

February 26, 2018

The Honorable Joseph D. Morelle
Majority Leader
New York State Assembly
926 Legislative Office Building
Albany, NY 12248

Re: New York State Assembly Bill 8192-A

Dear Majority Leader Morelle:

Consumers Union, the advocacy division of Consumer Reports,¹ supports your efforts to better ensure that consumers have the choice to fix their own electronics or have them fixed by an independent repair servicer. Our organization has long supported this “right to repair,” and has recently incorporated this principle into the Digital Standard, a set of best practices which we use to evaluate the privacy and security of software, digital platforms and services, and internet-connected products, as well as to help influence the design of these products.² We think it is important to safeguard and maintain consumers’ ability to exercise their full rights of ownership over the products they purchase, including the right to repair and resell them, even as their technology grows more complex.³

It’s often difficult for consumers to make simple repairs on their expensive devices, such as changing a smartphone battery or replacing a cracked screen.⁴ Not only are electronics frequently designed in a way to preclude easy repair, but manufacturers are clamping down on access to the diagnostic tools, repair tools, and replacement parts necessary to fix consumer electronic products. Some even put digital locks on devices that prevent third-party repair. These tactics may force consumers to rely on the manufacturer, or the manufacturer’s authorized servicer, to fix these products. This can be costly, as well as challenging for consumers living in rural areas, who may be far from authorized servicer outlets. Or, they can lead consumers to buy replacement devices, which is also expensive, as well as wasteful.

The recent news that Apple pushed out a software update in 2016 to slow down certain Apple iPhone models to compensate for aging batteries, without adequately notifying consumers, further highlights the

¹ Consumers Union is the public policy and advocacy division of Consumer Reports, an expert, independent, nonprofit organization whose mission is to work for a safe, fair and just marketplace for all consumers and to empower consumers to protect themselves. Consumers Union conducts its policy and advocacy work in the areas of telecommunications, healthcare, food and product safety, financial reform, and other areas.

² *The Standard*, THE DIGITAL STANDARD, <https://www.thedigitalstandard.org/the-standard>.

³ E.g., Comments of Consumers Union to U.S. Copyright Office, Software-Enabled Consumer Products Study (March 18, 2016), <http://consumersunion.org/research/comments-to-the-u-s-copyright-office-regarding-software-enabled-consumer-products/>.

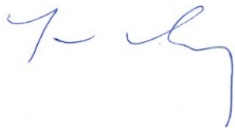
⁴ Bree Fowler, *iPhone Slowing Down? It Might be Time to Replace Your Battery*, CONSUMER REPORTS (Dec. 28, 2017), <https://www.consumerreports.org/smartphones/iphone-slowing-down-it-might-be-time-to-replace-your-battery/>; Becky Worley and Sarah Messer, *Cracked iPhone Screen Help Guide: How 5 Repair Options Stack Up*, ABCNEWS.COM (May 1, 2017), <http://abcnews.go.com/Business/cracked-iphone-screen-guide-repair-options-stack/story?id=47089610>.

importance of having easier and more economical choices for repair.⁵ Had iPhones been made with replaceable batteries, consumers could have easily returned their phones to full functionality by simply replacing the batteries, precluding the need to slow down devices. Or, if independent repair servicers were better empowered to fix Apple devices, consumers might have had more options for replacing the batteries. Instead, as news of the battery issues came to light, Apple apologized, and eventually offered its \$79 replacement batteries for a \$50 discount.⁶ Due to high demand, replacement batteries for the iPhone 6+ generation of phones are reportedly on backorder until March or April,⁷ and consumers seeking replacements have encountered long lines at Apple stores.⁸

The introduction of Assembly Bill 8192-A is a constructive and welcome step in this effort to restore and preserve these fundamental consumer ownership rights. We look forward to assisting in perfecting the bill as it moves through the legislative process so that all issues are appropriately addressed. For example, consumer safety is of critical importance, and we support making it clear that the bill does not affect manufacturers' responsibilities under safety laws and standards. This and other improvements and clarifications will help ensure that the bill achieves its important pro-consumer purposes.

We look forward to working with you to protect consumers' right to repair.

Sincerely,



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San Francisco, CA

⁵ Tom Warren and Nick Statt, *Apple Confirms iPhones with Older Batteries Will Take Hits in Performance*, THE VERGE (Dec. 20, 2017), <https://www.theverge.com/2017/12/20/16800058/apple-iphone-slow-fix-battery-life-capacity>.

⁶ *A Message to Our Customers About iPhone Batteries and Performance*, APPLE.COM (Dec. 28, 2017), <https://www.apple.com/iphone-battery-and-performance/>.

⁷ Nicole Nguyen, *iPhone Users Are Mad that Battery Replacements Are Backlogged Until March or April*, BUZZFEED NEWS (Jan. 19, 2018), https://www.buzzfeed.com/nicolenguyen/iphone-battery-replacement-iphone-6-plus?utm_term=.rm3M5GI0y#.dtqbl9RJv.

⁸ Jonathan Vanian, *Getting the Apple iPhone Battery Upgrade Could Take Weeks*, FORTUNE (Jan. 4, 2018), <http://fortune.com/2018/01/04/apple-iphone-battery-upgrade-wait/>.