

Consumer Protection through Disclosure of Digital Rights

Problem:

Consumers, including business, industry, and government are not consistently provided details of how digital equipment is to be supported prior to point of purchase. Lack of sufficient information creates the situation where the vendor (also known as the Original Equipment Manufacturer or “OEM”) can introduce new requirements post-purchase which interfere with competition for post-purchase repair and limit or prevent asset resale. Lack of resale opportunities destroys the investment made by consumers and forces early retirement of useful assets at the timetable dictated by the OEM.

At the household level, consumers are estimated to already own 25 digitally driven devices, ranging from programmable thermostats to refrigerators to automobiles. The consumer is always at the mercy of the repair policies of the vendor, with no options save those the OEM permits. While repair may not yet be a burning issue for some products, the digital electronics industry trend is strongly towards monopolization of repair and resale with closed markets in agriculture, automobiles, aircraft, industrial controls, medical equipment, point of sale equipment, consumer electronics, cell phones, and “computers”.

Disclosure of the following policies prior to purchase would allow consumers to make educated purchasing decisions, including the opportunity to negotiate more favorable terms and conditions, or to select products that can be more flexibly supported and serviced.

The following are the minimum disclosure points that must be included to protect consumers:

- A. What is the price breakdown of hardware elements from licensed elements?
- B. What part of the purchase is transferrable in the secondary market?
- C. How are service parts provided?
- D. How is service documentation provided?
- E. How are updates, patches & fixes, and other defect support provided to machine code?
- F. How are diagnostic routines, including diagnostic tools, provided?
- G. How are specialty repair tools provided?
- H. How are remote diagnostics, if applicable, provided?

The above list is reflective of areas where OEMs are not consistently divulging their policies, which grants them, by default, the appearance of the right to command a repair and support monopoly for their products. If a vendor does not permit a buyer to access any of the above, it would be the informed choice of the buyer to make the purchase. However, without the ability to service and support equipment outside the OEM, the buyer should not expect to capitalize the asset as there is no ability to transfer the equipment.