

July 18, 2021

Federal Trade Commission
Washington, DC 20580

Dear Chairwoman Khan and Commissioners Chopra, Phillips, Slaughter, and Wilson:

The Consumer Technology Association (CTA®) submits this comment in advance of the Commission's July 21, 2021 meeting. CTA is North America's largest technology trade association. Our members are the world's leading innovators – from startups to global brands – helping support more than 18 million American jobs. CTA owns and produces CES® – the most influential tech event in the world.

CTA would like to address the Commission's consideration of a "Proposed Policy Statement on Repair Restrictions Imposed by Manufacturers and Sellers," at the July 21 meeting. At this date, we are not aware of what the proposed policy statement may include, and therefore we address our comments to the Commission's work on consumer device repair issues on a more general level moving forward. We have closely reviewed the FTC's "Nixing the Fix" report, and while we disagree with many of the report's conclusions – and provided our views in connection with 2019 workshop – we are focused on how to collaboratively address the FTC's concerns as an industry.¹

Consumer technology devices have been essential and integral in everyday life during the pandemic, keeping us productive, educated, entertained, and healthy. Manufacturers are committed to keeping consumers safe when using these devices while ensuring opportunities for repair. Manufacturers in the industry recognize the importance of these devices to consumers and in avoiding unnecessary waste, and as a result many have established extensive networks of authorized repair and independent manufacturer-affiliated facilities and services with multiple options for consumers, including walk-in and mail-in options. The conditions for participating in these networks are appropriately and reasonably set by manufacturers who face potential legal liability and reputational injury if repairs are unsafe.

Customers can be sure that a manufacturer's affiliated repair network will conduct repairs using properly trained and vetted professionals that have the necessary skills to safely and reliably repair products to manufacturer specifications and standards with manufacturer-quality parts. Manufacturers have collaborated with stakeholders from all facets of the repair ecosystem to develop a series of independently managed industry standards that are open to

¹ FTC, Nixing the Fix: An FTC Report to Congress on Repair Restrictions (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 ("Report").

all technicians and repair providers (e.g., CTIA Wireless Industry Service Excellence program). Together, these changes advance consumer protections such as safety, as many devices are complex and could create risks if not repaired properly. Additionally, manufacturer-affiliated repair networks help to ensure customer privacy and data security by contractually limiting personnel access to view, store or use customer data for any purpose other than repairing the customer's product. As noted in CTA's July 16, 2019 comments on the "Nixing the Fix" workshop, FTC staff recommend that manufacturers "retain service providers that are capable of maintaining reasonable security and provide reasonable oversight for these service providers" and to monitor products throughout their life cycle.² Manufacturer-affiliated repair networks are one way manufacturers have addressed this recommendation.

At the same time, the repair market is rapidly evolving, including since 2019 when the FTC initially requested comments in connection with the workshop. This evolution toward providing more repair options is good for consumers, good for manufacturers in expanding repair networks, and good for the environment. The consumer technology industry has significantly expanded repair options over the past few years—as just one example, greenergadgets.org lists a wide range of repair options provided by device manufacturers. The "Nixing The Fix" report, while it does not contain an empirical analysis of the availability of consumer repair options, has also helped manufacturers identify areas on which they can more closely focus efforts to expand consumer choices for repair.

Our industry is committed to a collaborative approach to repair issues, and looks forward to working with repair businesses, advocates, and the FTC on approaches that provide consumers repair options while protecting consumer safety and privacy, and accounting for intellectual property rights and other important interests. A collaborative process would help manufacturers and repair providers close the gap in perspectives on how to enable safe and reliable device repair, for the ultimate benefit of consumers and the environment. A more extensive discussion of stakeholder interests could help identify how different views can be resolved.

In our view, collaborative approaches are preferable to an extensive rulemaking process, which faces a number of hurdles and complications, as discussed in the FTC's report.³ In particular, collaboration would avoid questions about FTC statutory authority to promulgate certain regulations regarding repair. It would allow more effective resolution of important issues like protection of intellectual property rights, which the report recognizes is an outstanding concern when dealing with consumer repair issues.⁴ Manufacturers have intellectual property considerations when sharing proprietary software and tools and we would like to ensure that this is considered as part of the collaborative process. More, in an industry where innovation and product cycles are as short as 12- to 18-months, the FTC

² See Fed. Trade Comm'n, *Internet of Things: Privacy & Security in a Connected World*, FTC Staff Report at iii, 30-31 (Jan. 2015), <https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-staff-report-november-2013-workshop-entitled-internet-things-privacy/150127iotrpt.pdf>.

³ Report 44-45.

⁴ *Id.* at 6, 26, 53-54.

should allow the consumer technology industry and the repair industry to evolve and innovate as technology and markets change.

The consumer technology industry enthusiastically supports consumer choice and is open to exploring additional means to expand access to safe and secure repair. We urge the Commission to take a measured and collaborative approach to dealing with repair issues, in light of the changing marketplace and the opportunity for a collaborative effort to be more effective. We look forward to working together and serving as a resource for the Commission in this area.

Sincerely,

/s/ Michael Petricone
SVP, Government and Regulatory Affairs
Consumer Technology Association

/s/ Walter Alcorn
VP, Environmental Affairs & Industry Sustainability
Consumer Technology Association