



July 17, 2023

The Honorable Darrell Issa  
Chair, Subcommittee on Courts, Intellectual  
Property, and the Internet  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Henry C. “Hank” Johnson  
Ranking Member, Subcommittee on Courts,  
Intellectual Property, and the Internet  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Re: Is There A Right to Repair?

Dear Chair Issa and Ranking Member Johnson,

Consumer Reports<sup>1</sup> welcomes tomorrow’s hearing: “Is There a Right to Repair?” and writes in support of securing the Right to Repair for consumers across the United States. Right to Repair legislation— like the Fair Repair Act, introduced by Representative Morelle in the 117th Congress—will help ensure that consumers have the choice to fix their own products, if they can, or to have them fixed by a repair servicer of their choosing, including servicers independent of the manufacturer.<sup>2</sup> In recent years, President Biden has recognized the importance of this right, by way of Executive Order,<sup>3</sup> and the Federal Trade Commission released a landmark report, *Nixing the Fix*, which explores how repair restrictions hurt consumers.<sup>4</sup> Right to Repair legislation would secure these important rights for American consumers, independent businesses, and the economy by enacting them into law, and we urge your support for it.

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<sup>1</sup> Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today’s consumers, and provides ad-free content and tools to 6 million members across the U.S.

<sup>2</sup> H.R.4006 — 117th Congress (2021-2022), <https://www.congress.gov/bill/117th-congress/house-bill/4006>.

<sup>3</sup> Consumer Reports: White House executive order is an important step that highlights need for greater competition in the U.S. marketplace (July 9, 2021), [https://advocacy.consumerreports.org/press\\_release/consumer-reports-white-house-executive-order-is-an-important-step-that-highlights-need-for-greater-competition-in-the-u-s-marketplace/](https://advocacy.consumerreports.org/press_release/consumer-reports-white-house-executive-order-is-an-important-step-that-highlights-need-for-greater-competition-in-the-u-s-marketplace/).

<sup>4</sup> *Nixing the Fix: An FTC Report to Congress on Repair Restrictions*, Fed. Trade Comm’n (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](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).

CR has long supported this “right to repair,” including by developing model legislation to help guide state legislators. Much legislation that has been introduced previously—including last Congress’ federal Fair Repair Act—follows the principles laid out in the model act we developed.<sup>5</sup> We have also incorporated this principle into the Digital Standard, a set of best practices that Consumer Reports uses to evaluate the privacy and security of software, digital platforms and services, and internet-connected products, as well as to help influence the consumer-friendly design of these products.<sup>6</sup> It is important to safeguard and maintain consumers’ ability to exercise their full rights of ownership over the electronics-enabled consumer products they purchase, including the right to repair them and the right to resell them, even as technology evolves.<sup>7</sup> Ensuring an effective Right to Repair will also expand consumer choice in the marketplace, save consumers money, and reduce waste.

Consumers, farmers, and others who have been able in the past to choose to fix their own cars, machinery, appliances, or other products, or to call on a trusted neighborhood repair shop or mechanic, know how important these ownership rights are.

But as products from smartphones and televisions to appliances and tractors become increasingly outfitted with computer software, it has become easier for manufacturers to interfere with these rights. It’s often difficult now for consumers to make simple repairs on their devices—even simple repairs such as changing a smartphone battery or replacing a cracked screen.<sup>8</sup> Not only are the electronics frequently designed in a way to intentionally prevent easy repair, but manufacturers are restricting access to the basic diagnostic information, repair tools, and replacement parts needed to fix the products. Some manufacturers even put digital locks and disabling tripwires on devices to block third-party repair.<sup>9</sup>

These tactics force consumers to rely on the manufacturer, or the manufacturer’s handpicked servicer, to fix these products.<sup>10</sup> The manufacturer is then free to charge whatever it

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<sup>5</sup> *Right to Repair Model State Law*, CONSUMER REPORTS (updated December 2, 2020), <https://advocacy.consumerreports.org/research/right-to-repair-model-state-law/>.

<sup>6</sup> The Digital Standard, <https://www.thedigitalstandard.org/>.

<sup>7</sup> E.g., Comments of Consumers Union To U.S. Copyright Office, Software-Enabled Consumer Products Study (March 18, 2016), <http://consumersunion.org/research/comments-to-the-u-s-copyright-office-regarding-software-enabled-consumer-products/>.

<sup>8</sup> Bree Fowler, *iPhone Slowing Down? It Might be Time to Replace Your Battery*, Consumer Reports (Dec. 28, 2017), <https://www.consumerreports.org/smartphones/iphone-slowing-down-it-might-be-time-to-replace-your-battery/>; Becky Worley and Sarah Messer, *Cracked iPhone Screen Help Guide: How 5 Repair Options Stack Up*, ABCNews.com (May 1, 2017), <http://abcnews.go.com/Business/cracked-iphone-screen-guide-repair-options-stack/story?id=47089610>.

