

Consumer protection from planned obsolescence

Lakhdar reffaf, Université Mohamed El Bachir El Ibrahimi de Bordj Bou
Arréridj, Algeria.

lakhdar.reffaf@univ-bba.dz

Send Article Date: 2025-11-18

Date of acceptance of the article 2025-12-03

Abstract:

No party can claim that products can last forever or that their use can continue for an unlimited period of time; every product has an expected lifespan, usually determined by the nature of the materials used in its manufacture or by how it is used. In this context, replacing products once their useful life naturally ends does not pose any problem.

However, the real issue arises when this deterioration is intentional and deliberate on the part of the manufacturer. This occurs when a specific lifespan is predetermined, or when the product is programmed to stop working at a certain date without the consumer's knowledge. Such practices also appear when products are made difficult to repair either by not providing spare parts or by making the cost of repair higher than the cost of buying a new product all for commercial purposes that benefit manufacturers at the expense of consumers. These practices are known as "planned obsolescence."

The spread of such conduct, and the financial burden and environmental harm it causes due to increasing waste, highlights the need to strengthen consumer protection. This requires establishing clear legal frameworks that oblige manufacturers to be transparent, provide accurate information about the lifespan of products, ensure their repairability, and make spare parts available for reasonable periods, in addition to deterring all forms of fraud and manipulation aimed at deliberately shortening product life.

Thus, combating planned obsolescence does not only protect consumers economically, but also strengthens market trust, promotes fair competition, and protects the environment from the harmful impact of unethical consumer-goods practices.

Key words : Consumer protection, planned obsolescence, products.

Introduction

In recent decades, significant transformations have occurred in economic structures and industrial production systems, driven by the increasing reliance on digital technology and fierce competition among companies to achieve profits and reduce costs. In this context, the phenomenon of **planned obsolescence** (Obsolescence Programmée) has emerged as one of the most complex legal and economic issues in the realm of consumer protection and environmental sustainability¹.

This phenomenon manifests when some producers design or prepare products in such a way that their lifespan is deliberately shortened. This can involve intentionally incorporating components that are prone to failure, withholding spare parts, or enforcing software updates that diminish device performance. Such practices have sparked profound legal debates due to their contradiction with general principles of transactions, particularly the principle of good faith (as outlined in Article 107 of the Algerian Civil Code and Article 1104 of the French Civil Code after its 2016 amendment), the principle of transparency in advertising and marketing, and the principle of safety and quality stipulated in most consumer protection laws².

Moreover, planned obsolescence poses a significant threat to environmental rights, particularly given the exponential increase in electronic and household waste, which contradicts international obligations under the Basel Convention of 1989 regarding the control of hazardous waste transport and the principles of the United Nations Sustainable Development Goals (especially Goal 12: Responsible Consumption and Production).

Given these challenges, it has become essential to analyze planned obsolescence from a comprehensive legal, economic, and social perspective. This involves evaluating the effectiveness of current legislative frameworks in addressing this harmful behavior and reviewing best international practices to ensure effective consumer protection, safeguard the environment, and achieve contractual justice within the marketplace.

Section One: Legislative Framework

The legislative framework addressing planned obsolescence has become a pressing necessity, especially after the evident technical, economic, and environmental damages resulting from this practice³. With the rapid

technological advancements and increasing reliance on electronic devices with short production cycles, it is clear that global legislations vary significantly in their approach to this phenomenon. While some countries have moved towards explicitly criminalizing it, others still rely on general references within consumer protection laws without directly naming it.

Subsection 1.1: The French Experience

The French experience stands out as the most developed model in this area. France has undertaken significant legislative initiatives in recent years, resulting in the inclusion of planned obsolescence as an offense punishable by law⁴. This development followed extensive campaigns by environmental and consumer rights organizations that provided evidence showing that some companies intentionally designed electronic devices with a short lifespan or that automatically ceased functioning after a certain period of use.

One notable example highlighted is that of printers containing an electronic chip programmed to disable the device after a specified number of pages. This was deemed a fraudulent practice that deprives consumers of their right to fully utilize the product⁵. This reality has prompted the French legislator to provide advanced protection, including a precise definition of planned obsolescence, imposing financial and penal sanctions, and requiring companies to disclose the expected lifespan of products while providing spare parts for extended periods. Thus, France has become an international legislative model, not only for punishing the phenomenon but also for developing a framework that protects the "right to repair" and prevents deliberate acceleration of replacement cycles⁶.

