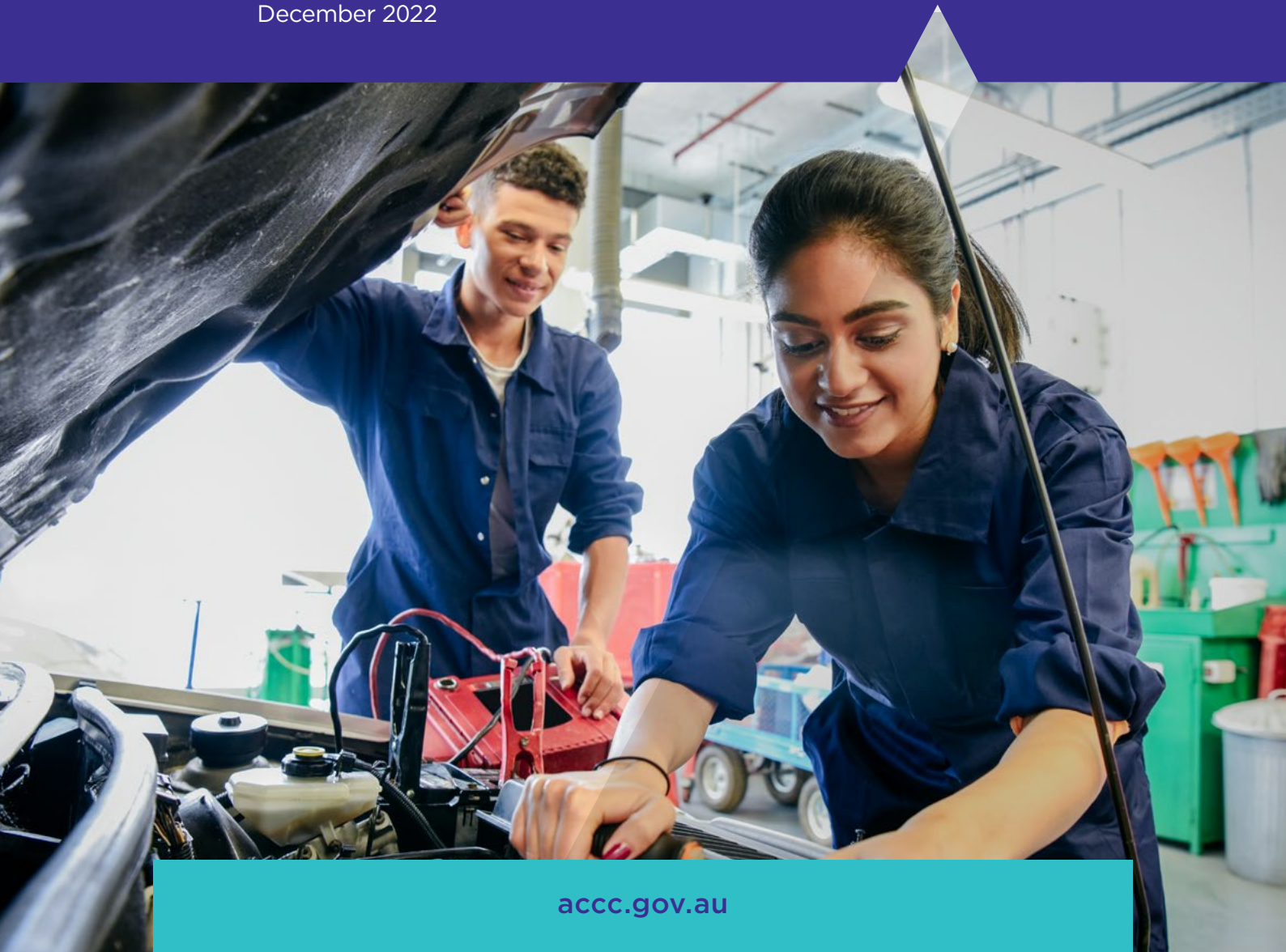




Motor Vehicle Service and Repair Information Sharing Scheme

Guidance for data providers

December 2022



Australian Competition and Consumer Commission
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Overview

Under the Motor Vehicle Service and Repair Information Sharing Scheme (scheme), all repairers have fair access to the information needed to service and repair vehicles. This includes software updates such as to connect a new spare part with a car, and information and codes for computerised systems from a vehicle manufacturer.

Data providers to supply a scheme offer

Data providers that supply scheme information must offer that scheme information to all repairers (this is called a scheme offer) (see section 3.1 for further details in relation to supply of scheme information).

Scheme information must be offered to all repairers in the same form, unless that form would not be practicable or accessible.

A data provider must publish the scheme offer:

- in English
- on the internet
- in a form that is accessible free of charge.

A data provider must supply scheme information within the timeframe prescribed by the scheme. This timeframe varies depending on the circumstances, and starts once the repairer has paid, or offered to pay, for the information (see section 3.2 for further details relating to choice of supply period).

