

## CECRA booklet on the ‘tangible goods’ proposal

Over the past 2 years CECRA, the sole European association representing the automotive dealers and repairers, has been following very closely the legislative work of the European Commission and the European Parliament to introduce new harmonised contract rules for the sales of tangible goods.

Despite the original title, which was referring to online and other distance sales only, and that could have suggested a certain distance from the current automotive dealers’ area of interest - today’s European automotive dealers and repairers sales model is still predominantly local and face-to-face (rather than cross-border and online) - CECRA’s members had immediately recognised the importance of being actively involved in this legislative process. CECRA sensed the possibility that the application of those rules would, at some point, have been extended to the off-line sales world too. Along with many other European business associations (most MEPs and the Council of the EU) we have called for that and we are now glad to see that the European Commission has eventually welcomed our request in the amended proposal for a Directive concerning contracts for sales of goods recently launched (COM(2017) 637 final).

CECRA agrees with the declared intention of the European Commission to take all the necessary steps to prevent discrepancies between different national legislations and between different sales channels and ensure that both businesses and consumers can rely on a single and coherent set of rules, however we are firmly convinced that such a harmonisation cannot be reached to the detriment of one of the two contracting parties, namely the business. The interests of both businesses and consumers must be equally taken into account and, to this extent, a fair legislative balance is of utmost importance.

Over the past 2 years CECRA has extensively and repeatedly expressed its suggestions for a fair and balanced directive. Hereunder we have summarised our main requests in the table.

Measure	Suggested Content*	Suggested level of harmonisation**
Reversal of Burden of Proof	6 months – 25 MS	Maximum harmonisation
Legal Guarantee	2 years – 21 MS	Maximum harmonisation
Legal Guarantee / 2 <sup>nd</sup> hand goods	1 year – 17 MS	Maximum harmonisation
Notification duty	Yes – 2 months (15 MS)	Maximum harmonisation
Minor defect	No – 22 MS	Maximum harmonisation
Hierarchy of remedies	Yes – 25 MS	Maximum harmonisation

\* The suggestions are based on the standards already applied in the majority of EU Member States

\*\* Provided that the suggested content is implemented

If you want to learn more about our position on the topics mentioned in the table as well as other very important topics such as ‘right of redress’, ‘lifespan guarantee’, etc., we invite you to go through the following documents:

- CECRA position on a Commercial Guarantee for Lifespan (July 2017)
- CECRA paper: ‘A commercial lifespan guarantee would jeopardize competition in the car-repair market’ (Sept 2017)
- CECRA position on the Proposal for a Directive of the European Parliament and of the Council on certain aspects concerning contracts for the online and other distance sales of goods (May 2016)
- CECRA position on the Arimont Report + the IMCO amendments (March 2017)



# Position Paper

## Commercial Guarantee for Lifespan

July 2017

We do not see any positive effect stemming from the introduction of a commercial guarantee for lifespan.

We see, on the contrary, a series of potential drawbacks:

**1. Difficulties in getting reimbursed by manufacturer/importer:** due to the structural dependency that characterises their relationship with the brand manufacturer/importer, dealers and authorised repairers often face difficulties in getting reimbursed by the manufacturer/importer when a repair is performed under the legal guarantee. In some countries, the situation is even worse, due to the absence of a structured and effective right of redress.

But even when the manufacturer/importer does not contest the reimbursement of the work performed, this reimbursement never includes a profit for the dealer or authorised repairer. As the dealers/authorised repairers are obliged to perform the repair under the legal guarantee, they do not earn money during the hours spent on these interventions. The current situation could only get worse if the period for repairs under guarantee was lengthened with a commercial lifespan guarantee.

**2. Competition issue on the aftersales market:** because of manufacturers'/importers' commercial policies, repair and maintenance interventions under the legal guarantee period are exclusively performed by dealers and authorised repairers. These policies result in the prevention for independent repairers from performing any repair or maintenance work during the period of legal guarantee. It is a temporary suspension of free market competition which can be somehow justified with the legitimate will of manufacturer/importer to provide the customer with a brand consistent and standardised level of service. Nevertheless, an extension of the guarantee period to the entire lifespan of the vehicle, would inevitably result in an extension of this nocompetition zone along the entire vehicle lifespan, and the consequent ejection of thousands of independent repairers from the European market.

**3. Lower incentive for independent retailers to enter the 2nd hand car market:** if the commercial lifespan guarantee had to follow the vehicle during its entire life, this would prevent independent automotive retailers to enter the 2nd hand car market.