In addition to these measures, France has implemented public awareness campaigns aimed at educating consumers about their rights and the implications of planned obsolescence. These initiatives encourage consumers to demand transparency from manufacturers and to be more discerning in their purchasing decisions. As a result, consumers are becoming increasingly empowered to advocate for their rights, thus fostering a more sustainable market environment.

Subsection 1.2: European Union Legislation

At the level of the European Union, despite the absence of a unified text that directly criminalizes planned obsolescence, European legislation has provided indirect but effective protection through a comprehensive system of rules governing quality, regulating advertising, and obligating producers to offer

warranties and spare parts while prohibiting misleading practices⁷. The policies of the **circular economy** adopted by Europe have encouraged the design of products that are repairable and reusable. This shift makes planned obsolescence, even without explicit criminalization, a violation of European standards in many cases, placing considerable pressure on companies to develop more sustainable production models or risk facing legal action for non-compliance or false advertising⁸.

Furthermore, the European Union has established various directives and regulations that promote consumer rights and environmental protection⁹. For instance, the **EU Eco-Design Directive** aims to improve the environmental performance of products throughout their life cycle, ensuring that manufacturers consider sustainability from the design phase onward. This legislative framework not only addresses planned obsolescence but also encourages innovation in creating longer-lasting and more efficient products.

The EU has also initiated programs to monitor and assess the environmental impact of products and their production processes. This proactive approach helps to identify practices that may contribute to planned obsolescence and allows for timely interventions to protect consumers and the environment. By fostering collaboration between member states, the EU aims to create a cohesive strategy that addresses planned obsolescence on a continental scale.

Section Two: Challenges in Arab Legislation

The situation in Arab legislations is markedly different. Arab laws, particularly those in Algeria and Egypt, still lack a clear text defining or criminalizing planned obsolescence. Current responses are limited to general provisions prohibiting fraud and deceptive trade practices, making it exceedingly difficult to prove planned obsolescence.

Subsection 2.1: Current Legal Framework

Most Arab countries suffer from a lack of explicit legal texts addressing planned obsolescence. Laws in countries like Algeria and Egypt fail to provide a clear definition of planned obsolescence, which complicates the ability of consumers to prove the existence of malicious intent by manufacturers. The existing laws primarily focus on general provisions that prohibit fraud and deceptive practices, which limits the effectiveness of consumer protection.

A product that fails quickly can be claimed by the manufacturer to be a random defect or related to misuse, while in reality, the malfunction may result from programmed design. Furthermore, the absence of a legal obligation to disclose the expected lifespan of products weakens the consumer's position, leaving them without the necessary information to choose a product of known quality and durability¹⁰.

In many cases, consumers are left with little recourse when they encounter planned obsolescence. The lack of awareness about their rights and the complexities of legal proceedings can deter them from pursuing claims against manufacturers. This situation underscores the urgent need for legislative reform to establish clearer definitions and protections against planned obsolescence.

Subsection 2.2: Need for Legislative Reform

This legislative void limits the ability of the Arab judiciary to intervene effectively, as there is no defined legal definition of the phenomenon or technical criteria that can be relied upon to prove the fraudulent intent of producers. Widening the lens to examine other global experiences reveals that the United States, despite not adopting a specific law against planned obsolescence, relies on antitrust and false advertising laws to hold companies accountable, as seen in the famous Apple throttling case, which resulted in significant compensation payments.

Additionally, countries like Japan, South Korea, and Canada have begun developing legislation that encourages the provision of spare parts, specifies product lifespan, and grants the right to repair. Thus, it becomes evident that global awareness is shifting toward enhancing consumer protection, albeit each country following a different legislative path.

From this analysis, it is clear that explicit criminalization, as seen in France, is the most effective approach to combatting the phenomenon. It shifts the burden of proof onto producers and provides the judiciary with robust tools for intervention. On the other hand, indirect protections, while beneficial in some contexts, remain inadequate unless reinforced by clear texts. Therefore, there is a pressing need for Arab legislations to be updated by establishing a legal definition of planned obsolescence, setting technical standards, and requiring producers to disclose information about product lifespan and spare

parts availability. This would ensure that consumers are protected from trade practices that could lead to economic and social harm¹¹.

