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UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**Statement of Chair Lina M. Khan
In the Matter of Deere & Company
Commission File No. 2110191**

January 15, 2025

The Federal Trade Commission today files suit against agricultural equipment manufacturer Deere & Company, stating that it has illegally restricted the ability of farmers and independent technicians to repair Deere equipment, including tractors and combines. The Commission's complaint charges that Deere's repair restrictions have driven up repair costs for farmers while also depriving them of choice and the ability to make timely repairs on critical equipment, including tractors and combines, and that these practices violate Section 2 of the Sherman Act and Section 5 of the FTC Act.

Farmers rely on their agricultural equipment to earn a living and feed their families. Unfair repair restrictions can mean farmers face unnecessary delays during tight planting and harvest windows. For some, these delays can mean that months of hard work and much-needed income vanish, devastating their business. In rural communities, the restrictions can sometimes mean that farmers need to drive hours just to get their equipment fixed. For those who have long fixed their own equipment, these artificial restrictions can seem especially inefficient, with tractors needlessly sitting idle as farmers and independent mechanics are held back from using their skill and talent.¹

The FTC's work on repair restrictions extends back over 50 years, to when the Commission's then-Chairman testified in favor of the anti-tying provision of the Magnuson Moss Warranty Act.² In the decades since, changes in technology and more prevalent use of

¹ I am grateful to the many farmers and ranchers that have engaged with the FTC in recent years, and to members of Congress and state lawmakers who have informed the FTC's work on right to repair issues. Many thanks in particular to Senator John Hickenlooper and Representative Joe Neguse, who invited me to a listening session with farmers in Longmont, Colorado in July 2024, and to Senator Elizabeth Warren, who invited me to meet with an independent auto repair shop in Watertown, Massachusetts in February 2024. *See* Lindsey Toomer, *Colorado farmers tell FTC head federal right-to-repair policy needed*, COLORADO NEWSLINE (July 26, 2024), <https://coloradonewsline.com/2024/07/26/colorado-ftc-chair-right-to-repair>; Hiawatha Bray, *In Watertown visit, Senator Warren and FTC head Lina Khan look to jumpstart right to repair*, BOSTON GLOBE (Feb. 22, 2024), <https://www.bostonglobe.com/2024/02/22/business/elizabeth-warren-lina-khan-right-to-repair>.

² *See* Statement of Hon. Lewis A. Engman, Chairman, Fed. Trade Comm'n, included in H. Rep. No. 93-17, at 58 (1973) ("This provision addresses the anticompetitive practice which the Commission has opposed in numerous court actions wherein a manufacturer uses a warranty unreasonably to tie his supplementary products or services to the warranted product. This leaves the consumer in the undesirable posture of losing his warranty protection if he purchases the supplementary items from another and perhaps less expensive source—even if he does so in complete ignorance of the warranty's provisions.").



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software have created fresh opportunities for companies to limit independent repair. While manufacturers previously threatened to void warranties if customers relied on repairs from a different company, firms today can withhold the software tools entirely, depriving users of the code needed to even diagnose the problem.

In recent years, the Commission has made it a priority to protect Americans' right to repair their products and to ensure that independent mechanics are not being unlawfully shut out from the market. This is vital work. Illegal repair restrictions can inflate costs and create delays for customers, close off business opportunities for independent repair shops, and create more waste. In some contexts, the stakes are particularly high. Reporting suggests that repair restrictions may hamper hospitals from fixing medical equipment needed for treating patients and prevent the military from fixing equipment needed for America's defense.³

In July 2019, FTC staff hosted a workshop to examine the ways in which manufacturers may limit third-party repairs and sought input from consumers, independent businesses, manufacturers, and others.⁴ Through this work, the Commission uncovered evidence that manufacturers and sellers may, without reasonable justification, be restricting competition for repair services in numerous ways.

