

UNITED STATES OF AMERICA
Federal Trade Commission
Washington, DC 20580



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VIA ELECTRONIC MAIL

Oregon State Legislature
Oregon House Business & Labor Committee
900 Court St. NE
Salem, Oregon 97301

Re: Oregon Senate Bill 1596A

Dear Committee Chair Holvey:

We write this letter as the heads of the FTC's Bureau of Consumer Protection and its Office of Policy Planning, the FTC office that provides advocacy and submits filings supporting competition and consumer protection principles to state legislatures, regulatory boards, and officials.

We understand that the Oregon legislature is once again considering a bill to further the right to repair by owners and independent repair providers. Senate Bill 1596A is particularly noteworthy because it tackles the practice of parts pairing by manufacturers.

Parts pairing is a repair restriction in which manufacturers require owners and independent repair providers to obtain the manufacturer's approval before replacement parts can be fully integrated into a device. For example, although Apple has expressed its general support for the right to

repair,¹ news reports indicate that Apple nevertheless continues to use parts pairing requirements that undermine the right to repair.²

Obstacles to repair like parts pairing drive up the price that consumers must pay to fix a device and cause consumers to purchase a new device before the end of its useful life. Manufacturer repair restrictions also make it more challenging for small repair businesses to compete and contribute to unnecessary e-waste. Parts pairing is a restriction the Federal Trade Commission (the “Commission”) addressed in the May 2021 Nixing the Fix Report issued to the United States Congress.³

The Nixing the Fix Report, which was issued unanimously by the bipartisan Commission, found that many manufacturers restrict independent repair and repair by consumers through a variety of means, including:

- Product designs that complicate or prevent repair;
- Unavailability of parts and repair information;
- Policies or statements that steer consumers to manufacturer repair networks;
- Application of patent rights and enforcement of trademarks;
- Disparagement of non-OEM parts and independent repair;
- Software locks and firmware updates;
- End User License Agreements; or
- Designs that make independent repairs less safe.

The Commission’s report also observed that the burden of repair restrictions may fall more heavily on communities of color and lower-income communities. Many Black-owned small businesses are in the repair and maintenance industries, and difficulties facing small businesses can disproportionately affect small businesses owned by people of color. Repair restrictions for some products—such as smartphones—also may place a greater financial burden on communities of color and lower-income Americans. As noted in the report, Pew Research found that Black and Hispanic Americans are about twice as likely as white Americans to have smartphones but no broadband access at home. Similarly, lower-income Americans are more likely to be smartphone-dependent. This smartphone dependency makes repair restrictions on smartphones, such as parts pairing, more likely to affect these communities adversely.

Manufacturers often defend their use of repair restrictions – including parts pairing – by claiming that the restrictions are needed to protect consumers and repair workers and prevent cybersecurity risks. The Nixing the Fix report debunked these claims, explaining 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 and the security of consumers’ data.

¹ <https://www.reuters.com/technology/apple-make-tools-parts-fix-phones-computers-available-nationwide-white-house-2023-10-24/>.

² Tripp Mickle, Ella Koeze and Brian X. Chen, *You Paid \$1,000 for an iPhone, but Apple Still Controls It*, The New York Times (Nov. 12, 2023), <https://www.nytimes.com/2023/11/12/technology/iphone-repair-apple-control.html>.

³ Fed. Trade Comm’n, Nixing the Fix: An FTC Report to Congress on Repair Restrictions at p.23. (May 2021), https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repairrestrictions/nixing_the_fix_report_final_5521_630pm-508_002.pdf

Manufacturers that engage in parts pairing hinder the ability of independent repair shops to stock and use both after-market parts and parts supplied by the manufacturer. Parts pairing also inhibits competition that would reduce the cost of repairing products, introduces artificial delays into the repair process, and may be a powerful motivation for consumers to replace rather than repair their products. And, as Janet McCabe, Deputy Administrator of the Environmental Protection Agency, recently noted, the right to repair extends the lifecycle of products —reducing waste and helping combat climate change.⁴

We strongly support expanding consumers’ options when they must repair their devices. As the Commission informed Congress in the Nixing the Fix Report, we stand ready to work with legislators at the state and federal levels in order to ensure that consumers have choices when they need to repair products that they purchase and own.

Sincerely,

s/ Sam Levine
Director
Bureau of Consumer Protection

s/ Hannah Garden-Monheit
Director
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⁴ <https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/25/readout-of-the-white-house-convening-on-right-to-repair/>.