Blumhardt, 2023; Sims and O'Sullivan, 2024; Zaw, 2022a; Zaw, 2022b.

¹⁴ Paul Smith (2022) *Broken appliances: are they repaired or dumped?* Consumer NZ, 14 June 2022 <https://www.consumer.org.nz/articles/broken-appliances-are-they-repaired-or-dumped>

2.2.2 The CGA is out-of-date with technological advances

In 1993 when the CGA was enacted, products were less complicated, and contained much less computing power and ‘tech’. For example, the CGA preceded the iPhone by 14 years. The pace of product advancement, i.e. the mechanism where products are functionally outdated before they become worn out, has accelerated dramatically in the last 40 years. This has resulted in “product obsolescence” being widely accepted as an inevitable outcome of advancing hardware and software technology. An advance in technology can replace entire product lines, such as when Telecom removed its CDMA cellular network in 2012, turning thousands of phones into worthless bricks. In many cases, functional hardware is made obsolete by advances in software. For example, in response to the UK’s Product Security and Telecommunications Infrastructure regulation (2024), Apple committed to support iOS software on its iPhone hardware for a “minimum of five years from the first supply date.”¹⁵ This effectively sets a lifespan of the hardware, as without operating system software support there is no guarantee the hardware will remain secure from hackers or run the latest apps.

Since General Motors competed with the Ford Model T a century ago, manufacturers have used planned product obsolescence to manipulate our purchases, aiming to make us replace perfectly functional products with something we believe is newer, better, and more fashionable. Product obsolescence, however, is not inevitable. Many goods used to be repairable and early laptops and mobile phones came with batteries that could be easily removed and installed.

As we have got wiser to relatively crude marketing manipulations such as annual launches of cosmetically different new models, controlling product repair has become an essential tool for manufacturers to maintain high-levels of product sales by ensuring we need to keep replacing products. Manufacturers make broad use of design complexity to limit repairability, use software locks to ensure only authorised repairs can be completed, and withhold supply of parts to prevent repair.

In all industries, especially those unable to command a ‘tech’ price premium, manufacturers have squeezed costs to maximise margins and revenues. This results in products being optimised for manufacture, not disassembly and repair. Gluing parts together rather than using replaceable fasteners, for example, saves material and assembly costs. If the manufacturer has no intention of supporting the product for future repair, there is no reason to factor in a requirement for it to be taken apart and its

¹⁵ Mishaal Rahman (2025) *How many software updates do iPhones get?* Android Authority 26 February 2025 <https://www.androidauthority.com/iphone-software-support-commitment-3449135/>

components replaced. The result is a marginal reduction in product manufacturing cost, at the expense of a significant increase in repair cost and overall ownership costs for a consumer.

The purpose of the CGA is to protect consumers' rights and interests, but to do so effectively, the legislation needs to keep up with the various ways that consumer rights can be undermined. The overwhelming support for a right to repair, globally and in New Zealand, shows a growing awareness that consumers are being manipulated. We need to ensure our consumer rights legislation reflects the change in products and the market over the last 32 years, so it remains fit-for-purpose for the future. Amending the Act to recognise a consumer's right to repair is one way to keep the CGA up to date.

3 Specific comments on the Bill

We fully support the Bill, and think it can be improved to ensure it achieves its intent and avoids any unintended consequences. Our comments on each part of the Bill and our recommendations are set out below.

3.1 Summary of our recommended improvements to the Bill

- **Narrow the scope of goods to those listed in a Schedule that we recommend is added** to this Bill. We suggest existing overseas Right to Repair legislation be used as a guide to the initial product coverage set out in the Schedule. **Insert** a clause in the Bill specifying that the Schedule must be periodically updated by Order in Council on a two or three year basis.
- Recommended amendments to proposed new s 12 (as set out in cl 5 of the Bill):
 - **Amend** to specify minimum timeframes for availability of spare parts, repair resources and other repair resources.
 - **Amend** to require manufacturers to locate repair facilities and spare parts in New Zealand, and support repair of large goods on-site. (The manufacturer may not need to physically provide the repair facilities and spare parts, it can contract with a third party to provide them.)
 - **Amend** to require that all manufacturers support repair, including those that currently do not repair their goods.
 - **Remove** the requirement that each consumer must request access to repair information and software. Instead, **amend** to compel manufacturers to proactively publish repair resources for all consumers and independent repair experts to access (which follows overseas best-practice).

- **Amend** to simplify the limit of cost that a manufacturer can charge for providing repair resources.
- **Remove** the ability for manufacturers to refuse to supply repair resources due to intellectual property rights.
- **Amend** to require manufacturers to provide contact information on packaging, manuals or other documentation of goods, so it is clear to a consumer where repair support can be obtained.
- **Insert** a provision that would strengthen the powers of the Commerce Commission to investigate manufacturers that do not comply with the new requirements set out in the proposed new s 12 (cl 5 of the Bill).
- Recommended amendments to proposed new s 19A (as set out in cl 7 of the Bill):
 - **Amend** to expressly exclude secondhand goods (so suppliers of used goods are not obligated to repair them or pay for the cost of someone else repairing them), with the exception of motor vehicles
 - **Insert** requirement that a supplier estimate and communicate the time required for a repair
 - **Insert** provision to prevent a supplier from attempting to recover any repair costs from a consumer.

