

Getting the Facts Straight on Right to Repair

The US Federal Trade Commission released a unanimous report¹ confirming that manufacturers' arguments against Right to Repair are unfounded.

Safety – Independent repair is no less safe than manufacturer branded repair. The FTC's report concludes that “with appropriate parts, repair information, and training”, consumers and independent repair providers are fully capable of safely repairing electronic devices.

- The FTC found no evidence to support claims that repairs performed by consumers or independent repair shops are any less safe than branded repair
- Manufacturers' restrictions on repair information, parts, and tools themselves cause safety risks: “By not making parts and manuals available to individuals and independent repair shops, and not including information in these manuals about the dangers of particular repairs, manufacturers may be exacerbating the very safety concerns they have raised.”

Cybersecurity – Independent repair is no less secure than manufacturer branded repair. The FTC report states:

- “The record contains no empirical evidence to suggest that independent repair shops are more or less likely than authorized repair shops to compromise or misuse customer data.”
- “With appropriate parts and repair information, the record supports arguments that consumers and independent repair shops would be equally capable of minimizing cybersecurity risks, as are authorized repairers.”

Liability and Reputational Harm – Independent repair does not increase manufacturers' risk of reputational harm or liability for injury.

- Despite repeated requests from FTC staff to provide evidence for claims that Right to Repair would increase manufacturers' risk of reputational harm or liability, “manufacturers provided no empirical evidence to support their concerns about reputational harm or potential liability resulting from faulty third party repairs.”

Intellectual Property – Intellectual Property rights don't stand in the way of repair.

- The FTC looked at copyright, patent, and trade secret law and determined that “in many instances intellectual property rights do not appear to present an insurmountable obstacle to repair.”
- Copyright – Repair is supported under Section 117(c) of the Copyright Act, which “provides that an owner or lessee of a machine may make a copy of a computer program for purposes of maintenance or repair” as well as under exemptions to the Digital Millennium

¹ U.S. Federal Trade Commission, *Nixing the Fix: An FTC Report to Congress on Repair Restrictions* (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.

Copyright Act's anti-circumvention provisions that allow circumvention of Technological Protection Measures to diagnose, maintain, or repair a range of devices.

- Trade Secrets – Right to Repair does not jeopardize manufacturers' trade secrets, as “information that manufacturers already share with authorized repair centers may not qualify for trade secret protection. With regards to other possible trade secrets, model right to repair legislation exempts trade secrets from disclosure.”

Quality – With access to the right parts, tools, and information, independent repair can be as good as—or better than—branded repair.

- After evaluating the available evidence, the FTC determined “the record does not establish that repairs conducted by independent repair shops would be inferior to those conducted by authorized repair shops if independent repair shops were provided with greater access to service manuals, diagnostic software and tools, and replacement parts as appropriate.”

Why You Should Support Right to Repair

Right to Repair saves consumers time and money.

- The FTC found “scant evidence” to dispute the fact that “a more open repair ecosystem would allow consumers to have their goods repaired more quickly or repair them in a timely manner themselves” and that manufacturers failed to rebut the argument that “repair restrictions increase the price consumers pay for repairs.”

Right to Repair advances equity.

- According to the FTC, “[t]he higher cost of repairs disproportionately burdens Americans in financial distress” and that “the burden of repair restrictions may fall more heavily on communities of color and lower-income communities.”

Right to Repair is good for the environment.

- Repair reduces e-waste and climate impacts: “Extending the life of consumer products unquestionably delays these products’ entry into the waste stream and reduces the amount of energy used to generate replacement products” and “increasing repair options for consumers is harmonious with the responsibilities identified by the EPA (longer-living devices, giving consumers more ability to maintain those devices, and allowing for educated consumer purchases) and is likely to further decrease the production of e-waste.”

Right to Repair creates jobs and supports small businesses.

- The FTC’s investigation found that “repair restrictions likely result in lower employment by local or independent repair shops” and that “difficulties facing small businesses can disproportionately affect small businesses owned by people of color.”