Section Three: The Role of the Judiciary and Economic and Social Impacts

While legislation forms the foundation for legal responses to planned obsolescence, the judiciary represents the practical application point where the effectiveness or limitations of these texts become evident. The judiciary, both in Europe and the Arab world, faces significant challenges in proving planned obsolescence due to the technical nature of the phenomenon, which often relies on hidden algorithms or designs that are difficult to access. Nevertheless, some judicial systems, particularly in France, have made notable progress due to the availability of clear legal frameworks and specialized technical expertise.

Subsection 3.1: Judicial Progress in France

In France, following the criminalization of planned obsolescence, courts now possess a clear legal basis allowing them to initiate investigations against companies suspected of intentionally reducing the lifespan of their products. Technical expertise plays a crucial role in this process, as specialists analyze electronic chips and software to determine whether a malfunction is linked to a deliberate technical decision or is merely a result of normal use.

Numerous examples exist of printers and smartphones where manufacturers have utilized software to gradually slow down performance or halt functionality after a certain level of use. Such evidence has led to judicial rulings that include financial compensation and orders to correct unfair business practices¹². For instance, in 2020, a Paris court ruled against Apple for practices related to planned obsolescence in iPhones, resulting in significant financial penalties for the company.

The effectiveness of the French judiciary in addressing planned obsolescence has been further enhanced by public support and advocacy. Consumer groups and environmental organizations have played a vital role in raising awareness about the issue, pushing for stronger regulations, and encouraging individuals to take legal action against companies that engage in deceptive practices. This collective effort has contributed to a more robust legal environment that prioritizes consumer rights.

Subsection 3.2: Challenges Facing Arab Judiciary

Conversely, the European judiciary has taken a different path due to the lack of explicit criminalization of the phenomenon. European courts often rely on principles of non-compliance and commercial fraud, ruling in favor of consumers when it is proven that a product does not meet advertised specifications or that the company concealed essential information regarding performance and expected lifespan. Significant rulings have been made in cases involving smartphones and electronic devices, where courts have recognized that slowing down a device after a certain update, without informing the consumer, constitutes a form of deception. Although these rulings do not explicitly name planned obsolescence, they effectively achieve the same outcomes by obligating companies to compensate users and alter their production behaviors¹³.

In contrast, the Arab judiciary has not yet reached a similar level of effectiveness, largely due to the absence of clear legislative texts and a lack of technical expertise. In many Arab countries, cases of device malfunctions are often classified under "manufacturing defects" or "warranty issues," without considering the possibility of planned obsolescence¹⁴. This situation arises partly because consumers themselves are often unaware of the potential for malicious intent from companies, and courts lack experts capable of analyzing software or electronic components to determine the cause of a malfunction. Additionally, the high cost of technical expertise discourages consumers from pursuing complex lawsuits that require significant financial investment.

Addressing these challenges necessitates profound reforms, such as training judges in technical cases, establishing national laboratories for device analysis, and developing collaborative mechanisms between the judiciary and universities. Furthermore, enhancing the role of consumer advocacy groups in filing class action lawsuits can significantly aid the judiciary in confronting large corporations by providing collective evidence and increasing social pressure.

The analysis indicates that global judicial systems are beginning to realize their role in combating planned obsolescence, albeit to varying degrees. While France and some European nations have successfully exposed dangerous corporate practices, the Arab judiciary remains in a preliminary stage requiring

substantial legislative and expertise support. However, the prospect of developing an effective judicial system remains feasible if there is a clear legislative will, supportive technical institutions, and social awareness recognizing the risks posed by this phenomenon.

Conclusion:

Planned obsolescence is not merely a narrow economic practice; it represents a profound legal issue that touches the core of consumer rights, environmental protection, market balance, and contractual justice. Studies have shown that this behavior contradicts general principles of obligations, such as good faith, safety, transparency, and non-harm¹⁵. Its economic, social, and environmental impacts place a heavy burden on nations and societies, whether through increased consumer spending, growing waste, or eroded market trust.