The remainder of this section covers our recommended improvements in more detail.

3.2 Scope of goods included (product schedule)

The CGA, and therefore this Bill, applies to all goods “typically acquired for consumer, domestic and household use”. It defines goods as “personal property of any kind”. The Bill would require all goods covered by the CGA to be repairable. However, many of the goods are disposable, intangible and potentially irreparable items.

Defining a ‘Product Specification’ of goods required to be repairable is the approach of Right to Repair legislation enacted overseas. Overseas legislation adopted to date includes the following:

European Union: *Directive on common rules promoting the repair of goods (2024)*¹⁶

- Large household appliances: washing machines, clothes dryers, dishwashers, refrigeration
- Consumer electronics: TVs; smartphones; tablets; servers

¹⁶ EU Directive 2024/1799 on common rules promoting the repair of goods and amending Regulation (EU) 2017/2394 and Directives (EU) 2019/771 and (EU) 2020/1828. <http://data.europa.eu/eli/dir/2024/1799/oj>; Right to Repair Europe Coalition (n.d.) ‘What’s my Right to Repair?’ <https://repair.eu/whats-my-right-to-repair/>.

- Vehicles: e-bikes; e-scooters
- Ovens, vacuum cleaners, printers and laptop and desktop computers are in discussion for future adoption

United Kingdom: *The Ecodesign for Energy-Related Products and Energy Information Regulations 2021*¹⁷

- Large household appliances: washing machines; dishwashers; refrigeration
- Consumer electronics: TVs; electronic displays

United States: Legislation is adopted by each State.¹⁸ States that have enacted right to repair legislation are:

- California: Right to repair Act (2023)¹⁹
- Colorado: *Powered wheelchairs* (2022);²⁰ *Agricultural equipment* (2023);²¹ *Digital electronic equipment* (2024)²²
- Minnesota: *Digital fair repair Act* (2023)²³
- New York: *Digital fair repair Act* (2022)²⁴
- Oregon: *Right to repair Act* (2024)²⁵

¹⁷ The Ecodesign for Energy-Related Products and Energy Information Regulations 2021 (UK) <https://www.legislation.gov.uk/ukxi/2021/745/>; Aaron West (2021) *New 'right to repair' laws introduced: what do they actually mean for you?* Which?, 11 June 2021 <https://www.which.co.uk/news/article/new-right-to-repair-laws-introduced-what-do-they-actually-mean-for-you-akW160h9DWLL>.

¹⁸ National Conference of State Legislatures (2023) Summary: Right to Repair 2023 Legislation <https://www.ncsl.org/technology-and-communication/right-to-repair-2023-legislation>

¹⁹ Bureau of Household Goods and Services (2024) *The Right to Repair Act* (Industry Advisory produced 15 June 2024). https://bhgs.dca.ca.gov/forms_pubs/sb_244_industry_advisory_english.pdf; Elizabeth Chamberlain (2023) *California Right to Repair Signed into Law* IFIXIT, 10 October 2024 <https://www.ifixit.com/News/84491/california-right-to-repair-signed-into-law>

²⁰ Consumer Right To Repair Powered Wheelchairs, General Assembly of Colorado, HB22-1031 <https://leg.colorado.gov/bills/hb22-1031>

²¹ Consumer Right To Repair Agricultural Equipment, General Assembly of Colorado, HB23-1011 <https://www.leg.colorado.gov/bills/hb23-1011>

²² Consumer Right to Repair Digital Electronic Equipment, General Assembly of Colorado, HB24-1121 <https://www.leg.colorado.gov/bills/hb24-1121>; Elizabeth Chamberlain (2024b) *Colorado Adds Electronics to Right to Repair Protections* IFIXIT, 28 May 2024 <https://www.ifixit.com/News/96296/colorado-adds-electronics-to-right-to-repair-protections>.

²³ Digital Fair Repair Act, Minnesota Legislature, SF 1598 <https://www.revisor.mn.gov/bills/bill.php?b=senate&f=SF1598&ssn=0&y=2023>; Omnibus Commerce appropriations, Minnesota Legislature, SF 2744 <https://www.revisor.mn.gov/bills/bill.php?f=SF2744&b=senate&y=2023&ssn=0>; Gislason & Hunter (2025) *Minnesota's New Right to Repair Law: What Manufacturers Should Know and Be Prepared For*, 7 February 2025 <https://www.gislason.com/minnesotas-new-right-to-repair-law/>.

²⁴ Digital Fair Repair Act, New York State Senate, Assembly Bill A7006B, <https://www.nysenate.gov/legislation/bills/2021/A7006>; Kyle Wiens (2022) *New York Passes Historic Right to Repair Bill* IFIXIT, 29 December 2022 <https://www.ifixit.com/News/70515/new-york-passes-historic-right-to-repair-bill>.

²⁵ Right to Repair Act, Oregon SB 1596, <https://gov.oregonlive.com/bill/2024/SB1596/>; Elizabeth Chamberlain (2024a) *Oregon Just Struck a Blow to Parts Pairing and Won a Decade of Repair Support*

Products included in State legislation include a broad range of personal electronics, household appliances, business and enterprise digital equipment, agricultural equipment, powered wheelchairs and motor vehicles.

