Free ICT Europe

Aftermarket Alliance for Freedom to Support, Repair and Resell

For a Free, Fair, Open, and Circular ICT Economy

We need to buy less new products and use them for longer. The circular economy has the potential to support the decoupling of economic growth from the consumption of raw materials. It charts a roadmap from an economy reliant on extending product life, as well as extracting and using raw materials, to one based on regenerative production, reduced waste, and skills development. A thriving, independent ICT aftermarket is a crucial part of the pathway towards this economic recovery, job creation, and a more sustainable future.

This shift will create new jobs in the labour-intensive and highly skilled jobs of repair/maintenance, refurbishment, and recycling across all sectors. It will also stimulate growth for new and existing SMEs, innovation, and entrepreneurship. The benefits of a more innovative economy include higher rates of technological development; improved material usage, jobs, and energy efficiency; and increased opportunities for European organisations, both providers and end-users.

The ICT market is dominated by a number of strong big tech actors. Legislators have left space for manufacturers and vendors to set the rules. Since 72% of ICT spending is done by the public and private B2B sectors, Sustainable goals can only be met by incorporating this as a priority. Shifting to a circular model is facing opposition — increased policies by manufacturers that are aimed at creating their own ecosystems and reducing freedom of choice; increased dependency and customer lock-ins illustrates that fairness needs to be enforced and circular life cycles are controlled less by these big tech actors.

Against this background, we welcome the direction of the legislative proposals put forward by the European Commission during the last mandate. These have the potential to further remove barriers to extending product life, improving resource use, and encouraging the practice of an open circular economy. However, the proposed measures should go further to limit the ability of manufacturers to hinder repair and reuse in favour of their own ecosystems. This would support the potential economic growth offered by circularity.

More regulation is needed on protecting competition in the ICT sector, ensuring businesses are encouraged to extend the life of their technology assets, and standardising the recycling/waste sector so that the EU is on the best path towards its continue growth, a true green transition and economic success.

The Sustainable IT Aftermarket Leaders aims to foster collaboration, innovation, and action among key stakeholders committed to environmental stewardship within the IT sector. We call on political leaders to:

Make the 'Right to Repair' really work

The repair sector offers incredible potential for circular economy, addressing material efficiency (prolonged product lifetime), employment (jobs in repair in the EU, often including social employment), and economic added value.

It is up to policymakers to adjust the loopholes in the current legislative framework to fulfill the potential of circular economy in Europe.

Recommendation 1:

Ban any contractual, hardware, or software techniques that prevent or limit independent repair and maintenance outside of manufacturers' (OEM) authorized channel.

Recommendation 2:

Include the public and private sectors in the scope of the Right to Repair Directive with reference to B2B products, contract and agreements. This enables us to reach circular economy targets as they represent **72%** of ICT spending.

Recommendation 3:

Fair pricing and an open market for replacement parts, including non-OEM parts in order to drive competition and offer alternative solutions.

Promote sustainable ICT products and services

Planned obsolescence rapidly increases the production of ICT hardware. The creation of this new equipment consumes resources at a faster rate. The materials being used vary in terms of recyclability, and the increased consumption has a range of negative side effects, including surging energy usage and overmining of resources. Products being put into recycling too soon is a form of legal dumping that needs to be avoided.

In that regard, public authorities should be leading the shift towards the circular economy, particularly within the current geopolitical context stress testing the supply chains.

With continued growth in the ICT sector, further regulation is required for networking products, as the circularity impact needs to be enforced. Software is a digital key that has direct links to the life cycle of hardware, which needs to be taken into consideration.

Recommendation 4:

Green public procurement policies demanding the inclusion of used/refurbished products would be a first good step, preferably using local support providers for purchase, support, and ITAD services.

Recommendation 5:

The ESPR needs to include networking equipment, as well as software as new product groups, including the review of licensing models and the practice of unilateral annulment of business rights for entire markets/ecosystems by big tech actors.

Make IP rights fit for current innovation by adopting standards to unlock the potential of aftermarket

Leaning on intellectual property rights has allowed big tech ICT actors to legitimise their anti-competitive practices in the eyes of end users. As a result, European companies are unable to participate in a fair playing field of the support, resale, and trade market. Software was seen as a black box that cannot be touched, but it is now being recognised increasingly as a tangible product. The time period of IP rights (70+ years) when stacked up against the actual time an ICT hardware or software product is supported (10-12 years maximum) plays against an open and fair market where end users have choices on how long they can use their products.

