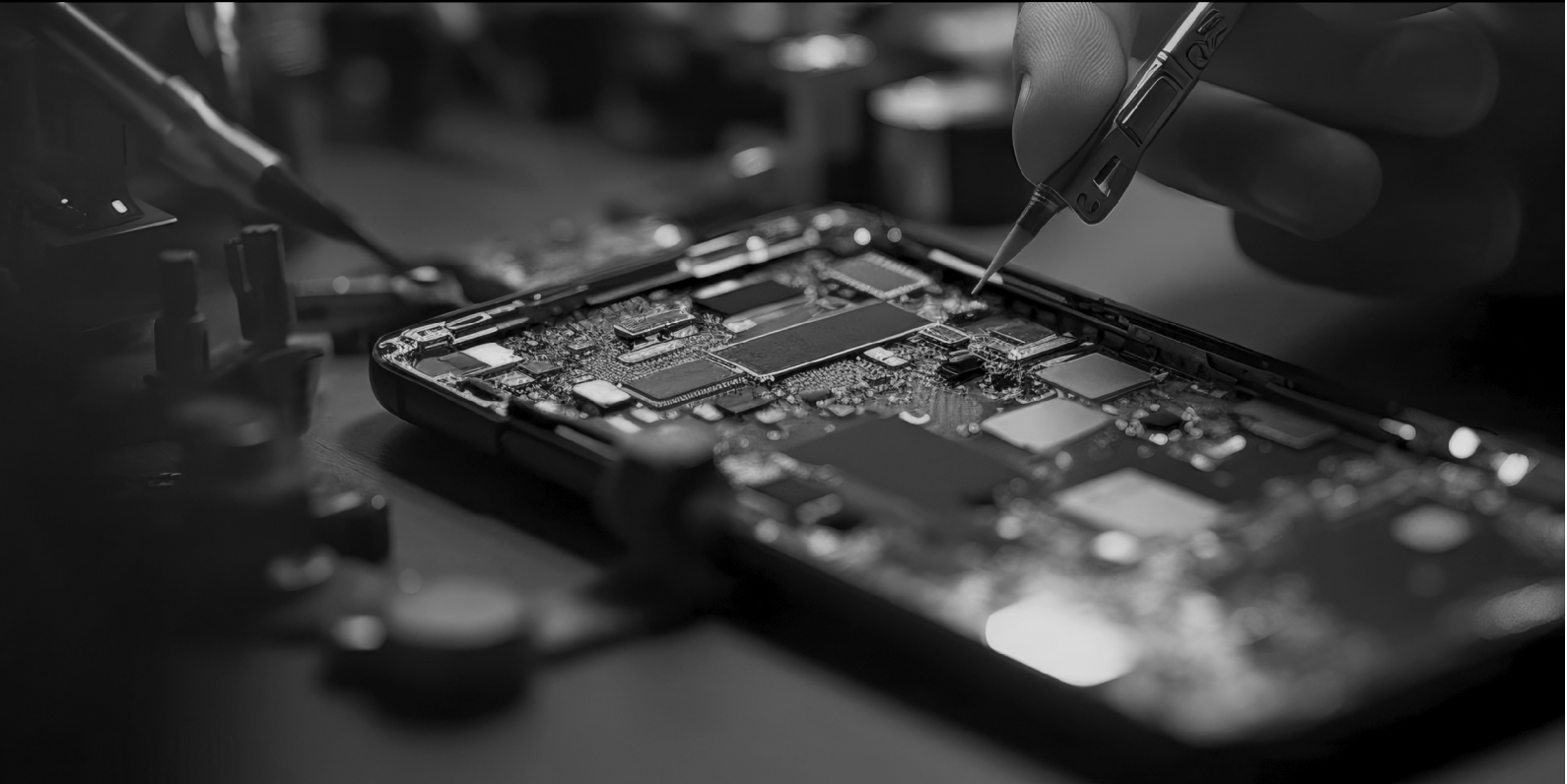




## COMPETITION

# Fixing the aftermarket: What the Competition Commission's new Repair Guidelines mean

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If your business manufactures, distributes or repairs phones, appliances, medical devices or other durable goods, this update is for you.

During the first week of October 2026 the Competition Commission published its Guidelines on Repair, Service and Maintenance Aftermarkets under section 79 of the Competition Act 89 of 1998. They build on the automotive aftermarket guidelines the Commission issued in 2021 and amended in September 2024. The Commission has now concluded that the same problems they identified in relation to cars, namely independent repairers being shut out, also arise with electronics, appliances and other durable goods.

Technically, the Guidelines are not binding. In practice, they matter a great deal. Put simply, the Commission has told the market where it intends to look, and manufacturers (OEMs), distributors and authorised repair networks should pay attention.