Australia: *Competition and Consumer Amendment (Motor Vehicle Service and Repair Information Sharing Scheme) Act 2021*.²⁶

Australia's scheme requires motor vehicle service and repair information to be made available for purchase by Australian repairers at a fair market price.

We recommend narrowing the Bill's scope to a smaller range of products, to make the legislation more workable in the early stages of its implementation.

To this end, we recommend inserting a clause specifying that the goods to which the Bill applies are set out in a Schedule that we also recommend is added to this Bill, containing an initial list of products to which the proposed legislation would apply upon commencement. For the rest of this submission, we refer to this as the Product Specification Schedule.

We also recommend inserting a clause specifying that the Product Specification Schedule can be amended by an Order in Council following a specified periodic review cycle (for example, every 2 years), so that more products can be added over time, as appropriate. This periodic review and ability to amend the Schedule by an Order in Council will ensure a flexible approach to keeping the legislation up-to-date and fit-for-purpose as products and their repairability change over time.

To start, we recommend the Product Specification Schedule includes all products already adopted in overseas legislation. Our recommended product specification for the first version of the Schedule included in the Bill includes the following consumer products:

- **White goods and larger household appliances:** washing machines; clothes dryers; washer-dryers; fridges; freezers; fridge-freezers; dishwashers; built-in and freestanding ovens; cooktops; rangehoods; microwave ovens; vacuum cleaners

IFIXIT, 27 March 2024 <https://www.ifixit.com/News/92144/oregon-just-struck-a-blow-to-parts-pairing-and-won-a-decade-of-repair-support>.

²⁶ Competition and Consumer Amendment (Motor Vehicle Service and Repair Information Sharing Scheme) Act 2021 (Australia) <https://www.legislation.gov.au/C2021A00054/latest/text>; Australian Competition & Consumer Commission (2021) *ACCC welcomes new law on motor vehicle service and repair information*, 18 June 2021 <https://www.accc.gov.au/media-release/accc-welcomes-new-law-on-motor-vehicle-service-and-repair-information>.

- **Heating and cooling:** heat pumps and air conditioners, electric heaters, dehumidifiers, air purifiers
- **Consumer electronics:** televisions and other display panels; laptop, desktop and tablet computers; smartphones; smartwatches; printers
- **Non-motorised vehicles:** bicycles and e-bikes; scooters and e-scooters; powered wheelchairs
- **Powered garden tools:** lawnmowers; line trimmers; hedge trimmers; chainsaws; leaf blowers and vacuums; water blasters

Aligning products with what is included in overseas legislation makes sense as global manufacturers of these types of products already comply with repair requirements similar to those in the Bill in other jurisdictions. It also goes some way towards ensuring New Zealand does not become a dumping ground for unrepairable items no longer able to be sold overseas.

3.3 Clause 5: Proposed New Section 12 Guarantee as to information, repair and spare parts

Clause 5 of the Bill would replace s 12 of the CGA with a proposed new s 12. We provide comments on this proposed new section below.

3.3.1 Requirement to ensure repair facilities and spare parts are available (proposed new s 12(1)(a))

3.3.1.1 Period during which repair facilities and supply of parts must be available

Proposed new s 12(1)(a) would require manufacturers to ensure repair facilities and supply of parts are available “for a reasonable period after the goods are sold”. The notion of a “reasonable” period is consistent with the approach taken elsewhere in the CGA that involves relying on the concept of reasonableness. However, we are of the view that not defining a timeframe could cause uncertainty for consumers and manufacturers. The timeframe could start from when the goods first go on sale, or from the date when the last version of that model was placed on the market.

We recommend this provision is amended to define a minimum time frame during which manufacturers must ensure repair facilities and spare parts are available.

3.3.1.2 Ability for manufacturers to contract repair facilities and parts provision to third-parties

The current wording of proposed new s 12(1)(a) would allow a manufacturer to contract repair facilities and parts supply to a third-party (for example, an authorised repairer or

parts manager). This may ease any burden placed on the manufacturer to support the Bill requirements, it would also support the growth of local repair services and businesses.

We support this.

3.3.1.3 On-site repairs and local repair facilities and spare parts

The current wording of proposed new s 12(1)(a) would allow a manufacturer to locate repair facilities and spare parts overseas. This is likely to extend the time required for repair and discourage consumers from pursuing a repair.

We recommend amending the provision to require spare part supply and repair facilities to be located in New Zealand.

If a consumer is unable to return faulty goods to a manufacturer's repair facility for reasons such as the nature, size and weight of the goods, the consumer should be able to demand on-site repair. However, proposed new s 12(1)(a) does not currently accommodate this.

We recommend the provision is amended to require a manufacturer to support on-site repair for goods when those goods cannot reasonably be returned to a repair facility.