<sup>9</sup> Jason Koebler, *Tractor-Hacking Farmers Are Leading a Revolt Against Big Tech's Repair Monopolies*, Motherboard (Feb. 18, 2018), [https://motherboard.vice.com/en\\_us/article/kzp7ny/tractor-hacking-right-to-repair](https://motherboard.vice.com/en_us/article/kzp7ny/tractor-hacking-right-to-repair).

<sup>10</sup> Emily Matchar, *The Fight for the Right to Repair*, Smithsonian (Jul. 13, 2016), <https://www.smithsonianmag.com/innovation/fight-right-repair-180959764/>.

wishes, or even to refuse to repair the product and force the consumer to throw it away and buy a new product.

According to a nationally-representative survey that CR conducted in 2021, a quarter of Americans (25%) who had broken a phone in the past five years set out to repair it but ended up replacing it, with many citing cost or inconvenience.<sup>11</sup> Forcing consumers to buy new products is obviously detrimental to their wallets—and it also leads to unnecessary waste of their repairable products, which makes the Right to Repair an issue of concern for sustainability and supply chain integrity as well. Particularly in light of recent semiconductor chip and rare metals shortages, preventing unnecessary e-waste—like repairable phones and laptops that end up in landfills—would offer clear benefit to consumers, the economy, and the environment.

Manufacturers and their representatives have worked to defeat Right to Repair legislation, often by using spurious arguments about safety and security.<sup>12</sup> However, security-by-obscurity is an ineffective method to safeguarding systems. Right to Repair legislation can, in fact, *better* ensure the safety of products, and without sacrificing consumer choice. Independent repair technicians would have to meet whatever certification requirements are set by law, just like authorized repair technicians, and legislation could ensure that they have the same access to proper instructions that are vetted for safety.

Most Americans (84%) say they agree with a policy that would require manufacturers to make repair information and parts available either to independent repair professionals or to product owners.<sup>13</sup> We thank the subcommittee for holding a hearing about such a crucial issue for consumers, and would be happy to answer any questions, and look forward to working with you and colleague organizations to secure an effective Right to Repair for consumers nationwide.

Sincerely,

Laurel Lehman  
Policy Analyst  
Consumer Reports

cc: Members, Subcommittee on Courts, Intellectual Property, and the Internet

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<sup>11</sup> "Right to Repair: A Nationally Representative Multi-Mode Survey," *Consumer Reports*, January 2022, [https://article.images.consumerreports.org/prod/content/dam/surveys/Consumer\\_Reports\\_Right\\_to\\_Repair\\_Survey\\_2021](https://article.images.consumerreports.org/prod/content/dam/surveys/Consumer_Reports_Right_to_Repair_Survey_2021).

<sup>12</sup> Mikey Campbell, *Apple Lobbies Against 'Right to Repair' Proposal in Nebraska*, Apple Insider, (March 9, 2017), <http://appleinsider.com/articles/17/03/09/apple-lobbies-against-right-to-repair-proposal-in-nebraska>.

<sup>13</sup> "Right to Repair: A Nationally Representative Multi-Mode Survey," *Consumer Reports*, January 2022, [https://article.images.consumerreports.org/prod/content/dam/surveys/Consumer\\_Reports\\_Right\\_to\\_Repair\\_Survey\\_2021](https://article.images.consumerreports.org/prod/content/dam/surveys/Consumer_Reports_Right_to_Repair_Survey_2021).



## *Member Stories*

Below, we also offer a handful of stories that CR members from across the U.S. shared with us this year. We hope that these stories help demonstrate precisely how Right to Repair legislation would actively improve repair experiences, unnecessary wallet drains, and sustainability practices for consumers nationwide.

### **Karen Haner of Chester, CA:**

I bought a MacBook Air and within just a few years it began to have difficulty functioning and within a few months it died. I took it into Best Buy (where it was purchased) and was told the battery had swollen and it could not be replaced. I did not purchase the expensive extended warranty/care program to have the laptop replaced, and I was appalled that a battery could not be replaced by me or anyone. So I have a non-functional laptop computer that I don't know what to do with....I guess, e-waste.

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### **Rachel Shepard of Eugene, OR:**

I had to replace a 4 year old \$2200 refrigerator. It needed a \$300 part that was impossible to get. It infuriated me that the manufacturer doesn't make sure that these kind of affordable repairs are available to consumers. The waste of money and resources is shameful.

