



Office of Chair Lina M. Khan

Remarks of Chair Lina M. Khan Regarding the Proposed Policy Statement on Right to Repair

July 21, 2021

Today the Commission will vote on whether to adopt a policy statement laying out our concerns about repair restrictions and committing the agency to focus greater enforcement efforts and resources on unlawful repair restriction practices going forward.

This effort flows directly from the Commission's call in 2019 for public comment and empirical research on repair restrictions, which culminated in the FTC's "Nixing the Fix" Workshop and report to Congress.¹

While efforts by dominant firms to restrict repair markets are not new, changes in technology and more prevalent use of software has created fresh opportunities for companies to limit independent repair.

As both the FTC's work and public reporting have documented, companies routinely use a whole set of practices, including limiting the availability of parts and tools, using exclusionary designs and product decisions that make independent repairs less safe, and making assertions of patent and trademark rights that are unlawfully over-broad.

These types of restrictions can significantly raise costs for consumers, stifle innovation, close off business opportunity for independent repair shops, create unnecessary electronic waste, delay timely repairs, and undermine resiliency.

The FTC has a range of tools it can use to root out unlawful repair restrictions, and today's policy statement would commit us to move forward on this issue with new vigor.

The Commission calls on the public to submit complaints of violations of the Magnuson-Moss Warranty Act, which prohibits, among other things, tying a consumer's product warranty to the use of a specific service provider or product, unless the FTC has issued a waiver.

¹ Fed. Trade Comm'n, *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. In conjunction with the Nixing the Fix Workshop, the Commission sought public comments and submissions of empirical research concerning repair restrictions. The full docket of public comments and empirical research submissions is available at Nixing the Fix: A Workshop on Repair Restrictions, Fed. Trade Comm'n, Docket No. FTC-2019-0013, <https://www.regulations.gov/docket/FTC-2019-0013/document>; Nixing the Fix Call for Empirical Research, Fed. Trade Comm'n, Docket No. FTC-2019-0013-0001, <https://www.regulations.gov/document/FTC-2019-0013-0001/comment>.

Further, the policy statement notes that the Commission will target repair restrictions that violate the antitrust laws or the FTC Act's prohibitions on unfair or deceptive acts or practices. An interdisciplinary approach will also allow the FTC to use the full range of its expertise when seeking to enforce the law.

I urge my colleagues to support this policy statement and the Commission's effort to use our full authority to protect consumers and businesses from unlawful repair restrictions.
