FEDERAL TRADE COMMISSION
WASHINGTON, D.C 20580

THE CHAIRMAN

February 05, 2020

The Honorable Susan W. Brooks
United States House of Representatives
Washington, DC 20515

Dear Representative Brooks:

Thank you for your January 17, 2020 letter. You expressed concern regarding how Original Equipment Manufacturers (OEMs) may limit or restrict third-party service providers' ability to service or repair medical devices. You also requested that the Federal Trade Commission ("FTC" or "Commission") consider the issues and concerns raised by the Alliance for Quality Medical Device Servicing in its comment to the FTC's "Nixing the Fix" workshop docket.

The Commission acts in the interest of all consumers to prevent deceptive or unfair acts or practices pursuant to the Federal Trade Commission Act ("FTC Act").[1] Under the FTC Act, a practice is *deceptive* if it is likely to mislead reasonable consumers and affect their purchasing decisions.[2] A practice is *unfair* if it causes or is likely to cause substantial consumer injury which consumers cannot reasonably avoid, and which is not outweighed by benefits to consumers or competition.[3] The Commission also enforces a number of other laws including the Magnuson-Moss Warranty Act.[4] The Magnuson-Moss Warranty Act governs consumer product warranties, and requires warrantors of consumer products to provide consumers with detailed information about warranty coverage. Section 102(c) of the Magnuson-Moss Warranty Act prohibits warrantors from conditioning warranty coverage of a product on the consumer's use of an article or service identified by brand, trade, or corporate name, unless the warrantor provides that article or service without charge or the warrantor has received a waiver from the Commission.[5]

On July 16, 2019, the Commission hosted the "Nixing the Fix" workshop on repair restrictions, which focused on how manufacturers may limit repairs by consumers and repair shops and whether those limitations affect consumer protection, including consumers' rights under the Magnuson-Moss Warranty Act. One panelist addressed the impact of repair restrictions on medical devices, and FTC staff have read the comment submitted by the Alliance

---

[1] 15 U.S.C. §§ 41-58.
[2] *See, e.g., FTC v. Stefanchik,* 559 F.3d 924, 928 (9th Cir. 2009); *In the Matter of Telebrands Corp.,* 140 F.T.C. 278, 290 (2005), *aff'd,* 457 F.3d 354 (4th Cir. 2006); *see also* Federal Trade Commission Policy Statement on Deception, appended to *Cliffdale Assocs., Inc.,* 103 F.T.C. 110, 174-83 (1984).
[3] 15 U.S.C. § 45(n); *see also* Federal Trade Commission Policy Statement on Unfairness, appended to *Int'l Harvester Co.,* 104 F.T.C. 949, 1070-76 (1984).
[4] 15 U.S.C. §§ 2301 *et seq.*
[5] 15 U.S.C. § 2302(c).

for Quality Medical Device Servicing, along with the other public comments and empirical research related to the workshop. We will carefully review the information received, and will keep you apprised of any FTC follow-up to this event.

If you or your staff has additional questions or comments, please contact Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195.

Sincerely,

Joseph Simons
Chairman