Supply period

A data provider may choose to offer scheme information to all repairers on a fee-per-request basis, and/or via a time-limited subscription service. If information is being provided on a time-limited subscription service this must include the option to subscribe:

- for any time period requested by a repairer, or
- on a daily, monthly and annual basis.

Prohibited terms and conditions of supply

A data provider must not enter into a contract for the supply of scheme information that contains a term or condition:

- requiring a repairer to acquire services or products from anyone, or
- allowing an increase in the price for the supply of the scheme information once the contract has been agreed to.

Fair Market Price

Scheme offers must be supplied at a price that does not exceed the fair market value of the information. Factors relevant to determining the fair market value of information include:

- terms and conditions on which scheme information is offered for supply to repairers
- anticipated demand by repairers
- reasonable recovery of costs
- prices for information in overseas markets
- any amount payable to a third person with proprietary interest (see section 3.3 for further details regarding Scheme offers not to exceed fair market price).

Paying compensation to third parties that hold copyright

A data provider must supply scheme information even though it may result in an infringement of copyright, a breach of contract, or a breach by the data provider of an equitable obligation of confidence. If a third-party holds copyright in relation to some or all of the scheme information supplied by the data provider, that data provider must pay compensation to the copyright holder.

Notifying the Scheme Adviser

A data provider must notify the Scheme Adviser, in writing:

- as soon as reasonably practicable, of any published scheme offers, and of any changes to scheme offers
- of the terms and conditions on which scheme information has been supplied, including the price, within 2 business days of the supply.

Separating safety and security information

A data provider must separate safety and security information from other scheme information to the extent that it is reasonably practicable to do so. If this information cannot be separated, the data provider must only provide access if the individual meets the relevant criteria to access safety and security information.

Restricting access to safety and security information

A data provider must restrict access to safety and security information to only those who meet the relevant fit and proper person criteria. An individual is a fit and proper person to access and use safety and security information if the individual meets the criteria prescribed by the Act and the scheme rules.

Data providers must keep records regarding access to security information for a period of 5 years after the day it is supplied. Sensitive information obtained about an individual in order to check whether the individual meets the fit and proper person criteria must be stored in Australia or an Australian external territory.

Dispute resolution

Data providers and repairers can use any dispute resolution process to resolve a dispute about the operation of the scheme – including in relation to what is or is not scheme information, the timeliness of access to scheme information, and whether the price charged for scheme information exceeds its fair market value.

The scheme includes a process that may be used to resolve disputes at any time. If one of the parties chooses this procedure, it must be followed to resolve the dispute. A data provider or repairer can still choose to take legal action or make a complaint to us when they participate in the dispute resolution procedure under the scheme.

1. Introduction

1.1 Motor Vehicle Service and Repair Information Sharing Scheme

From 1 July 2022, Part IVE of the *Competition and Consumer Act 2010* (Cth) (Act) requires motor vehicle service and repair information to be made available for Australian repairers and relevant Registered Training Organisations (RTO) (repairers) to purchase at a fair market price. The scheme applies to passenger vehicles and light goods vehicles, other than omnibuses, manufactured on or after 1 January 2002.

Under the Motor Vehicle Service and Repair Information Sharing Scheme (scheme), all repairers have fair access to the information needed to service and repair vehicles. This includes software updates such as to connect a new spare part with a car, and information and codes for computerised systems from a vehicle manufacturer.

These changes to the automotive servicing sector adopt recommendations from the [ACCC's new car retailing industry market study](#).

1.2 Purpose of this industry guidance

Part of the Australian Competition and Consumer Commission's (ACCC) role in relation to the scheme includes preparing guidance material for data providers.

The guidance aims to:

- encourage data providers to comply with the law by educating them about their responsibilities under the scheme
- explain clearly what data providers' obligations are and what we expect data providers do to comply with the scheme
- indicate our approach to enforcement action to address non-compliance with the scheme consistent with our [Compliance & enforcement policy & priorities](#) (C&E policy)
- highlight the differences between the ACCC's and the Scheme Adviser's roles, functions and responsibilities under the scheme.

The ACCC expects that data providers use this guidance as assistance to comply with their obligations under the scheme. While the Act and the Australian Consumer Law (ACL) apply to data providers irrespective of compliance with this guidance, one of the factors we may consider in assessing future enforcement matters related to the scheme is the extent to which data providers have taken steps to apply this guidance.

1.3 Our role

The ACCC is an independent Commonwealth statutory body responsible for administering the Act. We promote compliance with the Act and where appropriate, take enforcement action against businesses and individuals that breach it.

The ACCC has a broad oversight, compliance and enforcement role for the scheme. We monitor the implementation of and compliance with the scheme to:

- ensure data providers understand their obligations under the scheme
- engage with stakeholders and to provide guidance to data providers and the Scheme Adviser
- work collaboratively with the Scheme Adviser on awareness and education
- take enforcement action, where appropriate.

What we can and cannot do

The ACCC has clear functions and powers in relation to the scheme.