In May 2021, the Commission submitted a report to Congress entitled *Nixing the Fix: An FTC Report to Congress on Repair Restrictions* that expanded upon these findings, with particular emphasis on repair restrictions imposed by mobile phone and car manufacturers.⁵ In the report, the Commission concluded that manufacturers use a variety of methods that have made consumer products harder to fix and maintain, including but not limited to: imposing physical restrictions; limiting the availability of parts, manuals, diagnostic software, and tools to manufacturers' authorized repair networks; asserting patent rights and enforcement of trademarks in an unlawful, overbroad manner; disparaging non-OEM parts and independent repair; using unjustified software locks, digital rights management, and technical protection

³ See, e.g., U.S. PIRG Education Fund, *Hospital Repair Restrictions* (July 2020), https://publicinterestnetwork.org/wp-content/uploads/2020/07/Hospital_Repair_Restrictions_USPEF_7.8.20b.pdf; David Dayen, *When Big Business Won't Let the Troops Repair Their Equipment*, THE AM. PROSPECT (Sept. 19, 2019), <https://prospect.org/power/when-big-business-wont-let-the-troops-repair-their-equipment>.

⁴ Press Release, Fed. Trade Comm'n, *FTC to Hold July 2019 Workshop on Product Repair Restrictions, Seeks Research in Advance* (Mar. 13, 2019), <https://www.ftc.gov/news-events/news/press-releases/2019/03/ftc-hold-july-2019-workshop-product-repair-restrictions-seeks-research-advance>; Press Release, Fed. Trade Comm'n, *FTC Releases Final Agenda for Workshop that Will Examine Restrictions on Third-Party Repairs of Consumer Products* (July 9 2019), <https://www.ftc.gov/news-events/news/press-releases/2019/07/ftc-releases-final-agenda-workshop-will-examine-restrictions-third-party-repairs-consumer-products>.

⁵ 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.



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measures; and imposing restrictive end user license agreements. The Commission also found “scant evidence” to support manufacturers’ justifications for repair restrictions.⁶

In July 2021, the Commission voted unanimously to issue a policy statement that committed the agency to ramping up law enforcement against repair restrictions that prevent small businesses, workers, consumers, and even government entities from fixing their own products.⁷ The policy statement notes that the Commission will target repair restrictions that violate antitrust laws enforced by the FTC as well as the FTC Act’s prohibitions on unfair or deceptive acts or practices and urged the public to submit complaints of potential violations.⁸ As the statement explains, certain repair restrictions may constitute tying arrangements or monopolistic practices that violate the Sherman Act and Section 5 of the FTC Act’s prohibition on unfair methods of competition.⁹

The Commission has also brought several enforcement actions related to illegal repair restrictions. In June 2022, the Commission charged motorcycle manufacturer Harley-Davidson, and generator maker Westinghouse with illegally restricting customers’ right to repair their purchased products.¹⁰ In July 2022, the Commission took similar action against grill maker Weber for imposing unlawful repair restrictions on consumers.¹¹ The FTC’s complaints alleged that these companies’ warranties included terms that conveyed that the warranty was void if customers used independent dealers for parts or repairs, a violation of the Magnuson Moss Warranty Act. The consent orders obtained in these matters bar the manufacturers from continuing the unlawful tying of their warranties to the use of authorized service or parts and prohibit them from misrepresenting any material facts about the warranties. In July 2024,

⁶ *Id.* at 6.

⁷ Fed. Trade Comm’n, Policy Statement of the Federal Trade Commission on Repair Restrictions Imposed by Manufacturers and Sellers (July 21, 2021), https://www.ftc.gov/system/files/documents/public_statements/1592330/p194400repairrestrictionspolicystatement.pdf.

⁸ *Id.* at 2.

⁹ *Id.*

¹⁰ Press Release, Fed. Trade Comm’n, FTC Takes Action Against Harley-Davidson and Westinghouse for Illegally Restricting Customers’ Right to Repair (June 23, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-takes-action-against-harley-davidson-westinghouse-illegally-restricting-customers-right-repair-0>; see also Statement of Chair Lina M. Khan Joined by Comm’r Rebecca Kelly Slaughter In the Matter of Harley-Davidson Motor Company Group and MWE Investments Inc., Commission File Nos. 2123140, 2223012 (June 22, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/2223012_2123140HarleyMWEChairStatement.pdf.

¹¹ Press Release, Fed. Trade Comm’n, FTC Takes Action Against Weber for Illegally Restricting Customers’ Right to Repair (July 7, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/07/ftc-takes-action-against-weber-illegally-restricting-customers-right-repair>.