## Scope: what's in and what's out

The Guidelines cover repair, service and maintenance for all devices, products and components. The one exception is motor vehicles, which remain under the separate automotive guidelines. The Commission expects the Guidelines to have the biggest impact in five specific areas:

- mobile phones, tablets and gaming consoles
- audiovisual equipment

- white goods
- medical devices
- back-up water and electricity systems

The main focus is on repairs that the customer pays for outside warranty. However, a product being under warranty does not automatically take every related repair out of the picture.

## Market definition: don't count on the “systems market” argument

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This is the most important analytical point in the Guidelines. OEMs have often argued that competition in selling the product keeps their after-sales conduct in check. The Commission is clearly unlikely to accept that argument easily.

Its starting point is that selling the product and repairing it are separate markets. It notes that the conditions for treating them as one “systems” market, such as buyers costing repairs over the whole life of the product, low switching costs and generic parts, are rarely met in practice. If you want to argue otherwise, you will need evidence to back it up. This follows the US Supreme Court's decision in *Eastman Kodak*. The Court held that a firm without market power in selling its equipment can still have market power in the aftermarket for its own brand.

Three further points are worth noting:

- You can have market power in the aftermarket even if you face strong competition when selling the product.
- You can have that power even if you do not carry out repairs yourself.
- The Commission will look at the size of your installed base, how many existing customers are “locked in” compared with new buyers, and how much control you have over parts, diagnostics and software.

## Spare parts: where enforcement will start

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If there is one message to take away, it is this: restricting access to spare parts is a serious concern for the Commission, and the Commission has made it an enforcement priority.

The concern goes well beyond refusing to supply. It also covers discriminatory supply terms, margin squeeze and tying. It covers less obvious tactics too, such as:

- insisting on proprietary tools where ordinary tools would do the job
- “parts pairing” software that stops a replacement part working unless the OEM activates it
- warning messages that appear after an independent repair

Setting minimum resale prices for parts, tools or repair services is prohibited outright.

There is also an important procedural change. If the Commission finds a restriction on spare parts, it will expect you to explain and support your justification. You will need to show that the restriction is necessary and proportionate. Where conduct looks exclusionary on its face, any justification will be held to a higher evidentiary standard.

## Other conduct on the radar

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Spare parts are not the only concern. The Commission will also look at:

- Other repair inputs, such as manuals and diagnostic tools, including margin squeeze, conditional supply and less favourable non-price terms.
- Accreditation schemes that are not transparent or proportionate, or that are applied inconsistently.
- Opaque pricing that leaves independent service providers (ISPs) unable to work out their costs.
- Steering customers away from ISPs, for example by making repair uneconomic compared with replacement, offering loyalty rewards tied to OEM repair, or making switching difficult.
- Warranty terms that restrict customer choice more than is needed to run the warranty.

## Justifications: available, but narrow

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None of this means that OEMs cannot protect legitimate interests. The Commission accepts that intellectual property, safety and regulatory compliance can justify a restriction. However, any justification must be specific and must go no further than necessary:

- Intellectual property. IP in one component will not normally justify restricting repairs to unrelated parts.
- Regulatory requirements. If you rely on an NRCS, EPR or product-specific rule, you must identify the actual instrument and show that your conduct goes no further than it requires.
- Security and safety components. Accreditation controls limited to security- or safety-critical components are acceptable if they are objective, transparent and non-discriminatory. Accredited ISPs must also get access on terms at least as good as those given to your authorised network.

This reflects the EU's *CEAHR* decision, where selective repair systems were upheld because any repairer meeting objective criteria could join.

## Conclusion: what to do now

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These Guidelines bring South Africa into line with right-to-repair developments in the EU. They also reflect the Act's wider aim of opening markets to SMMEs and historically disadvantaged persons. Our practical advice is to take five steps now:

- Audit your aftermarket arrangements. Look closely at spare parts policies, distribution and exclusivity agreements, and authorised repairer contracts for both direct and indirect restrictions.
- Review software and design. Check whether parts pairing, activation controls or diagnostic access block independent repair without good reason.
- Prepare your justifications now. The Commission expects them early, so record the regulatory, safety or IP reason for each restriction and the specific legal instrument behind it.
- Test your accreditation and warranty terms. Make sure they are transparent, proportionate and non-discriminatory, and limited to what the warranty genuinely requires.
- Don't assume being smaller protects you. Firms below the section 6 dominance threshold can still be caught by section 5 if their vertical agreements restrict competition.

For independent repairers, the Guidelines provide a clear basis for raising complaints. For everyone else, the conclusion is simple: how you run your aftermarket is now as much a competition compliance question as a commercial one.



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