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### **Dana Elza of Woodland Park, CO:**

In January 2020 I started using my brand new beautiful Breville Convection Oven. It was a wonderful oven. However, 30 months later the air fryer/ convection fan failed. Turns out that was a common failure of the Breville Convection Oven.

The company refused to repair or even sell a replacement motor. The oven still worked for 3 more months, then the timer stopped working. I could use the oven to bake, but I had to reset it every 10 minutes. The death knell was when the display failed. \$399.95, gone, gone, gone.

In 1975 I bought a KitchenAid stand mixer. It is still running just fine. In 1976 I bought a Cuisinart Food Processor and it also is still working. Why doesn't Breville make products that last as long?

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### **Bill Michel of Grass Valley, CA:**

I used to use Apple. I had two Macbooks whose logic boards "burned up" ... and no, I wasn't in the habit of using them on top of a comforter, or otherwise blocking the vents. Each time Apple said I'd need a new logic board, which would be around \$600.

I've since come to understand, from Rossman Repair, that many Macbook problems, which Apple's Staff tell customers will need wholesale replacements, can be fixed, for a fraction of the cost.

I know that Apple has made repair increasingly difficult by using proprietary fasteners, lots of adhesive, soldering components which used to be removable, and now \*serializing\* components, which can't be replaced without special apple software.

The situation is out of control, and Government needs to enforce consumer protections, which are exacerbating ewaste, and costing consumers un-necessary expense.

A good start would be a \*mandate\* for user-replaceable batteries.

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**Tara Souther of Odessa, TX:**

When the last couple of cell phones stopped holding a charge, my only recourse was to replace the entire phone! Replacement batteries are not available at any price! And forget recycling the old phone. Way too many hoops to jump through to make that worth my while.

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**Brian Richards of Myersville, MD:**

Three years ago my family's dishwasher would not finish any of it's cycles. Of course it was three years old and out of warranty so, as a retired electronics technician, I went about troubleshooting the unit. I figured it to be a "control unit" since I couldn't find anything wrong with anything else. Only having a wiring diagram, and being told by Whirlpool that a schematic of the unit was unavailable, this was as far as any troubleshooting could go. This is a part that cost half the dishwasher's replacement cost. So to confirm my hypothesis I called a repair service that gave us half off their service fee if we allowed them to do the repair. Since the technician that showed up suggested that the "control unit" was the problem I went ahead with "the fix". This worked for two weeks and then the same problem ensued. I am quite certain that with more information, ie: electronic schematic, I could have found a smaller, less expensive component to fix this unit. As would a properly trained technician from the repair service. So after spending 3/4's of what a new one cost I went for the upgrade and got a great deal on a Bosch. At least they provide error codes that help troubleshoot problems. But having built test systems for fuel cell research I can tell you there is no reason a schematic can not be made available to consumers. 35 years ago I fixed my own TV since back then these documents were readily available.

Next, just last year, in April, our microwave, now six years old, made a "pow" kind of a sound when turned on. After being unplugged and having checked the circuit breaker I plugged it back in and tried to turn it on again only to now hear "arcs and sparks" inside. So I took out the wiring diagram and went to work deciding that the magnetron was burnt out. When priced for replacement, again 3/4's of the unit's replacement would get me a new part. So I replaced the unit with a like item since it fit between the cabinets and had an integral fan that matched a wall opening. The rub here is that I couldn't give it away to be fixed! The appliance repair centers wouldn't even take it for parts! I ended up giving it to a local recycling center that may or may not just add it to the local landfill.

Here's what I propose. Manufacturing Responsibility Law. You make it, you take it back. No questions asked. If you as a vendor produce a thing you must have a way to reclaim it. If you can't see a way to do that, you go back to the drawing board and figure it out.

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**Robert Sullivan of Poway, CA:**

I bought an expensive Dyson vacuum cleaner so that I could keep it for many years and not throw it away. I have had it for over 6 years, maybe 10, and it still works great, except Dyson does not make the replacement battery available anymore. One part unavailable and the whole thing is useless. It is time to make the next generation of people more important than profits. Are we going to wait until we are buried in garbage before we change?

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**Brian Silverstein of Lopez Island, WA:**

After two years the battery in my iPhone wouldn't last a day. Either I could pay an exorbitant fee to have Apple replace the battery or buy a new phone.

Instead I ordered a replacement kit from iFixit. Cost was reasonable and instructions were excellent. It was hard from me to see the tiny screws so my daughter helped. The result was fine.

One complaint - the phone was not designed for easy repair. Some steps would have been easier with special tools that only Apple stores.

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*These stories were submitted by members. They have not been checked by Consumer Reports for accuracy. The stories reflect the views of the submitting members, and not necessarily those of Consumer Reports.*