


The US Military Needs Right-to-Repair Legislation to Fix Its Own Broken Equipment

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We've discussed the importance of right-to-repair legislation and the need to protect the right of consumers to modify and fix their own equipment a number of times at ET, but we've always tackled the topic from a civilian consumer perspective. According to a recent op/ed by Captain Elle Ekman, a logistics officer in the United States Marine Corps, the issue has serious implications for military combat readiness as well.

Ekman wrote a [recent op/ed](#) for the *New York Times* and co-authored a letter to FTC Chair Joseph Simons earlier this fall [on the issue](#). According to Ekman, it's not uncommon for Marines to lose substantial amounts of time waiting for broken equipment to be shipped back to the United States (or, in some cases, to one of several far-flung global repair centers), repaired, and returned.

This didn't used to be the case, Ekman writes. From the 1940s to the 1970s, the US military kept the rights to the technology it developed, including the knowledge and specialized training required to perform advanced mechanical repairs. In the 1990s, however, these policies changed. Fed up with exploding costs and long tech development times, Congress passed laws encouraging the military to adopt COTS — Commercial Off the Shelf hardware — wherever and whenever possible. The goal was to speed the procurement process and reduce both the price and the time required for R&D. But the consequence of these changes has apparently been a weakening of the government's ability to negotiate exceptions to things like warranty and commercial repair demands.

To put it differently: Imagine trying to negotiate an Xbox 360 repair with Microsoft before they'd acknowledged the existence of the Red Ring of Death, only you're in Afghanistan instead of Illinois, and the thing you're trying to get fixed is a vehicle that's supposed to keep you safe from IEDs and terrorist gunfire. By law, the federal government is required to purchase commercial hardware to the maximum practical extent. By law, the federal government receives "only the technical data and the rights in that data customarily provided to the public."

In her letter to the FTC, Elle and former Marine Lucas Kunce describe why the special exceptions granted to the Pentagon haven't provided a solution to this problem. For one thing, companies can simply make it far too expensive for the Pentagon to acquire the right to repair its own military hardware. According to both the NYT and the FTC letter, marines who performed maintenance on warranted equipment were reprimanded for doing so, because fixing the equipment voided the warranty, and the process of managing costs required that the hardware be shipped back to the manufacturer for repair, despite the cost of *that* and lost unit readiness. According to the letter, the

Marines have the ability to create replacement hardware in the field in some cases, but are prohibited from doing so because they lack access to exact specifications or are prohibited from taking these actions due to warranty terms.

Ekman and Kunce also discusses issues with the Medium Tactical Vehicle Replacement (briefly) and Joint Light Tactical Vehicle (in more detail). According to an operational assessment of the JLTV, there were significant issues related to how Marines in the field could not maintain the vehicle without contractor support, support manuals and provided training were inadequate to the task of vehicle maintenance, and that the health monitoring system for the vehicle was itself inaccurate and “reduced crew and maintainer confidence in the system.” The authors point out that this shows how the military did not have a robust set of tools for troubleshooting or resolving problems with the vehicle.

It’s not clear exactly how large a problem this is across the US Armed Forces; Ekman and Kunce focus on the Marine Corps. But it’s an interesting example of how an intended push to reduce costs has, over the long term, resulted in the US military facing many of the same concerns ordinary consumers do when buying regular stuff — only with potentially more severe consequences if they’re unable to do so.