

Testimony on to Vermont Task Force, Fair Repair Act
Robin Ingenthron, CEO Good Point Recycling
Monday, September 10, 2018

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1. Good Point Recycling, Middlebury, Vermont

Good Point Recycling is a Vermont corporation established in 2001. Currently we have 40 employees, 30 positions in Middlebury and 10 in a new facility in Brockton, Massachusetts. We manage most of the used electronics in Vermont as well as programs in a 5 state area, since 2001 we have collected and recycled roughly 50 million pounds of material that probably would have wound up in landfills and incinerators. We bring between \$2M-3M per year to Addison County, 95% from out of state.

The percent that we are able to reuse has fluctuated, at a high of 25% ten years ago, to the recent 10%. What we cannot reuse and repair is broken down into basic materials, plastic by color and type, copper, steel, aluminum, etc. However, the “80/20 Rule” applies. Most of the value is in the 20% of electronics that can be repaired.

Below is a chart showing reuse and repair of devices in Middlebury since 2015. Last month, we sold \$51,000 of parts and repairable electronics. This provides about 30% of your payroll, and lowers the costs of recycling for municipalities and waste districts.



Middlebury Vermont electronics reuse sales 2015-18

The reason the chart is climbing is a rise in “do it yourself” repairers (our largest sales by number go to California). However, we cannot take it for granted - 15 years ago we saw the same growth in cell phones and ink cartridges, both of which afterwards suffered a collapse, due in no small part to “planned obsolescence” and conflicts between OEMs and secondary markets.

2. Robin Ingenthron

CEO of Good Point
Founder, Fair Trade Recycling
Consultant, USA EPA RCRA Washington, DC
VP, Electronicycle
Division Manager, Massachusetts DEP
MBA / Public Management
Non-profit Boston Recycler (Earthworm Inc), Peace Corps

Surveyed over 500 electronics repair shops in 1999 at MA DEP. Two lifetime achievement awards (NRRRA, ERC), author of articles on reuse and repair industry.

3. Warranty Act 1975

Many of the arguments you will hear from Industry, about the complexity, the “Pandora’s Box”, the unintended consequences of the Fair Repair Act, will have a grain of truth. I expect we’ll hear very sound examples of why it’s a mistake.

Most of these we heard before - at least those of us who were following consumer rights in the 1970s. The Magnuson-Moss Warranty Act of 1975 took 4 years of testimony from industry, explaining why Warranty services was going to be completely impossible to govern, and would result in more harm than good.

After the 1975 Warranty Act was passed, the world didn’t end. Magnuson-Moss Warranty Act resulted in a Solomon rule. Manufacturers don’t HAVE to offer a warranty. Warranty’s are NOT guaranteed by law under the Act. Any manufacturer can sell their devices “as is”, or lease their device rather than sell it. What a manufacturer cannot do is use tricks and fine print to subterfuge a warranty they have advertised. If you do say you sell goods under warranty, and you do something to make the warranty value-less, there is now a statute.

15 U.S. Code Chapter 50 - CONSUMER PRODUCT WARRANTIES

<https://www.law.cornell.edu/uscode/text/15/chapter-50>

4. Changes in Repair not covered by Warranty Act

Manufacturers are increasingly using the rights reserved to them under Mag-Moss. My new cell phone is technically “leased” to me for 18 months before I can purchase it. When Printer Cartridge manufacturer Lexmark was told by the courts that they could not prevent consumers from refilling the cartridges with ink, Lexmark unveiled a deposit rebate system to get consumers to turn the old cartridges in to Lexmark - Epson went one further, and began selling printers with large inkwells.

But there are batteries, cords, software, and other complications which Magnuson-Moss could never have contemplated in 1975. Two years ago, in Florida, independent cell phone shops were raided for selling a cord that fits Apple cell phones - the phones were sold under the Warranty Act, but the cords were not, you had to buy a replacement cord for over \$65 from Apple. Where you used to be able to choose from a variety of competing engine repair shops, the computer software on an engine is increasingly provided only to a single monopoly shop.

This Task Force does not need to solve every one of these issues, any more than Magnuson Moss Act did. It simply needs to say that the burden of proof is on the manufacturer if the

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manufacturer is selling and not leasing the device. If repair people and DIY consumers are being challenged over their “rights” to repair the devices, let 15 US Code Chapter 50 regulators hear the argument and maintain the possibility to intervene.

6. Economic importance to Consumers and Vermont