3.3.2 Manufacturers to provide on request diagnostic, repair and maintenance information, spare parts, software and other tools (proposed new ss 12(1)(b), 12(2) and 12(3))

3.3.2.1 Requirement on manufacturers to make their diagnostic, repair and maintenance information, spare parts, software and other tools available

Proposed new s 12 (1)(b) would require a manufacturer to make information, spare parts, software, and other tools available that "the manufacturer uses for diagnosing, maintaining, or repairing the goods". This should be read in conjunction with proposed new s 12(2), which specifies that:

a manufacturer is treated as using information, spare parts, software, and other tools for diagnosing, maintaining, or repairing goods, whether or not the diagnostics, maintenance, or repairs are undertaken by the manufacturer or by another party

The way proposed ss 12(1)(b) and 12(2) are currently drafted could be interpreted to mean that a manufacturer that does not currently diagnose, maintain or repair the goods (themselves or through a third party), does not need to make information, spare parts, software, and other tools more widely available. The practical implication would

therefore be that a manufacturer that currently does not support repair would not have to take steps to support repair if this provision was enacted as currently drafted.

We recommend amending proposed new ss 12(1)(b) and 12(2) to clarify that manufacturers of products covered in the Product Specification Schedule are not excluded from the requirements of s 12(1)(b) if they do not currently support repair. For example, s 12(1)(b) could be amended to insert the underlined text in italics below:

... any information, spare parts, software, and other tools that the manufacturer uses for diagnosing, maintaining, or repairing the goods, or which the manufacturer develops in order to fulfil their obligations to support repair.

Proposed new s 12(2) could be amended to insert the underlined text in italics below:

For the purposes of this section, a manufacturer is treated as using information, spare parts, software, and other tools for diagnosing, maintaining, or repairing goods, whether or not the diagnostics, maintenance, or repairs are undertaken by the manufacturer or by another party, and whether or not the diagnostics, maintenance, or repairs are undertaken with the knowledge of the manufacturer.

3.3.2.2 Time period during which manufacturers are responsible to provide diagnostic information etc.

There is no time period specified during which the responsibility of manufacturers to share the materials specified in proposed new s 12(1)(b) would last, with the exception of spare parts, which proposed new s 12(1)(a) states must be available “for a reasonable period after the goods are so supplied”. Not specifying a time period for this responsibility will create uncertainty for both businesses and consumers.

We recommend proposed s 12(1)(b) is amended to insert a minimum time period during which manufacturers would be expected to provide the information and materials specified for each of the products listed in the Product Specification Schedule.

3.3.2.3 Diagnostic information etc. only required to be provided on consumer request

As currently drafted, manufacturers need only provide diagnostic, maintenance and repair information, parts, tools or software on the request of consumers who purchased the goods, and are permitted to take up to 20 working days to fulfill the request (proposed new ss 12(1)(b) and 12(3)). If these provisions were enacted as currently drafted, we foresee the following issues:

- Independent repairers and owners of secondhand goods would not be entitled to request information, parts, tools or software, only affected consumers.
- Making provision of information contingent on consumer requests is inefficient, burdening the consumer, as well as placing an unnecessary burden on manufacturers to respond to each individual request.
- Allowing up to 20 working days for a manufacturer to supply these resources creates a significant barrier to repair that is likely to result in many consumers choosing not to pursue their rights.

We recommend removing “upon request of the consumer” in proposed new s 12(2)(b) and deleting proposed new s 12(3) entirely.

In addition, we recommend amending s 12(1)(b) to replace “provide the consumer” with alternative wording that requires manufacturers to pro-actively publish the defined repair resources in s 12(1)(b). Right to Repair legislation in the UK and US has resulted in manufacturers providing an online resource for repair information, tools, parts and software, creating a resource accessible by all consumers and independent repairers.

3.3.3 Fees for the provision of information, spare parts and other repair resources (proposed new ss 12(4) and 12(5))

We support proposed new s 12(4) as currently drafted as we think it is reasonable to require digital copies of repair information to be provided free of charge, and to allow a reasonable fee to be charged for paper copies.

In relation to proposed new s 12(5), we agree it is reasonable to allow a manufacturer to charge a fee for spare parts, software, and other tools and to cap this fee as “no more than the manufacturer charges any other person” (as stated in proposed new s 12(5)(b)). Practically, we expect this will be the fee a manufacturer charges its ‘authorised repairers’. However, we think that a “reasonable estimate of the net percentage profit the manufacturer earns for selling diagnostic, maintenance and repair services” (proposed new s 12(5)(a)) is unnecessarily complex. It is unclear how this profit would practically be assessed. Enforcement of the CGA relies on individual consumers asserting their rights, and it is unrealistic to expect a consumer to know if the manufacturer is overcharging or not, based on this calculation.

We recommend deleting proposed new paragraph s 12(5)(a).

3.3.4 Provision of repair resources and intellectual property (proposed new s 12(6))

Proposed new s 12(6), which would make the provision of repair resources subject to intellectual property, could severely limit the operation of the Bill. The section would mean that even if a manufacturer refused to hand over a manual claiming (correctly) it had copyright in the manual, if the consumer went to the Disputes Tribunal or a Court, the Tribunal or Court could not order the manufacturer to hand over the information. Some manufacturers are likely to use this proposed section as a reason not to provide repair information as well as tools, parts and software. Toshiba, for example, in 2012 threatened to sue an Australian blogger for copyright infringement if he did not remove Toshiba service manuals for laptops from a website containing an archive of service manuals for laptop computers.²⁷

We recommend deleting proposed s 12(6) in its entirety.