Updating Legislation: There is an urgent need to update Arab legislations by establishing a clear legal definition of planned obsolescence, determining its technical standards, and requiring producers to disclose information about product lifespan and spare parts availability.

Enhancing Awareness: Increasing consumer awareness regarding their rights and ways to protect themselves from planned obsolescence practices is essential¹⁶.

Encouraging Innovation: Supporting innovations in product design that promote sustainability and reduce electronic waste is vital.

International Cooperation: Strengthening international cooperation to combat planned obsolescence and exchange effective legislation and best practices among countries is important.

Investment in Education and Training: There is a necessity for investment in education and training for professionals and judges in the field of modern technology to better understand the challenges associated with planned obsolescence.

Strengthening Regulatory Role: Governments and regulatory bodies must enhance their oversight role over companies to ensure compliance with environmental and social regulations

Footnotes:

1 The phenomenon of planned obsolescence dates back to the 1920s, notably through the “Phoebus cartel” which aimed to reduce the lifespan of light bulbs to stimulate consumption. Bernard London, *Ending The Depression Through Planned Obsolescence*, 1932, p. 2.

2 In civil law systems, good faith is a fundamental principle governing contractual relations. See: Abdul Razzaq Al-Sanhuri, *Al-Wasit fi Sharh Al-Qanun Al-Madani* (The Medium in Explaining Civil Law), Part 3, Dar Ihya’ Al-Turath Al-Arabi, Beirut, p. 995.

3 Studies indicate that planned obsolescence leads to overconsumption and environmental damage. See: Talal Abbasi & Munsif Ben Khadija, “Practices of Planned Obsolescence and Their Economic and Environmental Impacts”, *Milaf Journal for Research and Studies*, Vol. 5, No. 2, University Center of Mila, December 2019, p. 274.

4 French Law No. 2015-992 of 17 August 2015 relating to the energy transition for green growth, Article L.213-4-1 of the Consumer Code.

5 Report of the French Government to Parliament on planned obsolescence, April 2017, p. 12.

6 Mathilde De Crombrugghe De Loorinche, “Lutter Contre L'obsolescence Programmée en Incitant Les Consommateurs À Réfléchir Sur Le Long-Terme” (Combating Planned Obsolescence by Encouraging Consumers to Think Long-Term), Master’s Thesis in Management Engineering, University of Louvain, 2014-2015, p. 15.

7 The European Union addresses planned obsolescence indirectly through directives on unfair commercial practices and eco-design. See: European Consumer Centre, *Annual Report*, 2013, p. 3.

8 The EU’s circular economy policies promote product durability and repairability. See: Report of the French Government to Parliament, *op. cit.*, p. 24-25.

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https://www.researchgate.net/publication/356239345_Legal_mechanisms_to_protect_the_environment_from_pollution

10 Egyptian Consumer Protection Law No. 181 of 2018 requires suppliers to provide essential product data, including durability and spare parts availability.

11 Some scholars argue that planned obsolescence is a myth driven by consumer behavior. See: Hassan Abou Dayan & Walid Mohamed Bishr, “Legal Aspects of Civil Protection of Consumers from False or Misleading Advertisements”, *Journal of Sharia and Law*, Vol. 30, Part 2, 2020, p. 451

12In 2017, the French association “HOP” (Halte à l'Obsolescence Programmée) filed a criminal complaint against printer manufacturers, marking the first legal action of its kind in France.

13 In 2020, the Italian Competition Authority fined Apple and Samsung for practices akin to planned obsolescence under EU unfair commercial practices rules.

14 Algerian legislation, through laws on unfair commercial practices and consumer protection, addresses the issue indirectly but lacks explicit criminalization.

15Unfair terms in consumer contracts are considered abusive and void under Algerian law. See: Tariq Abdelkader, “Protection of the Consumer from Unfair Terms – A Comparative Study”, Journal of Scientific Horizons, Vol. 11, No. 1, University of Adrar, 2019, p. 42.

16 Consumer awareness is key to combating planned obsolescence. See: Wafsi Abdul Rahman, Al-Taswiq Al-Masrafi (Bank Marketing), Dar Kunuz Al-Ma‘rifah Al-Ilmiyyah, Jordan, 2009, p. 155.