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Commission staff also sent letters to eight companies notifying them that their warranty practices may be unlawfully hampering consumers' right to repair the products they have purchased.¹²

The Commission has brought a cross-agency approach to these issues, using resources and expertise from throughout the FTC to combat unlawful repair restrictions. As part of this work, the FTC has closely coordinated with state law enforcement, federal agencies, and policymakers to ensure compliance and to update existing law and regulation to advance the goal of honest, fair, and competitive repair markets. Commission staff have testified before state legislatures in Colorado and California to provide feedback on legislation advancing Americans' right to repair,¹³ and submitted advocacy letters in support of the right to repair in a number of other states.¹⁴ The FTC and DOJ also filed a joint comment with the U.S. Copyright Office supporting renewal and expansion of exemptions to the Digital Millennium Copyright Act's prohibition against the circumvention of technology protection measures that control access to copyrighted content—a change that ultimately resulted in more easily fixable McDonald's McFlurry machines.¹⁵

Unlawful repair restrictions should continue to be a key area of focus for the Commission.¹⁶ This work will be especially important as continued technological advances, such as the increasing rise of software in automobiles and integration of artificial intelligence into

¹² Press Release, Fed. Trade Comm'n, FTC Warns Companies to Stop Warranty Practices That Harm Consumers' Right to Repair (July 3, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-warns-companies-stop-warranty-practices-harm-consumers-right-repair>.

¹³ Press Release, Fed. Trade Comm'n, FTC Testifies in Support of Colorado's Right-to-Repair Law (Feb. 29, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/02/ftc-testifies-support-colorados-right-repair-law>; Press Release, Fed. Trade Comm'n, FTC Testifies Before California State Senate on Right to Repair (Apr. 11, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/04/ftc-testifies-california-state-senate-right-repair>.

¹⁴ See Ltr from Samuel Levine, Dir. of FTC Bureau of Consumer Protection, and Hannah Garden-Monheit, Dir. of FTC Office of Policy Planning, to Rep. Kristi Pursell re Minnesota HF 4800, (Mar. 22, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/24.03.22-SignedLetterReMNHF4800_0.pdf; Ltr. from Samuel Levine, Dir. of FTC Bureau of Consumer Protection, and Hannah Garden-Monheit, Dir. of FTC Office of Policy Planning, to Rep. Holvey re Oregon SB 1596A, (Feb. 26, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/24.02.26-SignedLetterreORSB1596A.pdf; Ltr. from Samuel Levine, Dir. of FTC Bureau of Consumer Protection, and Elizabeth Wilkins, Dir. of FTC Office of Policy Planning, to Rep. Patricia Fahy re New York Digital Fair Repair Act, (Apr. 19, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/letter-assemblymember-fahy.pdf.

¹⁵ Press Release, Fed. Trade Comm'n, FTC and DOJ File Comment with the U.S. Copyright Office Supporting Renewal and Expansion of Exemptions Facilitating Consumers' and Businesses' Right to Repair Their Own Products (Mar. 14, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/03/ftc-doj-file-comment-us-copyright-office-supporting-renewal-expansion-exemptions-facilitating>; see also Max Hauptman, *More McFlurrys: US Copyright Office allows McDonald's to fix broken ice cream machines*, USA TODAY (Oct. 29, 2024), <https://www.usatoday.com/story/money/food/2024/10/29/mcdonalds-mcflurry-ice-cream-machine/75914325007>.

¹⁶ I am disappointed that Commissioner Ferguson and Commissioner Holyoak would vote against this law enforcement action on political grounds, wishing instead to delay the relief that farmers are owed. See Dissenting Statement of Comm'r Andrew N. Ferguson Joined by Comm'r Melissa Holyoak In the Matter of Deere & Company, Matter Number 2110191 (Jan. 15, 2025).



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everyday items, will create new areas where repair restrictions inflate costs, create frustration, and harm competition.

Many thanks to the FTC team for the excellent investigative work on this matter over numerous years, including staff from Anticompetitive Practices I, the Litigation Group, the Office of Technology, the Bureau of Consumer Protection, and the Bureau of Economics.