3.3.5 Consumer rights of redress against non-complying manufacturers (proposed new s 12(7))

3.3.5.1 Providing manufacturer contact details

Proposed new s 12(7) states:

Part 3 gives the consumer a right of redress against the manufacturer where the goods fail to comply with the guarantee in this section.

The definition of “manufacturer” in the CGA includes importers and distributors of the product that may not share a business name with the product. It may not be clear to a consumer which business is considered to be the “manufacturer”. If consumers aren’t able to easily contact manufacturers, then the regime will not be effective.

We recommend inserting a provision into proposed new s 12(7) that would require manufacturers to publish their contact details in, or on, the packaging of goods included in the Product Specification Schedule and to prominently disclose these details on their websites.

3.3.5.2 Expanding the scope of the Commerce Commission

Currently, the Commerce Commission has no jurisdiction to bring legal actions for breaches of the CGA, with the exception of addressing misrepresentations regarding

²⁷ Simon Sharwood (2012) *Tech support blog removes Toshiba manuals after legal letter*, The Register, 12 November 2012 https://www.theregister.com/2012/11/12/toshiba_orders_blogger_to_remove_manuals/

consumer rights under the CGA (the Fair Trading Act, s 13(i)). To enhance monitoring and enforcement, the jurisdiction of the Commerce Commission should be expanded.

We recommend including a new clause in the Bill that would amend the Fair Trading Act to allow the Commerce Commission to take enforcement action against a manufacturer for failing to comply with guarantee as to information, repairs and spare parts provisions of the CGA.

Without the ability of the Commerce Commission to enforce the right to repair, the right to repair regime may not be effective as manufacturers would not face any penalties for failing to comply with the right to repair requirements. Instead, the regime would rely on consumers taking manufacturers to the Disputes Tribunal and occasionally the District Court, for failing to comply with their obligations. Even though consumers can take legal action, many hesitate, due to a lack of awareness of their rights and the time and cost of going to the Disputes Tribunal. Going to court involves considerably more time, effort, and costs. Also, even if the consumer is successful, the remedies the consumer are entitled to are limited to at the most the value of the goods, repairing or replacing the goods and/or loss or damage arising from the failure which was reasonably foreseeable as liable to result from the failure.²⁸

3.4 Clause 6: Proposed amendment to s 14 of the CGA relating to express guarantees

Clause 6 of the Bill proposes to amend s 14 of the CGA, which relates to express guarantees, by inserting a new paragraph (4), which would effectively prevent a manufacturer from voiding a warranty if the goods are repaired by other repairers (including the consumer) using non-authorised parts.

We strongly support the insertion of proposed new paragraph s 14(4) into the CGA.

3.5 Clause 7: Proposed addition of s 19A into the CGA to create right for consumers to request to repair

3.5.1 Empowering consumer to request repair over replacement

Clause 7 of the Bill would add a new s 19A into the CGA after the existing s 19, which would allow a consumer to request that a supplier repairs goods rather than replacing them. The supplier would need to fulfil this request within a reasonable time and, if it cannot do so, the consumer may accept a replacement, have the goods repaired

²⁸ Consumer Guarantees Act 1993, s 27.

elsewhere at the supplier's expense, or reject the goods in accordance with s 22 of the CGA. Essentially, proposed new s19A would place the obligation to repair goods on the supplier, which is in line with a supplier's broader obligation to remedy faulty goods in s 19 of the CGA.

We support the inclusion of s 19A and have some suggestions about how it could be further improved, below.

3.5.2 Request to repair secondhand goods

As currently drafted, proposed new s 19A would apply to new and secondhand goods, so it extends the obligation to pursue repair as a remedy for faulty goods to suppliers of secondhand goods. This may create an unnecessary burden on these suppliers, many of which are charitable organisations or non-profit businesses. An unintended consequence of proposed new s 19A applying to secondhand goods would be to reduce the viability of the secondhand goods market, as it may cost more to repair a second hand good than what the good was sold for.

One exception would be motor vehicle dealers as motor vehicles, whether new or used, are a significant purchase for many consumers (so much so that a specialised Tribunal (the Motor Vehicle Disputes Tribunal) has been established and the majority of cases it deals with are cars purchased second hand).

We recommend inserting a new paragraph into proposed s 19A that would expressly exclude application of the section to used goods, with the exception of used motor vehicles.

3.5.3 Time taken to repair goods following a request (proposed new s 19A(2))

Under proposed new s 19A(2), a supplier must repair goods in a reasonable time. However, we think it is also important to provide a consumer with an estimate of the time required to repair, as soon as is practical. This allows the consumer, who currently has a faulty product, to choose to accept the supplier's repair or, if they consider the time estimated to be unreasonable, to pursue their own repair (at the expense of the supplier), or accept a replacement product. Furthermore, the supplier must complete a repair within the time estimate provided. If repair is delayed, it must be communicated to the consumer as soon as possible. If the repair delay is unreasonable, the consumer can choose to pursue their own repair (at the expense of the supplier) or accept a replacement.

