

Written Statement for the Record

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for a hearing before The House Judiciary Subcommittee on Antitrust, Commercial and Administrative Law titled Online Platforms and Market Power, Part 2: Innovation and Entrepreneurship

Rep. David Cicilline, Chair Rep. James Sensenbrenner, Ranking Member
Tuesday, July 16, 2019

Thank you, Chairman Cicilline and Ranking Member Sensenbrenner, and full Committee Chair Jerry Nadler and Ranking Member Collins, for your critical leadership in launching this investigation into anti-competitive practices by tech companies. Thank you for the opportunity to provide written testimony for the record.

I direct the Right to Repair Campaign efforts for U.S. PIRG, a non-profit, non-partisan advocate for the public interest.

We have grown concerned with anticompetitive practices around repair. When consumers lack adequate choice around repairs -- when the only way to get a product repaired is to take it back to the original equipment manufacturer or one of their "authorized" affiliates -- the manufacturer can charge whatever they want to repair that product, or refuse to repair the product and push the purchase of a new item instead. We see many instances where the market is being constrained around repair in a way that increases costs, reduces convenience, and shortens product lifespans.

I would like to submit the following report, *Recharge Repair*, for the record. It is an overview of an issue with Apple iPhone batteries in 2017-2018, known as "BatteryGate" or "ThrottleGate."

In December 2017, at the height of the holiday shopping season, Apple users discovered that a software update was throttling phones' processors if the phone detected the battery was worn down. After some public blowback, Apple offered to replace those older batteries at a reduced price at Apple stores. But with such high demand, long waiting lists formed. Some customers faced an additional obstacle: They lived hours away from the nearest Apple store.

Meanwhile, Apple does not make its original replacement batteries available to anyone but their small number of authorized locations. If you didn't want to wait a few months to get a phone that wasn't slow and buggy, you would have to swap the battery out with a replacement part not made by Apple.

Until Apple reversed its policy this spring, replacing the battery with a third-party substitute would result in Apple refusing to service the phone entirely. *Recharge Repair* found that third-party shops still saw a 37 percent increase in battery replacements in the five weeks after the

scandal broke -- despite these barriers. This indicates that people want their phones fixed, and need options outside of Apple authorized locations.

Earlier this year, in a letter to shareholders, Apple CEO Tim Cook announced that iPhone sales were lagging behind projections. Among other reasons, Cook noted a contributing factor was “customers taking advantage of significantly reduced pricing for iPhone battery replacements,” the first time Apple has admitted repair hurts its profits.

Repair hurts sales. Apple has an incentive to restrict repair of their devices.

Examples of the repair restrictions include the limited kinds of problems that authorized technicians are permitted to repair (they do not repair water damage, or conduct “board level” repairs); the lack of access to spare parts, repair manuals and diagnostic software; and software locks on the device which require Apple software to finalize repair.