



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

While unlawful repair restrictions have generally not been an enforcement priority for the Commission for a number of years,<sup>4</sup> the Commission has determined that it will devote more enforcement resources to combat these practices.<sup>5</sup> Accordingly, the Commission will now prioritize investigations into unlawful repair restrictions under relevant statutes such as the Magnuson-Moss Warranty Act<sup>6</sup> and Section 5 of the Federal Trade Commission Act.<sup>7</sup>

First, the Commission urges the public to submit complaints and provide other information to aid in greater enforcement of the Magnuson-Moss Warranty Act and its implementing regulations. While current law does not provide for civil penalties or redress, the Commission will consider filing suit against violators of the Magnuson-Moss Warranty Act to seek appropriate injunctive relief. The Commission will also closely monitor private litigation to determine whether the Commission may wish to investigate a pattern of unfair or deceptive acts or practices or file an amicus brief. Further, the Commission will explore rulemaking, as appropriate.

Second, the Commission will scrutinize repair restrictions for violations of the antitrust laws. For example, certain repair restrictions may constitute tying arrangements or monopolistic practices—such as refusals to deal, exclusive dealing, or exclusionary design—that violate the Sherman Act.<sup>8</sup> Violations of the Sherman Act also violate the prohibition on unfair methods of competition codified in Section 5 of the Federal Trade Commission Act.

Third, the Commission will assess whether repair restrictions constitute unfair acts or practices, which are also prohibited by Section 5 of the Federal Trade Commission Act. In addition, the Commission will analyze any material claims made to purchasers and users to ascertain whether there are any prohibited deceptive acts or practices, in violation of Section 5 of the Federal Trade Commission Act.

Finally, the Commission will bring an interdisciplinary approach to this issue, using resources and expertise from throughout the agency to combat unlawful repair restrictions. The FTC will also closely coordinate with state law enforcement and policymakers to ensure compliance and to update existing law and regulation to advance the goal of open repair markets.

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<sup>4</sup> The Commission has brought only one case alleging a violation of the Magnuson-Moss Warranty Act in the past decade. *In the Matter of BMW of North America, LLC*, No. 132-3150 (October 2015). During this period, the Commission's efforts have included issuing several warning letters to companies that appeared to be engaged in warranty tying in violation of the Magnuson-Moss Warranty Act. See *FTC Staff Warns Companies that It Is Illegal to Condition Warranty Coverage on the Use of Specified Parts or Services*, <https://www.ftc.gov/news-events/press-releases/2018/04/ftc-staff-warns-companies-it-illegal-condition-warranty-coverage>.