

**PREPARED STATEMENT OF
THE FEDERAL TRADE COMMISSION**

on

Repair Restrictions

Before the

JUDICIARY COMMITTEE

CALIFORNIA STATE SENATE

Sacramento, CA

April 11, 2023

Chair Umberg, Vice Chair Wilk and members of the Committee, I am Dan Salsburg, Chief Counsel for Development and Innovation in the Bureau of Consumer Protection at the Federal Trade Commission (“FTC or “Commission”). I appreciate the opportunity to present the Commission’s testimony on manufacturer repair restrictions.¹ This testimony is based on the findings in the Nixing the Fix Report (the “Report”)² – a report mandated by Congress and issued unanimously by the bipartisan FTC in May 2021. The Report evaluated manufacturer practices that restrict the ability of owners and independent repair shops to fix things, the harms caused by repair restrictions, and manufacturers’ professed justifications for the restrictions.

Some of the main types of repair restrictions analyzed in the Report concerned efforts by manufacturers to impede owners’ and independent repair providers’ access to spare parts, diagnostic tools, and repair instructions – the types of repair restrictions addressed by SB-244, the “Right to Repair Act.” When a manufacturer restricts access to spare parts, it is a challenge for individuals and independent repair shops to replace consumable parts that are likely to need replacement during the course of a product’s useful life, such as mobile phone batteries. Moreover, a manufacturer’s control of spare parts may result in consumers’ needing to replace appliances and other products well before the end of their useful lives simply because they cannot obtain a spare part. Without repair manuals, making repairs also can be very difficult or impossible. And, diagnostic software and firmware are often necessary to make repairs because they help repair shops diagnose problems with devices.

¹ This written statement presents the views of the Federal Trade Commission. My oral statements and responses to questions are my own and do not necessarily reflect the views of the Commission or of any Commissioner.

² FTC, [NIXING THE FIX: AN FTC REPORT TO CONGRESS ON REPAIR RESTRICTIONS](https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repair-restrictions/nixing_the_fix_report_final_5521_630pm-508_002.pdf) (2021), available at https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repair-restrictions/nixing_the_fix_report_final_5521_630pm-508_002.pdf.

While the Report provides a comprehensive analysis of repair restrictions, I am going to spend the balance of my time focusing on two professed justifications for repair restrictions that were debunked in the Report. First, some manufacturers argue that repair restrictions are vital to protect repair workers and consumers from injuries that could result from improperly fixing a product or using an improperly repaired product. Safety considerations are a critical part of any discussion about repairs. In the Report, the Commission found that there is scant evidence to support manufacturers' justifications for repair restrictions, including claims about the safety of repairs conducted by independent repair shops and owners. Other than citing to a single unsafe mobile phone repair in Australia in 2011, manufacturers provided no data to support the argument that injuries are tied to repairs performed by owners or independent repair shops. Second, manufacturers' safety arguments are difficult to square with the automotive sector, where owners and independent repair shops are routinely able to repair highly complex products that contain gasoline and battery acid, and that could cause great harm if improperly repaired. The automotive sector's experience shows that with appropriate parts, repair information, and training, owners and independent repair shops are similarly capable of safely repairing other products.

The second claimed justification is that repair restrictions protect consumers from cybersecurity risks. In the Report, the Commission found no empirical evidence to suggest that independent repair shops are more or less likely than authorized repair shops to compromise or misuse customer data. Nor did the Commission find any evidence that providing independent repairers with access to diagnostics and firmware patches would introduce cybersecurity risks.

Thank you for the opportunity to provide the Commission's views. The FTC remains committed to promoting competition and consumer choice in repair markets and welcomes the opportunity to work with California legislators on this critical issue.