



POSITION PAPER

July 2023

EXECUTIVE SUMMARY

We call for an evidence-based Directive to deliver on circular economy objectives.

The European Vending & Coffee Service Association (EVA) is fully supportive of measures that encourage the sustainable use of resources and initiatives that can help support and build a truly circular economy. New measures however must not hinder business models where efficient reparability is well established. One example of an industry that already successfully encourages and implements the replacement and repair of components - rather than complete machine itself - is the innovative vending industry.

The current Directive proposal is confusing and contradictory for the business to business segment (B2B). The definition of 'consumer' is not compatible with the business model in the vending industry where repair channels between professional vending machine operators and manufacturers are long established. Vending machines are built on a modular basis allowing machine operators to exchange and replace parts as required in order to significantly extend the lifespan of a machine.

The EVA has therefore prepared a proposed amendment on page 3 which in our view will ensure legal certainty in the text.

The EVA is concerned that the current proposal will introduce unnecessary additional bureaucratic burdens on our small and medium enterprises and could even hinder the ease of repair of vending machines - the opposite of what is intended.

Finally, although the proposal aims to harmonise reparability access across the EU, this could in practice in fact lead to a multitude of differing national reparability platforms, which could be to the detriment to vending companies active in several member states.

THE VENDING INDUSTRY IS POWERED BY INNOVATION AND COMMITTED TO SUSTAINABLE PRACTICES

There are 4.4 million vending machines in Europe, 65% of which are hot drinks machines. Not only are vending machines manufactured on a modular basis to allow ease of repair and replacement of parts, a number of vending machine manufacturers are indeed specialists in refurbishing older machines and these refurbished machines play an important role in the machines placed in the market every year.

The vending industry is a frontrunner in reducing its impact on the environment. A long term drive for energy efficiency as well as industry driven projects such as "Rivending" in Italy which streamlines the collection and recycling of single use cups, demonstrates our commitment to sustainability. For example, through Rivending 13,000 tonnes of CO2 is saved per year.

A EUROPEAN INDUSTRY PROVIDING MANUFACTURING JOBS, DRIVEN BY SME'S

In Europe, the industry employs more than 85,000 individuals directly. 98% of the 10,000 vending operators - who maintain and stock the machines on a daily basis - are SMEs and family businesses.

300 million Europeans rely on the sector at least once a week for refreshments on-the-go, with vending machines dispensing 95 million food and beverage items every day - all in a sales area of less than 2m². Europe-wide the industry revenue is over €16 billion.

CONCERNS WITH PROPOSED DIRECTIVE

Proposal is highly confusing and contradictory for the business to business (B2B) segment

One of the EVA's key concerns is that the proposal refers frequently to the 'consumers' right to repair but yet refers confusingly to an inappropriate definition of who the consumer is. According to the proposal, the definition of a consumer comes from Article 2(2) of EU 2019/771 which states:

"'consumer' means any natural person who, in relation to contracts covered by this Directive, is acting for purposes which are outside that person's trade, business, craft or profession"

In the vending industry, the 'consumer' is the professional vending operator who manages the machines. The vending machine operator is already acting within his "trade, business, craft or profession" meaning that this definition does not apply to the business to business (B2B) environment, and specifically the vending business model and the machine operator. The updates, repairs and reuse are undertaken in our industry by the professional vending operator, and indeed the final consumer (i.e. the person who purchases a product from a machine) would have no interest nor ability to influence repairs on a vending machine.

Confusingly, the proposed Directive states explicitly under Annex II that refrigerating appliances with a direct sales function under EU 2019/2024 – which includes refrigerated vending machines – are within scope of the measures.

The current definition of 'consumer' would not appear compatible with the inclusion of professional products within EU 2019/2024 in Annex II. This definition is incompatible with the vending machine business model and would therefore exclude vending machines from the Directive, despite being referenced in the Annex.

- **The Directive needs urgent amendment to ensure legal certainty, textual consistency and to avoid contradictions.**

Proposal fails to understand the established business model in the vending industry

In a typical scenario, the vending machine manufacturer sells a machine to a vending machine operator, who is free and able to amend the machine as per the necessary location/contractual requirements with procurement. The manufacturer has no control over the machine configuration that the operator may make (on an ongoing basis) to the provided machine. Due to the modular nature of a refrigerated vending machine, the operator may introduce third party components to the machine which were not supplied with the original machine. For the EVA, the proposal to introduce additional beyond-the-legal-guarantee requirements on the vending machine manufacturer, seems both a duplication of existing business model activities as well as being possibly impractical, or unsuitable to introduce in such an existing business model. The requirement for consumers to be able to request a European Repair Information Form particularly seems overly bureaucratic and unnecessary for a professional industry like vending where the relationships for supplying spare parts to operators is already well established.

Furthermore, the fact that EU 2019/2024 already places the supply of certain parts for refrigerated vending machines as well as a series of requirements on ease of repair and end-of-life measures, would seem to address the issue sufficiently in respect to refrigerated vending machines. The availability and accessibility of spare parts – along with a specific timeframe to make these available – as well as detailed information on repairs/parts for professional repairers are all required to be provided. In the EVA's view, these requirements help ensure repair and reusability are easily available but we struggle to see what additional elements would improve on these. The additional proposed requirements within the Right to Repair Directive could actually hinder the business model in vending as a result of a cumbersome and bureaucratic system which may do little to achieve its objectives in reality. As the impact assessment report itself acknowledges:

"the manufacturing and retail sector, including the SMEs in this sector, will be somewhat disadvantaged by the initiative"

"The business adjustment costs are high but not inadequate given the substantial impact of the initiative"

- **The EVA is therefore greatly concerned that the additional costs to the sector to manage the requirements in the proposed Directive will significantly outweigh any practical benefit in relation to increased access to reparability of vending machines for machine operators.**

PROPOSED AMENDMENT

Amendment XXX

Proposal for a Directive Annex II – point 3 - delete

<i>Text proposed by Commission</i>	<i>Amendment</i>
3. Refrigerating appliances with a direct sales function according to Commission Regulation (EU) 2019/2024	delete

Justification

The definition of 'consumer' in Article 2 (1) is simply not compatible with refrigerated vending machine product group in EU 2019/2024 which is included in Annex II point 3.

Annex II (3) should be deleted in order to avoid legal and business uncertainty, ambiguity and outright contradiction in the proposed Directive.