As they do not have any contractual linkage with the manufacturer/importer, independent operators would face even bigger challenges to get reimbursed in case of repair under the lifespan guarantee on a used car that they have bought and resold for purely commercial purposes.

**4. Lack of legal certainty:** despite some attempts made, for example in the Netherlands, to pre-define the expected lifespan for some categories of product, it is extremely difficult (if not impossible) to say in advance how long will be the reasonable expected lifetime for each car model and for each part or component. Moreover, in the case of cars, many other factors, such as weather conditions, driver behaviour



and quality of maintenance also influence the expected lifespan. This clearly makes any prediction on the expected lifespan of a vehicle unreliable, and paves the way to a case-by-case approach, and judicial mistakes, in case of legal disputes.

In Finland, the Consumer Disputes Board has not succeeded to define a common acceptable life span for crucial parts of vehicles (e.g. engine, timing belt, timing chain, fuel system, battery and charging system). This has led to a situation where same cases can lead to different compensations. This makes the system unequal and unpredictable to consumers.

## **ABOUT CECRA**

CECRA is the European umbrella association of the motor trade and repair sector representing the interests of both, franchised vehicle and truck dealers and independent repairers. In Europe there is a total of 46,720 vehicle and truck dealers and 290,000 repairers. Those – predominantly small and medium-sized – companies employ approximately 2.9 million people being responsible for the sale of almost 16 million new vehicles a year as well as the repair and maintenance of the 228 million existing passenger vehicles and 38.5 million commercial vehicles. Thus it is ensured that vehicle users in Europe can rely on a network of qualified experts for the purchase and maintenance of their vehicles.



## Paper

### A commercial lifespan guarantee would jeopardize competition in the car-repair market

September 2017

In view of the upcoming discussion and vote of the Arimont report on contracts for the online and other distance sales of goods - 2015/0288 (COD), CECRA (the European Association of Motor Vehicle Dealers and Repairers) would like to share with you its position on the proposed Commercial Guarantee for Lifespan.

During the recent impact assessment, carried out by CEPS (Centre for European Policy Studies), we had the opportunity to deeply analyse the commercial guarantee for lifespan. After having extensively consulted our members, we ended up warning against the introduction of such a form of guarantee.

The reasons of our disagreement towards the possible introduction of a commercial guarantee for lifespan are numerous (1. difficulties for authorized dealers/repairers in getting reimbursed by manufacturer/importer for the repair work under guarantee, 2. lower incentive for independent retailers to enter the 2nd hand car market) but the main reason has to do with the lively competition that animates the European motor vehicle maintenance and repair market, which represents a major source of benefit for European consumers (drivers).

The European motor vehicle maintenance and repair market is a very competitive one:

- Number of enterprises: 461,556 (EU 28 - 2014) – Source *EUROSTAT*
- Number of persons employed: 1,468,149 (EU 28 - 2014) – Source *EUROSTAT*

The share between authorized and independent operators varies depending on the country:

- Poland à 30% authorized – 70% independent
- UK à 34% authorized – 66% independent
- Spain à 38% authorized – 62% independent
- France à 48% authorized – 52% independent
- Germany à 49% authorized – 51% independent – Source *‘The European Automotive Aftermarket Landscape’* Boston Consulting Group – 2012

With their large presence across the main European markets, independent operators contribute to keep vehicle maintenance and repair prices at a reasonable level.

In the automotive industry (differently to what happens in other industry), due to manufacturers’/importers’ commercial policies, vehicle repair and maintenance interventions under the legal guarantee period are exclusively performed by dealers and authorized repairers.



These policies result in the prevention for independent repairers from performing any repair or maintenance work during the period of legal guarantee.

It is a temporary suspension of free competition which can be somehow justified with the legitimate will of manufacturer/importer to provide the customer with a brand consistent and standardized level of service. Source *'The Natural Link between Sales and Service - An investigation for the Competition Directorate-General of the European Commission'* – 2000.

Nevertheless, an extension of the guarantee period to the entire lifespan of the vehicle, would inevitably result in an extension of this no-competition zone along the entire vehicle lifespan, and the consequent ejection of thousands of independent repairers from the European market.

With a view to protect the existing freedom of European consumers (drivers) to choose between the branded and the independent networks for the maintenance and the repair of their vehicles, a lifespan guarantee system, as proposed by some MEPs, is to be avoided categorically.

With this message, CECRA wants to make sure that these peculiar implications on competition, freedom of choice and prices in the automotive sector are duly taken into account by the European legislator before going any further with a lifespan guarantee.

