

October 18, 2024

Mr. Giovanni Capriglione
Texas State Representative
Room E1.506
P.O. Box 2910
Austin, TX 78768

and
P.O. Box 770
Keller, Texas 76244

Dear Representative Capriglione,

Thank you for the opportunity to provide early comments as part of the stakeholder group on right-to-repair legislation.

NetChoice is a trade association of e-commerce businesses promoting the value, convenience, and choice of the internet. Our mission is to make the internet safe for free enterprise and for free expression. We work to promote the integrity and availability of the global internet and are engaged in all 50 states, Washington, DC, and international internet governance organizations.

“Right to Repair” is one of those labels that is a misdirection; it sounds great but is branded as a way to hide the damage that results. Such policies unfortunately disregard safety, security, property rights, and contracts. At the same time, consumers have more options for repairing their devices than ever before. The market is responding to consumer needs, and more authorized repair providers are now offering services.

So-called “right to repair” laws mandate manufacturers of cell phones, laptops, tablets, farm equipment, other digital electronic products, and even highly sensitive medical equipment to provide owners and independent repair businesses with access to certain parts, tools, and specifications. Giving that repair information to third parties regardless of whether they have been trained, certified, or vetted could create data security and safety risks for consumers. Sensitive information may also be placed in the hands of malicious hackers.

In an era of sophisticated cyberattacks and unprecedented data leaks, Texas should not be making it easier for criminals to access personal data.

Beyond the safety and security concerns, right to repair legislation raises problems for intellectual property rights. A significant amount of research and development (R&D) spending goes into creating a new piece of technology—intellectual property the company wishes to protect under the law. Right to repair rules would empower the government to force companies to make their intellectual property publicly available and affordable—a compulsory license. Such legislation would require manufacturers to grant access without the protections afforded by an authorized repair relationship. Mandates to provide unvetted and unauthorized repair shops with access to proprietary information without contractual safeguards would undercut and discourage R&D investments. This would not only undercut intellectual property rights, but it also would affect investment in R&D, leading to less innovation.

Manufacturers offer authorized repair networks to assure consumers that their products are serviced by properly trained and vetted repair professionals. This includes having the necessary skills to safely and reliably repair specific electronic products. Some repairs can be extremely dangerous, especially when performed in a home environment. For example, it is particularly important that products containing high-energy lithium ion batteries are repaired only by trained professionals who understand the hazards associated with these batteries. In fact, due to the high energy density and flammable characteristics of lithium ion batteries, many jurisdictions have adopted laws restricting the use, storage, and transport of batteries. Even with the correct tools, consumers and independent repair providers have limited knowledge of these sophisticated safety features.

Other repairs are serious because of the danger that a consumer, particularly a patient, could be placed in without having a say in the process as sensitive medical equipment is repaired by those without the most proper training.

While medical devices may be sensitive equipment, there is also sensitive data to consider. Personal devices such as phones and computers include sensitive personal data. Thus, the security of these products is of the utmost importance to the consumers that rely on them. Opening any device to repair by third parties increases its vulnerability to cybercrime.

Consumers, public schools, hospitals, banks, industrial manufacturers, and businesses of all sizes need reasonable assurance that those they trust to repair their connected products will do so safely, securely, and correctly. Enabling anyone to have the digital and physical keys to these products cannot be the solution. The government should be focused on protecting consumers and ensuring repairs are done responsibly and correctly, not adding more risk.

Based upon the concerns outlined above, we urge you to allow the marketplace to work rather than tying it up with prescriptive red tape. Thank you again for the opportunity to provide some of our preliminary thoughts. As always, we offer ourselves as a resource to discuss this issue further.

Sincerely,

Bartlett D. Cleland
General Counsel & Director of Strategic Initiatives

The logo for NetChoice, featuring the word "NetChoice" in a blue, sans-serif font.

NetChoice is a trade association dedicated to protecting free enterprise and free expression online.