

Yes

We Should Be Able to Fix What We Own

THE RIGHT-to-repair movement is fundamentally about protecting our centuries-old rights to repair the things we buy. When we buy things, they are supposed to become ours—entirely—ours to use, customize, resell, repair, neglect or destroy.

Over the past generation, almost every product with a computer chip has been subject to manufacturer repair restrictions. Manufacturers have used those chips as an excuse to block potential competition for repair even though doing so broadly violates antitrust provisions against tying together sales and service. Lack of enforcement of these provisions has led to the backward assumption that manufacturers have a right to block repair, or control who can service equipment. The practice is so widespread that even if a manufacturer loses a repair case here or there, it has no deterrent value.

We should all be able to fix the things we own. We should be able to take them to a repair shop of our choice. And the best way to secure those rights is to pass legislation at the state level requiring manufacturers to make repair tools, spare parts and diagnostic information readily available to consumers and independent repair shops. States, with their general business and consumer-protection laws, can demand the sale of repair materials. State attorneys general are the logical enforcement body, able to assess fines and pursue court remedies.

While federal agencies have a role to play in restoring a competitive repair marketplace, they don't have the same powers as states. The U.S. Copyright Office, for example, has repeatedly cleared the way for people to circumvent products' software locks for the purpose of repair, but it can't force manufacturers to provide necessary service materials.

The Federal Trade Commission recently investigated manufacturers' claims that making repair materials more widely available would create new safety and cybersecurity risks for consumers and lead to more theft of intellectual property. In a report last year, the agency said it found "scant" evidence of those claims and concluded unanimously that consumers don't benefit from repair limitations. The FTC called on states to enact right-to-repair legislation.

Repair technicians can't do their jobs without the materials mentioned in right-to-repair laws.

None of the manufacturers' counterarguments hold water. While claiming it is their responsibility to ensure products aren't altered or repaired in a way that makes them unsafe, manufacturers also protect themselves with "limitations of liability" clauses in purchase agreements, warranty documents and end-user license agreements.

These clauses put all responsibility for use on the buyer, so manufacturers in essence are arguing against their own liability protections when they say it is their responsibility to ensure products are fixed correctly.

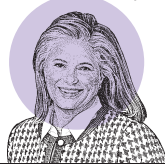
Manufacturers also claim that providing technical information to parties they haven't vetted threatens innovation and consumers' data privacy. Those arguments are flawed, too.

Repair doesn't jeopardize intellectual property as the product is already in the marketplace, with all that creative and valuable content included. Swapping a replacement part produced under the same patents and copyrighted software as the original is just a replacement. And if manufacturers are providing thousands of authorized repair shops with sensitive information—such as a way to bypass a product's security settings or encryption features—those supposed secrets would rapidly cease to be secret.

The idea that consumers are free to service their devices anywhere is nonsense because techs can't do their jobs without the materials mentioned in right-to-repair laws. It isn't practical for tinkers to build chips in their basements, so parts must be available. Techs can't find problems or confirm a



Should States Adopt Right-to-Repair Laws?

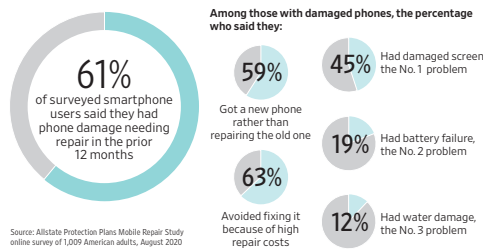


BY GAY GORDON-BYRNE



BY DUSTIN BRIGHTON

AS ANY CONSUMER knows all too well, products break. And when they break—well, that's where things can get tricky. • Consumers who want to fix their own damaged devices, or take them to an independent repair shop, can face challenges. That's because manufacturers of many products—especially those with computer chips—often limit who has access to the parts, tools and information needed to perform repairs. • "Right to repair" advocates say manufacturers shouldn't be permitted to block repair or force customers to use only authorized technicians, and they are pushing states to pass legislation that would require companies to make repair materials more widely available. • Manufacturers, alternatively, say giving proprietary repair information to parties that haven't been vetted or trained could create data-security and safety risks for consumers, and lead to the theft of trade secrets.



repair is completed without access to diagnostics. They may need specialty tools to gain physical access to a broken device. They can't activate spare parts without access to the settings tools. Lack of access to any of these things—none of which are secret because they are already distributed to authorized technicians—creates a repair monopoly.