If a lifespan guarantee scheme were to be adopted, the scope of sectors to be covered by the new scheme should be thoroughly assessed before implementation.

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## Position Paper

### Contracts for the online and other distance sales of goods (COM(2015)0635 – C80391/2015 – 2015/0288(COD)) – Arimont report [PE593.817v03-00]

#### Request for support from CECRA (the European Council for Motor Trade and Repair)

Explaining the rationale behind certain amendments in two categories:

1. Amendments for which we kindly solicit your support
2. Critical amendments for which we kindly solicit your rejection

March 2017

#### **1. Amendments for which we kindly solicit your support:**

A core prerequisite for all amendments is a clear distinction between new and second-hand goods with a possibility to ease the legal rules for second-hand goods.

1.1. Delete the right to terminate the contract for ‘minor’ lack of conformity 1.2. Lay down a reasonable period of reversal of burden of proof 1.3. Keep a clear distinction between new and second-hand goods when it comes to guarantee 1.4. Ensure an effective seller’s right to redress when lack of conformity results from acts or omissions of a person in earlier links of the chain 1.5. In case of replacement of a defective good, introduce a consumer’s duty to compensate the seller for the use made in the period prior to the replacement, when the use thereof can lead to a loss of value 1.6. Make sure that the reimbursement of the price to the consumer will be compulsory after the seller received the goods

#### **2. Amendments for which we kindly solicit your rejection:**

2.1. Delete the right to terminate the contract for ‘minor’ lack of conformity 2.2. Lay down a reasonable period of reversal of burden of proof – avoid legal uncertainty 2.3. Keep a clear hierarchy among the remedies 2.4. Avoid a duty to replace the goods at the place where the goods are situated 2.5. Lay down a reasonable period of legal guarantee – avoid legal uncertainty 2.6. Avoid a restart of the legal guarantee period in case of remedies



## 1. Amendments for which we kindly solicit your support:

### **1.1. Delete the right to terminate the contract for ‘minor’ lack of conformity Amendment n. 176 (Recital 29) Amendment n. 177 (Recital 29) Amendment n. 178 (Recital 29) Amendment n. 181 (Recital 29) Amendment n. 17 (Recital 29)**

Delete the right to terminate the contract for ‘minor lack of conformity: According to the proposal, the consumer shall have the right to terminate the contract even in cases where the lack of conformity is minor. Turning away from the present provision under the Consumer Sales Directive 1999/44/EC is, from our point of view, not acceptable. Especially in the motor trade and repair sector – due to the high level of technical complexity of the vehicles – it is possible that minor production-related series deviations occur from time to time which cannot - or only when involving disproportionate efforts - be removed by the motor trade and repair company, i.e. the seller of the vehicle. Examples include slight deviations of a bonnet’s gap dimensions. Building a consumer’s right of withdrawal based on these minor (and acceptable) deviations is not desirable and could significantly increase the risk of abuses from the consumers. If such a right was eventually established, we cannot exclude that the seller will try to compensate the unpredictable and incalculable risk by increasing the prices. Finally, such a kind of right would be in contrast with the general principles of sustainability.

Amendments n. 176, 177, 178, 181 and 17 all go in the same direction. However, amendment n. 176 which, based on sound argument, calls for a complete deletion of the whole Recital 29 is to be preferred in our view.

### **1.2. Lay down a reasonable period of reversal of burden of proof Amendment n. 42 (Article 8 a (new)) Amendment n. 282 (Article 8 – para 3) Amendment n. 283 (Article 8 – para 3)**

Lay down a reasonable period of reversal of burden of proof: We strongly reject the extension of the reversal of the burden of proof from six months to two years. It is in fact incomprehensible why this obligation shall be imposed on Member States, whilst 25 Member States – the vast majority – committed themselves in accordance with Directive 1999/44/EC to a period of six months and only three Member States extended this deadline recently. The legal framework should be harmonised based on the legal framework which is successfully put into practice by the majority of the Member States.

While within the first six months after the purchase of a product there is at least a slight likelihood that an occurring defect already existed at the time of purchase, this presumption will decrease considerably with every further lapse of time. The temporal extension of the reversal of burden of proof would inevitably cause an increase in conflicts between businesses and consumers regarding alleged material defects.

Aligning the deadline of the reversal of the burden of proof (even for second-hand products) with the two-year legal guarantee period would inevitably cause a significant displacement of risk at the expenses of the seller. Such a higher risk will inevitably have an impact on the seller’s pricing decisions.