These restrictive business practices are preventing the growth of the ICT secondary market in Europe and, as such, also limiting the circular economy. These practices stifle opportunity for local businesses to participate in a highly valuable industry and ultimately have a negative impact on EU job growth, knowledge, and the taxes collected.

Recommendation 6:

The European Commission enacts regulations to allow for:

- *The ability to trade used equipment, acquire licences, activate codes and software*
- *Open access to identify if a specific (used) part or machine is permitted and available within the European Economic Area (EEA)*
- *Remove the import restriction from outside the EEA for used ICT parts and products that are no longer sold as new by OEM channels*

Recommendation 7:

Create standards for software licensing and maintenance to guarantee the freedom to choose and license agreements to allow the transfer of (hardware connected) licenses. Standards for refurbishment are also necessary to scale up this market.

Recommendation 8:

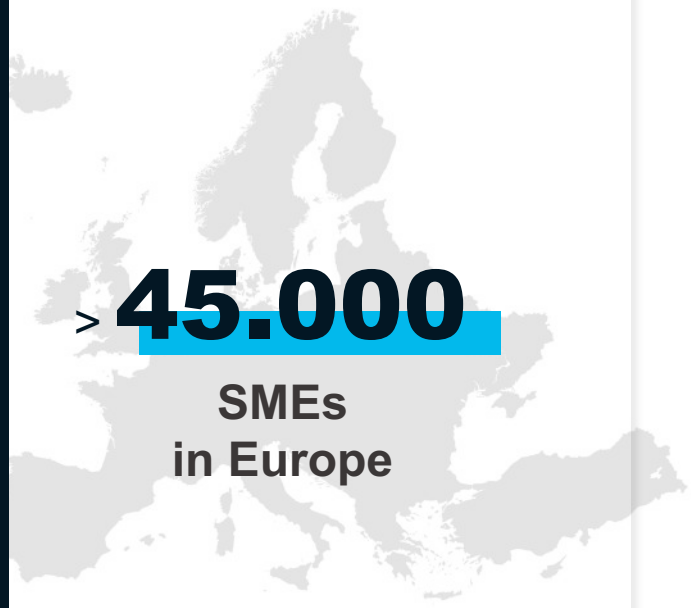
Transfer of software/firmware that is no longer supported by an OEM should be transferred to open source, so third parties can extend support to avoid products becoming e-waste. Freedom to the owner, no right to turn working products into e-waste and forced replacement!

Helping ICT SME to fully engage in reaching their full potential

The ICT market has more than 45.000 SMEs in Europe. The sector fosters innovation, creates employment opportunities, and stimulates economic growth.

Despite their significance, SMEs in the ICT sector encounter several challenges. They face intense competition from global multinationals and struggle to attract and retain the skilled IT professionals that extend product life cycles and are crucial for the circular economy and European sovereignty.

ICT SMEs are driving competitiveness in other sectors and making a substantial impact on the economy. By capitalising on their core competencies, expanding their market reach, and continuously innovating, SMEs can scale their operations and become larger players in the digital economy. This growth trajectory would lead to increased exports, job creation, enhanced economic prosperity, and increase European sovereignty.



Recommendation 9:

Disallow punitive practices, such as

- *Excessive software audits where a pattern of historical end user right changes are used to trigger potential audit exposure.*
- *Unilateral changes to software use rights that would remove previously contracted/licensed end user rights.*

Recommendation 10:

Scale up the focus in SME by setting targets for public procurement to buy from SMEs.

Recommendation 11:

Implement an easy process for SMEs to file complaints, such as about unfair manufacturer practices, with the EU. The system should facilitate processes that are cost friendly and respond in a timely fashion to actual market circumstances and would act as an early warning system to legislators of bad market practices.

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About Free ICT Europe

Free ICT Europe is a non-profit foundation actively supporting the development of an open and sustainable secondary market in Europe for the service, maintenance, repair, and sales of (refurbished) ICT systems and software.

FREEICT.EU