

HB0084: Consumer Protection – Right to Repair
01/27/2021
Ways & Means Committee
Testimony by Joseph D. Mettle, Consumer
Position: FAVORABLE

Allow me to introduce myself. My name is Joseph Daniel Mettle. I am 37 years old, a certified Information Technology Support Specialist, and have been playing video games since I was in kindergarten. I have also performed vehicle maintenance both on my own and for others customers at a dealership in Howard County. As such, I have experience on both sides of the right-to-repair argument.

My family and I use a wide variety of personal electronic devices. My wife and I have Android phones and Hewlett-Packard computers; hers a notebook and mine a desktop. She and our daughter have Fire tablets, and our girl even has a Chromebook issued by BCPS for distance learning. We also have owned an assortment of video game consoles over the years. The two most recent are a Nintendo Switch and a Sony PlayStation 4. But I won't touch Apple products. I don't even like iTunes. I thought it was nice when it was the first of its kind, but over time Apple became more and more restrictive. And more companies have, unfortunately, began to follow suit.

I support HB0084; I think it's a good bill. I understand some industry concerns, but I think they are overblown. Industry trade secrets are specifically exempt from this bill, so no company can be forced to divulge them. And the Federal copyright protections still exist, so there's no risk of those being turned over, either. Companies should absolutely fight to protect their own intellectual property rights. And since no manufacturer can be found in violation of the law for refusing information on either of these grounds, this bill actually protects them on both fronts.

That said, I am not oblivious to the concerns of the Entertainment Software Association over piracy. I want the companies that make the games I play to continue making games. And that means getting paid for their work. Two of my favorite developers, Bethesda Game Studios and Firaxis Games, are even headquartered right here in Maryland. But as good as their intentions might be, I think they are misguided. Enacting a right-to-repair will not worsen the problem of video game piracy.

The piracy of video games has been an issue for the last two decades, at least, and to my knowledge it hasn't sunk a company yet. People don't pirate things they don't want. Nobody is stealing these digital copies of games to resell; it's free for anyone to download. Piracy indicates interest in a product, and has even been used to generate interest. After early seasons of *Game of Thrones* were pirated, HBO saw an increase in subscriptions from people who wanted to watch it new. Some small video game developers have actually advocated for piracy and cleverly used it to boost sales for legitimate copies of their game.

Others have turned piracy back on the pirates; rendering such copies of their games unplayable. Illegitimate copies of games like *Batman: Arkham Asylum* and *Mirror's Edge* are missing key code that prevents large sections of the game from being completed, let alone experienced. And others still, after protecting their games with robust Digital Rights Management, create another form of pollution. The bloated file sizes hinder performance. Pirates who remove these protections from their games enjoy a smoother experience that consumes fewer resources and is less taxing on their machines.

But perhaps most tellingly is the case of EMI Records, a British record label and subsidiary of Universal Music Group. In 2014 *Forbes* article, EMI removed copyright protection from their digital music sales back in 2007. Sales after that change saw a 10% increase.

If I wanted to install pirated software on one of our home video game consoles, or on the desktop computer, I could. It's not difficult. There is no shortage of websites and YouTube videos showing me, and others, just how to do it. And, aside for my love of the hobby, the other key reason I don't pirate video games are the penalties. I'm not talking legal penalties, I'm not concerned with the FBI knocking on my door. The game companies themselves take action against pirates.

If I'm caught using Nintendo's online service with a modified console, altered to accept pirated software, I'm banned from ever connecting online with that console again. While playing *Animal Crossing: New Leaf*, we would not be able to visit our friends' islands or have them visit ours. We wouldn't be able to trade pokémon caught in *Pokémon Sword* with people around the world using *Pokémon Home*. We wouldn't be able to play any of the older games, games from my wife's and my childhood, hosted via Nintendo Switch Online.

And if I bought another Switch, I can't transfer the saved data. I'd have to start from scratch. And their competitors, Microsoft and Sony, are almost as diligent. It's just not worth it; not on video game consoles. Video game piracy has always been a PC (personal computer) problem. Setting aside the fact that so many games on consoles are also available for sale for PC platforms, the game data can always be copied and played on a PC with an emulator; software that pretends to be the native console.

And HB0084 is not going to interfere with people working on and repairing their home computers. Heck, I could buy the parts online, or in a brick-and-mortar store, and build and assemble one myself. I don't need a Dell or Hewlett-Packard label on my machine. I don't even need Microsoft Windows.

I think that's most important to remember is that no one, myself included, is asking for the keys to the kingdom. We just want the tools to exchange basic components. And some video game consoles, like Sony's PlayStation 4, are designed to do just that. It uses a standard PC-compatible hard drive that is easily accessible. Sony even sells the console as different models with different sized hard drives for user convenience. But if I ever need to swap out the hard drive, like if it stopped working one day, I can. And the console will begin a system repair and install a fresh operating system on the new hard drive. Data recovery might be an issue, but if I'm paying for cloud saves I can download my old game data from their servers.

I know that right-to-repair hasn't been enacted anywhere in the United States before. But, to borrow from the ancient Chinese philosopher Lao Tzu, "A journey of a thousand miles begins with a single step." Someone has to take that first step. And I hope it's Maryland.

Thank you for your time.