In the light of the above, amendments 42, 282 and 283 should be preferred, as they keep the reversal of burden of proof at 6 months.

### **1.3. Need for a distinction between new and second-hand goods when it comes to guarantee Amendment n. 370 (Article 14 – para 1 a (new)) Amendment n. 371 (Article 14 – para 1 a (new))**

Need for a distinction between new and second-hand goods when it comes to guarantee: As already said, aligning the deadline of the reversal of the burden of proof with the two-year legal guarantee period causes a significant displacement of risk at the expense of the seller. This is particularly evident when selling used goods, such as used cars where the legal guarantee period is in practice predominantly reduced from 24 to 12 months.



Due to the lack of differentiation between used and new goods, the consumer benefits from a six-month reversal of the burden of proof when buying a used car, i.e. half of the period of the reduced guarantee period. This provision privileges the buyer (consumer) of used goods already today disproportionately although – as correctly highlighted in directive 1999/44 – the “quality and performance which consumers can reasonably expect will depend inter alia on whether the goods are new or second-hand”. An extension of the reversal of the burden of proof to 24 months, i.e. the entire period of the guarantee, would inevitably oblige motor trade and repair companies – and in particular SME – to find ways to compensate the increased risk of furnishing proof. We see 3 inevitable scenarios with regard to the second-hand car market: • No sales of older used cars to consumers • Sale of older used cars at significantly increased prices • Sale of older vehicles in name and on behalf of the customer (C2C transaction □ no consumer protection) In all these 3 scenarios the European consumer, and especially the less well-off ones, would “de facto” end up with a lower level of protection. Which is in contrast with the declared aim of the proposal, and even with the general interest of the EU.

In the light of the above, amendment 370, or alternatively 371, should be adopted.

#### **1.4. Ensure an effective seller’s right to redress when the lacks of conformity results from acts or omissions of a person in earlier links of the chain**

Amendment n. 390 (Article 16 – para 1) Amendment n. 389 (Article 16 – para 1) Amendment n. 391 (Article 16 – para 1)

Ensure an effective seller’s right to redress: As already provided for by Directive 1999/44/EC, where the final seller is liable to the consumer because of a lack of conformity resulting from an act or omission by the producer, a previous seller in the same chain of contracts or any other intermediary, the final seller shall be entitled to pursue remedies against the person or persons liable in the contractual chain or even against the manufacturer of the defective product in order to avoid liability barriers within the value chain (Example: A car dealer buys a second hand car from a consumer and sells this car to another consumer. If a defect occurs the dealer will not have the possibility to redress his costs).

The general aim of this measure is to ensure that all parties in the chain equally commit to ensure the conformity of goods with the contract to protect the consumer’s interest. In the meantime such a mechanism makes sure that the final seller does not end up paying the negative consequences of faulty acts or omissions committed by another person in earlier links of the chain. The suggested amendments have the merit to make this provision (which is simply a recommendation to the Member States) more precise and circumstantial.

Amendments n. 390, 389 and 391 all go in the same direction. However, amendment n. 390 has a clearer wording and should be preferred.

#### **1.5. In case of replacement of a defective good, introduce a consumer’s duty to compensate the seller for the use made in the period prior to the replacement, when the use thereof can lead to a significant loss of value**

Amendment n. 320 (Article 10 – para 3) Amendment n. 321 (Article 10 – para 3)

In case of replacement of a defective good, introduce a consumer’s duty to compensate the seller for the use made in the period prior to the replacement, when the use thereof can lead to a significant loss of value: The consumer, especially in an online purchase, should have time to test the nature, characteristics and operation of the product. Any use beyond such testing represents an economic added value for the consumer. At the same time, goods lose value through use. Leaving the consumer free of liability to pay for any use of the good made in the period prior to the replacement is economically unfeasible and favours the consumer to an extent that goes beyond the necessary consumer protection.



Both amendments 320 and 321 go in the direction of mitigating the right of replacement of a defective goods with the consumer's liability to compensate the seller for a use of the good that goes beyond the necessary testing period. However, amendment 320 is clearer and does not leave room for ambiguity. Therefore, it should be preferred.

#### **1.6. Make sure that the reimbursement of the price to the consumer will be compulsory after the seller received the goods**

Amendments n. 346 (Article 13 para 3 point a) Amendments n. 347 (Article 13 para 3 point a)

The reimbursement of the price to the consumer shall only be compulsory after the product has been received by the seller. The seller must have the possibility to monitor the products that have been sent back before he reimburses the price to the consumer. Otherwise it would be no longer possible to reduce the price to be repaid e.g. on the ground of loss of value.