The passage of state right-to-repair laws could force manufacturers to back federal legislation to avoid a patchwork of rules. As 41 states have already introduced some form of "right to repair" over the past eight years, we think the odds are with us.

Ms. Gordon-Byrne is executive director of the Repair Association, a nonprofit organization that advocates for repair-friendly policies, regulations, statutes and standards. Email her at reports@wsj.com.

No

They Will Damage Consumer Safety And Security

WOULD YOU want to give your house keys to any stranger who asked for them? What about a map of your house, with the locations of all your valuables? You would probably say no, and rightfully so.

Manufacturers feel the same way about

the security and construction of their products. The past few years have seen numerous "right to repair" proposals that would force manufacturers of devices including refrigerators, tractors and cellphones to provide sensitive security information and equipment to anyone who wants it, regardless of whether they've been trained, certified or vetted. These bills would result in serious harm to consumers' privacy and safety.

Right-to-repair proponents say these concerns are overblown, but in fact the opposite is true. It is precisely because manufacturers don't share proprietary equipment and security information with parties they haven't vetted that consumers haven't been exposed to potential harm. By undoing a proven and effective system, there's a real risk of significant impacts on cybersecurity and innovation. No wonder that last year alone, 30 state legislatures reviewed and ultimately rejected right-to-repair proposals, determining that they cause more problems for consumers than they solve.

Right-to-repair laws aren't the only way to make the repair business accessible, valuable and profitable. Expanding repair networks is a priority for manufacturers, who build relationships with many small local businesses and offer the training and certification required to perform repairs safely and securely. Today, consumers have more options than ever, as the sheer number of authorized repair providers across the country has been growing significantly in recent years.

Consumers need those who work on their devices to understand what they are doing and be trustworthy, which is why vetting, training, and certification are essential before providing anyone with a complete package of technical information and tools. Just last year, the U.S. Consumer Product Safety Commission warned consumers that rechargeable lithium-ion battery cells are "potentially hazardous to consumers" when they are loose and not installed in a device or part of an integral battery. Potential real-world harms include "igniting the cell's internal materials and forcibly expelling burning contents, resulting in fires, explosions, serious injuries and even death," the commission said.

Beyond the safety concerns, the proposed bills are unnecessary. Consumers who own their devices are already free to service them anywhere they want. There is nothing stopping them from patronizing an independent provider. While we at the Repair Done Right Coalition recommend providers that have been certified, we can't and won't stop customers from doing what they wish with their property.

What the coalition is opposed to, however, is forcing manufacturers to provide sensitive technical information to parties they can't vouch for. In an age when cyber-

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attacks are becoming more frequent, sophisticated and severe, authorized repair providers are required to take customers' data privacy seriously. Right-to-repair laws would have the opposite effect, forcing manufacturers to disclose sensitive technical information about security settings to people who haven't been vetted and could have malicious intent. Now more than ever, we shouldn't make it easier to circumvent security protections by providing a "how to" manual to anyone who wants one and legislatively severing accountability links in place to protect consumers.

Nor should state laws require manufacturers to hand over trade secrets and other intellectual property that are the result of billions of dollars of research and development. Mandates to provide unauthorized repair shops with proprietary information without contractual safeguards would undercut and discourage those investments.

Consumers, businesses, public schools, hospitals, banks and industrial manufacturers need to know that the people who repair their products will do so safely, securely and correctly. That's why our coalition opposes giving sensitive intellectual property, security information, and parts and tools to parties we don't trust.

Mr. Brighton is managing director of Brightstone Bridge LLC and head of the Repair Done Right Coalition, an alliance of manufacturers and others that opposes right-to-repair laws on the grounds of safety and security. He can be reached at reports@wsj.com.

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