We recommend inserting a provision after proposed s 19A(2) that would require a supplier to:

- **provide an estimate of repair time within 5 working days of receiving a request to repair from a consumer.**
- **communicate any delay in repair time to the consumer as soon as possible after the supplier is aware of the delay, allowing the consumer to choose to continue with the repair or pursue an alternative remedy.**

3.5.4 Suppliers should not charge consumers for assessing or repairing a faulty product

There are many cases of suppliers charging a consumer a fee to assess a faulty product for claims under the CGA. The supplier should not be able to charge the consumer an assessment fee or otherwise pass on any costs incurred when assessing a product for repair, providing a repair time estimate, or after a repair is completed or abandoned. The supplier, as the business obligated to remedy a faulty product, should be liable for all costs incurred in the repair.

We recommend inserting a provision into proposed new s 19(A) that prohibits a supplier from passing on, or attempting to recover, from the consumer, any costs incurred while assessing a product for repair or during a repair (whether that repair is successful or unsuccessful). This new provision should also be enforceable by the Commerce Commission.

3.6 Clause 9: Proposal to repeal s 42 of the CGA: Exception in respect of repairs and parts

Clause 9 of the Bill proposes to repeal s 42 of the CGA that currently allows manufacturers to opt-out of their obligation to provide repairs and spare parts if they notify the consumer when they first acquire goods from the supplier that they do not undertake to make repair facilities or spare parts available.

We strongly support the repeal of Section 42, removing the ability of a manufacturer to opt out of providing repair facilities or spare parts.

4. Additional legislative considerations for Motor Vehicles

Motor vehicles are not included in our recommended Product Specification for this Bill.

Motor vehicles are highly complex and specialised equipment, with the majority of modern vehicles maintained and repaired by trained experts. We do not think it is feasible to extend highly technical motor vehicle diagnostic and repair information, software and tools to unskilled consumers.

In a 2019 report, the Australian Treasury Department recognised the need for better access to motor vehicle repair by independent mechanics, to lower the cost of maintaining and repairing vehicles. The findings and recommendations of the report are summarised by Wiseman, Kariyawasam and Davey in a 2020 paper.²⁹ A significant finding was that manufacturers were not sharing the technical information and tools required to maintain and repair vehicles with independent repairers, and were using copyright in the form of Technological Protection Measures (TPMs) to prevent vehicle owners and independent mechanics from accessing a vehicle's electronic control mechanisms. In 2021, the Australian Treasury Department's work resulted in the *Competition and Consumer Amendment (Motor Vehicle Service and Repair Information Sharing Scheme) Act*, which amended Australia's Competition and Consumer Act 2010.

This Australian scheme created a mechanism for manufacturers to share repair resources with qualified independent motor vehicle mechanics and be able to charge a reasonable amount for information, tools and software. The scheme is considered a success, with the repair market seeing a significant shift to independent mechanics.³⁰

The scheme is backed by strong enforcement by the ACCC. Honda was fined A\$18,780 in 2024 for a minor breach of the requirements,³¹ (Honda only allowed independent mechanics to subscribe to its repair resources on an annual basis, rather than daily or monthly).

We recommend New Zealand adopts motor vehicle legislation based on the successful Australian Act. Adopting such a scheme would complement this Bill, targeting the specific repair requirements of the motor industry. The scheme should be contained in the Fair Trading Act 1986 and not the CGA.

This legislative approach could also be extended to include agricultural equipment, as a similar type of complex product to motor vehicles. Establishing this legislation outside of the CGA, such as in the Fair Trading Act, would ensure it applies to commercial goods, such as tractors, rather than those usually acquired for personal, domestic or household use.

²⁹ Leanne Wiseman et al (2020) *The Mandatory Repair Scheme for Motor Vehicles 2019: Australia's First Response to the International Right to Repair Movement?* 48 ABLR 218. <http://hdl.handle.net/10072/398350>.

³⁰ Andy Hur & Terry Kokkinos (2024) *Right to Repair Legislation: 3 Years On* (Macpherson Kelley, 6 August 2024), <https://mk.com.au/right-to-repair-legislation-3-years-on/>.

³¹ Australian Competition & Consumer Commission (2024) *Honda pays penalty for alleged breach of car service and repair information sharing scheme*, 16 September 2024, <https://www.accc.gov.au/media-release/honda-pays-penalty-for-alleged-breach-of-car-service-and-repair-information-sharing-scheme>.

5. Arguments against the Bill

5.1 Increasing cost of goods

A criticism of the Bill is that it will impose an additional cost onto manufacturers and suppliers that will be passed on to consumers through increased product prices. We consider this assumption to be oversimplified and not backed by evidence.

In communication with the Right to Repair Aotearoa Coalition in 2024, the Restart Project (therestartproject.org) and the Right to Repair Europe coalition (repair.eu) reported there has been no impact on prices from legislation passed in the UK in 2021. They added that “changes in prices of new products are the results of multiple factors, so it would be hard to draw a cause/effect specifically on design for repairability, or repair consumer rights”.

Market complexity means it is impossible to prove that Right to Repair legislation has caused price increases, so the argument put forward as criticism of the Bill instead draws on limited modelling and assumptions of increased business costs.

5.1.1 Economic modelling

At the Bill’s First Reading, a National MP quoted a research paper summarised in the Harvard Business Review as evidence of unintended consequences of Right to Repair legislation that showed prices of low priced goods reduce (to flood the market) and prices of high priced goods increase.

The paper³² described an economic model of how a manufacturer already offering repair, operating with a monopoly, responds to right to repair legislation that supports the growth of independent repair services. The authors expanded their work in a second paper³³ that modelled two competing manufacturers already offering repair.