In the light of the above, amendment 346, or alternatively 347, should be adopted.

## **2. Amendments for which we kindly solicit your rejection:**

### **2.1. Delete the right to terminate the contract for 'minor' lack of conformity**

Amendment n. 179 (Recital 29) Amendment n. 180 (Recital 29)

Delete the right to terminate the contract for 'minor lack of conformity': As explained above, turning away from the present provision under the Consumer Sales Directive 1999/44/EC is, from our point of view, not acceptable. Especially in the motor trade and repair sector – due to the high level of technical complexity of the vehicles – it is possible that minor production-related series deviations occur from time to time which cannot – or only when involving disproportionate efforts – be removed by the motor trade and repair company, i.e. the seller of the vehicle. Examples include slight deviations of a bonnet's gap dimensions. Building a consumer's right of withdrawal based on these minor (and acceptable) deviations is not desirable and could significantly increase the risk of abuses from the consumers.

Both amendments n. 179 and 180 leave the mentioned right to terminate the contract for minor lack of conformity unchanged, and should therefore be rejected.

### **2.2. Lay down a reasonable period of reversal of burden of proof – avoid legal uncertainty**

**Amendment n. 278 (Article 8 – para 3) Amendment n. 279 (Article 8 – para 3) Amendment n. 280 (Article 8 – para 3) Amendment n. 281 (Article 8 – para 3)**

Lay down a reasonable period of reversal of burden of proof – avoid legal uncertainty: As mentioned above, we firmly reject the extension of the reversal of the burden of proof from six months to two years. It is in fact incomprehensible why this obligation shall be imposed on Member States, whilst 25 Member States – the vast majority – committed themselves in accordance with Directive 1999/44/EC to a period of six months and only three Member States extended this deadline recently. The legal framework should be harmonised based on the legal framework which is successfully put into practice by the majority of the Member States.

While within the first six months after the purchase of a product there is at least a slight likelihood that an occurring defect already existed at the time of purchase, this presumption will decrease considerably with every further lapse of time. The temporal extension of the reversal of burden of proof would inevitably cause an increase in conflicts between businesses and consumers regarding alleged material defects.



Aligning the deadline of the reversal of the burden of proof with the two-year legal guarantee period, or going even beyond that, as proposed by some amendments (amendment n. 279 – 6 years), would inevitably cause a significant displacement of risk at the expenses of the seller. Car dealers would be forced to include this increased risk in their pricing policies.

Besides these general considerations, a separate remark is to be done with regard to the idea of bundling the period of reversal of burden of proof with the expected lifespan of the good. As already highlighted by several MEPs and the EC itself during one of the most recent IMCO debates, the use of the expected product's lifespan for determining the length of the reversal of burden of proof will likely lead to additional costs that both businesses and consumers would have to face in terms of increased legal uncertainty. In fact, while on the one hand the lifespan guarantee could be adapted in its length to the specificities of every single product, on the other hand this would inevitably generate uncertainty for both parties of the purchase contract. An evidence-based example of this loss of legal certainty is provided by the Dutch lifespan guarantee system, which, since its introduction, has already created a lot of discontent from both businesses and consumers.

In the light of the above, amendments n. 278, 279, 280 and 281 should be rejected.

### **2.3. Keep a clear hierarchy among the remedies**

Amendment n. 285 (Article 9 – para 1) Amendment n. 286 (Article 9 – para 1) Amendment n. 287 (Article 9 – para 1) Amendment n. 289 (Article 9 – para 1)

Keep a clear hierarchy among the remedies: From the car dealer's point of view a clear hierarchy between different remedies is important in order to ensure legal certainty. When setting his vehicles' prices, the dealer needs to know in advance what are the remedies and the options of consumers in case of lack of conformity. An unconditional consumer's freedom to choose without limitations a remedy suitable for him, as proposed by some MEPs, brings about a degree of uncertainty and can disproportionately damage the seller's rights. A clear hierarchy between remedies, currently in force in a vast majority of Member States, is the only way to protect the seller against the unpredictably negative consequences that could be inflicted on him through an arbitrary choice of the consumer to terminate the contract, even before having explored the possibility to repair or replace the defective good. The opportunity to cure after the failure to perform an obligation gives the seller in the case of non-performance an opportunity to perform his obligation. Such a balance between the consumer right to claim a remedy and the seller's right to bring the good into conformity is in line with the 'pacta sunt servanda' principle as well as with a more environmentally sustainable view of the product.

