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UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

PREPARED REMARKS OF COMMISSIONER ROHIT CHOPRA

*Regarding a Motion to Adopt a Policy Statement
on Repair Restrictions Imposed by Manufacturers and Sellers*

July 21, 2021

The pandemic exposed serious weaknesses in our nation's resilience and ability to recover from shocks. While we typically view improper repair restrictions through its effects on fair competition, consumers, and small businesses, the Right to Repair movement also showed us how these problems can be matters of life and death.

During the FTC's review of this issue, we heard about hospitals worried that they would be unable to fix a ventilator because a manufacturer was seeking to deny access to repair it. Outages caused by repair restrictions like these can make the difference in times of emergencies.

Families with broken appliances, including refrigerators and other devices necessary for day-to-day life, were blocked from even attempting to fix things themselves. Farmers relying on tractors and other equipment have been blocked from an open repair market, which can lead to spoiled crops and missing out on critical income.

I've even heard from service members who shared how they were stymied from repairing their own gear and equipment, because they had to wait for the contracted manufacturer who was often less familiar with the equipment than they were.

Items such as computers and cell phones, already such an essential part of the lives of many, became a primary pathway to obtaining to food, medicine, health care, education, and, at times, the only means of communication with loved ones.

The nation started this school year with a vast laptop shortage; we were reportedly five million short at one point.¹ The start to remote learning, already so astoundingly difficult, was worsened by unnecessary repair restrictions on refurbishing computers, leaving those students without computer access unable to learn.²

¹ Nathan Proctor, *The Right to Repair could help address a critical shortage in school computers*, U.S. PIRG (September 2, 2020), <https://uspig.org/blogs/blog/usp/right-repair-could-help-address-critical-shortage-school-computers>.

² *Id.*

The business incentive for makers of equipment and devices is to figure out how they can extract recurring revenue or to induce new purchases, rather than allow families and businesses to reap the benefits of an open and competitive repair market. This isn't just about saving money. When laws go unenforced, we weaken our country by making us less resilient and less able to meet our basic needs. We make it harder for the most economically vulnerable and we deny opportunities to small and minority-owned businesses.³ Unreasonable restrictions on repairs can hit communities of color and rural communities doubly hard, both as consumers and as entrepreneurs.

The adoption of today's Policy Statement makes clear that the Commission will investigate unlawful repair restrictions using the Magnuson-Moss Warranty Act and other consumer protection laws, as well as antitrust law, to promote fair and open repair markets.

I believe the Commission should also take other steps beyond ramping up enforcement:

First, we must actively engage the independent repair community to solicit complaints and other information about manufacturers that are blocking families and businesses from independent repair. I am also concerned that the user experience on reportfraud.ftc.gov makes it difficult for individuals to report certain types of problems, including problematic repair restrictions, to the FTC. This needs a close review.

Second, the Commission should work with other agencies to reform existing procurement policies that allow contractors to block government buyers from self-repair or seeking third-party repair services. This would support broader efforts to promote resilience in our supply chains and preserve public resources.

Finally, the scope of existing federal and state laws may be too limited in terms of coverage and in terms of remedies. For example, the Magnuson-Moss Warranty Act only covers goods for household use, and it is not simple for the FTC and state attorneys general to obtain civil penalties or other monetary relief from large firms that violate the law. The Commission should devote resources to assisting policymakers, including at the state level, as they craft Right to Repair laws, to ensure that any new laws are clear and enforceable.

Thank you, and I look forward to supporting this initiative.

³ Many Black-owned small businesses are in the repair and maintenance industries, and pressures on small businesses are more likely to affect people of color. See Federal Trade Commission. *Nixing the Fix: An FTC Report to Congress on Repair Restrictions*, at 42-43 (May 2021), 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.