Both models simulated very specific market conditions that don’t represent the New Zealand market for products that will be affected by the Right to Repair Bill. Goods covered by the CGA don’t have monopoly or duopoly manufacturers who also offer repair services for their products. The conclusions of these papers are therefore irrelevant in the context of this Bill.

³² Jin, C. et al (2022) *Right to Repair: Pricing, Welfare, and Environmental Implications*, Management Science 69(2). <https://doi.org/10.1287/mnsc.2022.4401>.

³³ Yang, L. et al (2024) *Right to Repair and Competition in Durable Goods Markets*, Available at SSRN: <https://ssrn.com/abstract=4854543> or <http://dx.doi.org/10.2139/ssrn.4854543>.

In 2016, the EU modelled the effect of the Right to Repair legislation on product prices in the report: “Study on socioeconomic impacts of increased reparability of increased reparability”.³⁴ The report’s analysis predicted a negligible increase of between 0.1% and 0.8% on the price of appliances. The EU’s study concluded that consumers were likely to see an annual cost of ownership increase of less than one Euro when all ownership costs were taken into account.

In contrast, in April 2024, the European Commission, in its most recent Right to Repair Directive,³⁵ declared that EU consumers lose around 12 billion euros annually by replacing products rather than repairing them. Thus consumers are better off repairing rather than replacing goods.

5.1.2 Business costs of repair

Some opponents of the Right to Repair state that manufacturers and suppliers will see costs increase.

The Bill removes the ability of a manufacturer to opt out of ensuring repair facilities and parts are available. It also extends the obligations to supply repair information, tools and software used to diagnose and repair faults to consumers. Manufacturers that currently rely on the opt-out clause will need to ensure repair facilities and a mechanism for parts supply, and most manufacturers will need to create a process to share diagnostic and repair information, tools and parts with consumers. However, this does not need to be self-managed – the manufacturer can partner with third parties to fulfill their CGA obligations (as evidenced by manufacturers using iFixit.com as a parts and repair information hub in the US).³⁶

The Bill requires suppliers to attempt to repair faults if a consumer requests it (rather than replace or refund the product). The CGA already places obligations on suppliers to provide remedies for faulty products. Many suppliers choose to repair minor faults, rather than replace an entire product. This suggests that making minor repairs is a more cost-effective way to remedy faults than replacing the product.

The additional obligation on a supplier to repair more faults, at the request of the consumer, may mean an incremental increase on overall repair costs, with some repairs

³⁴ Monier, V., Tinetti, B., Mitsios, A. et al. (2016) *Study on socioeconomic impacts of increased reparability of increased reparability: final report*. (Corporate authors: European Commission, Deloitte, Directorate-General for Environment, ICF GHK, SERI, Publications Office of the European Union). <https://data.europa.eu/doi/10.2779/463857>.

³⁵ European Parliament (2024) *Right to repair: Making repair easier and more appealing to consumers* (Press release, 23 April 2024), <https://www.europarl.europa.eu/news/en/press-room/20240419IPR20590/right-to-repair-making-repair-easier-and-more-appealing-to-consumers>.

³⁶ <https://www.ifixit.com/collaborations>

costing more than the alternative product replacement or refund. For some products, it may be reasonable not to attempt repair (for example, in a case where the supplier knows parts required are unavailable, or the product is designed to make repair practically impossible). The CGA relies on both parties accepting what is reasonable - and in some cases, repair will not be a reasonable option, in which case a refund or replacement can be offered.

Manufacturers and suppliers already need to account for faulty products returned under the CGA or the express warranties offered, which is a cost to their businesses. Many choose to replace or refund faulty products, no matter how repairable the fault might be, because it is the easiest and quickest option, especially as spare parts are often unavailable or because the product is manufactured overseas. The business incurs the entire cost of the replacement product, plus additional costs to dispose of the faulty product (usually by contracting a waste disposal or recycling business).

Supporting more repair means fewer faulty products are likely to be returned for a full refund or replacement, and fewer will need to be disposed of. The cost of supporting repair will increase, but this is likely to be offset by a reduction in other costs of fulfilling CGA obligations for faulty products. Supporting repair is not necessarily an additional cost, but a diversion of funds already set aside for potential product faults.

5.1.3 Fewer purchases by consumers mean products cost less overall

The Bill primarily affects faulty products subject to a CGA claim. That is, products within the bounds of age and use that are expected to be of acceptable quality (durable and free of defects). Costs to remedy these faults will be borne by the manufacturer and supplier. However, the Bill will also have an impact beyond the period of acceptable quality. Owners of older or more heavily used products are likely to be able to access better repair information and will benefit from the resulting growth in independent repair facilities.

Repair extends the use of products and results in lower spending overall by consumers as they do not need to buy replacement products as frequently. The aim of the Right to Repair movement is to make repair easier to access and cheaper for all consumers. This Bill takes a step towards that by targeting the period of ownership where manufacturers and suppliers already have obligations to provide remedies for product faults, but it will have benefits that stretch beyond the CGA, to save consumers money.

5.2 Safety

A criticism of the Bill (and Right to Repair in general) is that enabling more DIY repairs of electrical appliances will create a safety problem for consumers attempting repair and resulting repairs not being up to standard.