In the light of the above, amendments 285, 286, 287 and 288 should be rejected.

### **2.4. Avoid a duty to replace the goods at the place where the goods are situated**

Amendment n. 47 (Article 10 – para 1)

Avoid a duty to replace the goods at the place where the goods are situated: We firmly disagree with the idea that the replacement provided for in Article 9 paragraph 1 should be performed at the place where the goods are situated.

Such a general provision regarding the place of supplementary performance does not take into sufficient account the specifications of the motor trade and repair sector and is thus to be rejected. In general supplementary performances on a motor vehicle require technically extensive diagnosis and repair work which can – for reasons of material and personnel – only be conducted meaningfully at the place of operation of the motor trade and repair company.



A reasonable solution with regard to this point has recently been provided by a decision of the Federal Supreme Court of Germany (Federal Supreme Court of Germany, decision of 13 April 2011, VIII ZR 220/10):

1. First and foremost, the agreements made between the contractual parties are essential. 2. If there are no agreements regarding the place of supplementary performance, the respective conditions – especially regarding the nature of the contractual relationship – are to be taken into account. 3. If no final insights can be gained out of this, the place for the supplementary performance is to be located at the seller's residence at the time of the contractual relationship (private seller) or at the seller's commercial outlet (commercial seller).

In the light of the above amendment 47 should be rejected.

## **2.5. Lay down a reasonable period of legal guarantee – avoid legal uncertainty**

**Amendment n. 360 (Article 14 – para 1) Amendment n. 361 (Article 14 – para 1) Amendment n. 362 (Article 14 – para 1) Amendment n. 363 (Article 14 – para 1) Amendment n. 364 (Article 14 – para 1) Amendment n. 366 (Article 14 – para 1) Amendment n. 367 (Article 14 – para 1) Amendment n. 368 (Article 14 – para 1)**

Amendment n. 365 (Article 14 – para 1) – possible compromise

Lay down a reasonable period of legal guarantee – avoid legal uncertainty: We firmly reject an extension of the duration of the legal guarantee. In the current legal framework, based on the Directive 1999/44/EC, 26 Member States, out of 28, have adopted a 2 years legal guarantee. The reasons for an extension of that period are unclear to us. The legal framework should be harmonised based on the legal framework which is successfully put into practice by the majority of the Member States.

Besides that, we would like to express our concern with regard to several proposed amendments according to which the duration of legal guarantee should be determined based on the expected product lifespan. As already mentioned above (with regard to reversal of burden of proof) several MEPs and the EC itself have expressed their criticism in relation to this idea. The use of the expected product's lifespan for determining the length of the legal guarantee will likely lead to additional costs for both businesses and consumers in terms of increased legal uncertainty. An evidence-based example of this loss of legal certainty is provided by the Dutch lifespan guarantee system, which, since its introduction, has already created a lot of discontent from both businesses and consumers.

In the light of the above, amendments n. 360, 361, 362, 363, 364, 367 and 368 should be rejected. Nevertheless, amendment n. 365 could eventually be considered as a possible compromise, since it gives the Member States - which have already stipulated a longer legal guarantee period - the possibility to keep their existing system.

## **2.6. Avoid a restart of the legal guarantee period in case of remedies**

**Amendment n. 376 (Article 14 a (new))**

Avoid a restart of the legal guarantee period in case of remedies: We firmly disagree with the idea that a new legal guarantee period (of 2 years) should restart after a repair or a replacement have been performed.

Especially in cases where single parts or components have been replaced or repaired in order to bring the good back to conformity (which is quite a frequent case in the motor trade and repair sector), a brand-new guarantee period (of 2 years) covering the whole good, would represent an unjustified advantage for the consumer to the expenses of the seller, who would be obliged to bear an increased liability as a result.

If, in spite of the above, the Parliament should still deem necessary to restart the guarantee period after a remedy measure has been performed by the seller, amendment n. 375 seems to offer a far more reasonable solution, in that the new guarantee period would only apply to the repaired or replaced part/component, rather than to the whole good.



However, this solution could lead to a chain of liability, if several repairs of different parts, e.g. in a car, have to be done. The result would be a high uncertainty of the contractual parties. Therefore, a shorter maximum guarantee period should at least be implemented when several remedies are fulfilled and the guarantee period of the main product, e.g. a car, has already expired.

In the light of the above amendment n. 376 should be rejected whereas amendment n. 375 could be taken into account as a compromise provided that a maximum period of the legal guarantees is implemented.

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