We have not found any evidence to support this claim. Furthermore:

- The Bill does not amend existing product safety or electrical safety requirements. New Zealand legislation allows consumers to repair many of the electrical appliances they own or on behalf of a family member.³⁷ Without support from a manufacturer, a consumer has to rely on third-party advice of unknown quality or from overseas where the context may be different (such as the lower household voltage in the USA) via videos on YouTube, for example. A consumer with access to better repair advice from the manufacturer, with country specific information, will result in more, not less, safety. In addition, the manufacturer may choose to make it clear what is safe to repair and what repair should only be undertaken by an expert (such as a qualified electrician or electrical appliance serviceperson with a current license).
- Many repairs will concern non-electrical products or will be mechanical repairs on electrical products, which have no relevance to electrical safety. These repairs often do not need a skilled repairer, and are prevented by the unavailability of simple spare parts.
- The Bill amends the CGA, so the vast majority of repairs it enables will be the responsibility of the supplier and manufacturer. It is unlikely that a consumer would choose to personally repair a fault when the legislation clearly makes it the responsibility of the supplier. If the consumer does choose self-repair, it is likely to be a repair of a simple fault enabled by repair resources provided by the manufacturer under the new Section 12.
- We agree that having access to repair resources from manufacturers will enable more repairs to be completed on products not subject to a CGA claim – this intention of the Bill aligns with the global Right to Repair movement. To protect consumers and manufacturers and ensure consumers can use skilled repairers where necessary, manufacturers must be required to make repair resources available to all consumers and independent repair experts (a change we recommended to Section 12).

³⁷ Worksafe (2017) *Doing your own electrical work* <https://www.worksafe.govt.nz/managing-health-and-safety/consumers/safe-living-with-electricity/getting-electrical-work-done/doing-your-own-electrical-work/>.

The Bill encourages the growth of skilled independent repair businesses. Suppliers (by providing repair as a remedy for a product fault), manufacturers (by using third-parties to manage repair facilities and parts) and consumers (by sourcing expert repairers of their choice) will create demand for skilled local repairers. Relevant qualifications for these repairers already exist in New Zealand, including qualified electricians and Electrical Appliance Service people.³⁸

5.3 Intellectual Property

As discussed in 3.3.4 *Provision of repair resources and intellectual property (proposed new s 12(6))*, we have recommended that the proposed s 12(6) be deleted as it may undercut Bill's effectiveness. Overseas some manufacturers have attempted to stall the passing of Right to Repair legislation by arguing that their intellectual property rights will be infringed by the Right to Repair.³⁹ For example, providing manuals will infringe their copyright in their manuals and also may contain trade secrets.

The issue of intellectual property rights and the Right to Repair is understandably a contested issue. Grinvald and Tur-Simai in "Intellectual Property and the Right to Repair" in 2019 in the *Fordham Law Review* argued that "intellectual property laws should not be used to prevent a right to repair from being fully implemented".⁴⁰

Indeed, the Library of Congress in the United States has granted consumers and repairers an exception so they can repair their smartphones and other electronics without infringing copyright.⁴¹ The exception is needed because circumventing digital locks, such as passwords, to repair smartphones and other goods, bypasses technological protection measures and infringes copyright.

³⁸ Electrical Workers Registration Board (n.d.) *Electrical Appliance Serviceperson*
<https://www.ewrb.govt.nz/registration/registration-new-zealand-experience-pathway/electrical-appliance-service-person/>.

³⁹ City Law Forum(2024) *Right to Repair and Intellectual Property*.
<https://blogs.city.ac.uk/citylawforum/2024/07/08/right-to-repair-and-intellectual-property/>

⁴⁰ Grinvald, Leah Chan and Ofer Tur-Sinai (2019) *Intellectual Property Law and the Right to Repair*.
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⁴¹ Hamza Shaban (2018) *Right to repair advocates claim major victory in new smartphone copyright exemption*, Washington Post, 26 October 2018
<https://www.washingtonpost.com/technology/2018/10/26/right-repair-advocates-claim-major-victory-new-smartphone-copyright-exemption/>

In 2024, Canada amended its Copyright Act with an Act to amend the Copyright Act (diagnosis, maintenance and repair),⁴² which creates an exception for bypassing a technological protection measure for the purpose of repair.

New Zealand's Copyright Act 1994 also makes circumventing passwords to repair products illegal (see sections 226 - 226E Copyright Act 1994). Yet, there is no exception for circumvention for repair in New Zealand, with the penalty being a fine of up to \$150,000 or up to 5 years in prison or both.⁴³ New Zealand should follow the lead of the United States, and particularly Canada, and amend the Copyright Act 1994 by creating an exception for bypassing a technological protection measure for the purpose of repair.

⁴² An Act to amend the Copyright Act (diagnosis, maintenance and repair), S.C. 2024, c. 26 (Canada) https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2024_26/page-1.html

⁴³ See Alex Sims and Trish O'Sullivan (2023) *Too many products are easier to throw away than fix – NZ consumers deserve a 'right to repair'*, <https://theconversation.com/too-many-products-are-easier-to-throw-away-than-fix-nz-consumers-deserve-a-right-to-repair-216334>

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