What we can do:

- accept and record reports of information about business practices and behaviours that are of concern
- provide information about rights and obligations under the law
- refer contacts to another agency that may be able to provide further assistance
- investigate alleged breaches of the Act and take enforcement or compliance action, where appropriate.

What we cannot do:

- provide legal advice on rights and obligations under the law
- provide dispute resolution services
- regulate or set the prices for goods or services
- make formal decisions on whether a person or business has breached the law, as only the courts can do this.

1.4 Role of the Scheme Adviser

Under the Act, the role of the Scheme Adviser has been established to oversee the day-to-day operations of the scheme. Made up of members from 4 industry stakeholder groups¹, the Australian Automotive Service and Repair Authority (AASRA) has been [appointed by the Minister](#) to fulfil the role and functions of the Scheme Adviser.

AASRA is the first point of contact for general information about the scheme.

The responsibilities of AASRA include:

- nominating mediators or technical experts for the purposes of dispute resolution and receiving certificates from mediators about the outcome of the mediation of disputes
- collecting information about scheme offers, changes to scheme offers, and the terms and conditions of the supply of scheme information (including the price for supplying scheme information) from data providers
- reporting to the Minister on:
 - scheme prices, the terms and conditions of scheme offers, and the availability of scheme information
 - whether particular information is, or should be, scheme information
 - anything else relevant to the operation of the scheme
- reporting to the ACCC on systemic regulatory or enforcement issues relating to the scheme
- providing general advice about the operation of the scheme
- publishing annual reports on their website
- providing information online about the availability of scheme information and dispute resolution.

¹ The Australian Automotive Aftermarket Association, the Australian Automotive Dealer Association, the Federal Chamber of Automotive Industries and the Motor Trades Association of Australia.

1.5 Application of our Compliance & Enforcement Priorities & Policy

All data providers are required to comply with the requirements of the Motor Vehicle Service and Repair Information Sharing Scheme from 1 July 2022.

There are a range of enforcement options available to us to respond to and resolve non-compliance, including administrative resolutions, infringement notices, court-enforceable undertakings and court proceedings. As a general rule, we will take into account legitimate attempts to comply and seek to understand any issues beyond the control of data providers that prevent full compliance in the early stages of the scheme.

Consistent with the [ACCC's C&E policy](#), we will take into account a number of matters when considering enforcement action including whether a data provider has:

- made little or no effort to comply with the scheme
- unnecessarily or intentionally withheld or delayed the provision of scheme information
- consistently not complied with the main obligations of the scheme
- engaged in systemic conduct which could result in substantial harm to repairers – in addition to the main obligations, this may include non-compliance with requirements such as to ensure personal information obtained from repairers cannot be stored or accessed outside Australia
- maintained or gained an advantage by not complying with one or more obligations under the scheme.

1.6 Penalties

Significant civil penalties—up to \$10 million—can be imposed on persons who do not comply with certain obligations of the scheme and, in some circumstances, the ACCC can issue infringement notices for alleged contraventions.

Maximum penalties for non-compliance with the scheme are outlined in **Attachment A** and referred to in this guidance as appropriate, as at 1 July 2022.

More information about fines and penalties can be found on our [website](#).

1.7 Compliance with competition and consumer law

We are also responsible for administering compliance with the broader competition provisions in the Act and the ACL.

Part of the ACL protects consumers and small businesses from unfair contract terms. A term may be unfair if it:

- causes a significant imbalance between the rights and obligations of each party
- is not reasonably necessary to protect the legitimate interests of the business
- would cause any detriment to the consumer or small business.

More information about unfair contract terms can be found on our [website](#).

Further, in some circumstances, small businesses may be entitled to certain remedies under the consumer guarantees if something goes wrong with a product or service they purchase.

You can read more about these rights and protections on our [website](#).

1.8 Where to seek further information

Data providers, repairers and motorists can raise concerns with or seek further information from the following sources:

Data providers can contact the ACCC's Motor vehicle information scheme team by email: motorvehiclerepairinfo@acc.gov.au.

Repairers can contact:

- [AASRA](#) about issues related to accessing and using scheme information and dispute resolution.
- The ACCC's [Infocentre](#) to report business practices and behaviours that are of concern including where there is a concern that sensitive information obtained about an individual under the scheme (for example to verify they meet the criteria to access safety and security information) has been or is being stored or accessed overseas.
- The ACCC is unable to get involved in or resolve individual complaints with a business, but reports help identify issues where action may need to be taken. However, the scheme provides for the facilitation of dispute resolution and further information is available on AASRA's [website](#).
- The [Office of the Australian Information Commissioner](#) in relation to all other privacy-related concerns.

2. Key concepts and definitions

This chapter outlines key concepts and definitions for understanding this guidance and the operation of the scheme. Definitions related to safety and security information are addressed in chapter 4 on 'Managing safety and security information'.

2.1 Scheme vehicle

A scheme vehicle is a passenger vehicle (other than an omnibus) or a light goods vehicle within the meaning of a vehicle standard made under the [Road Vehicle Standards Act 2018 \(Cth\)](#) manufactured on or after 1 January 2002.

The scheme does not apply to 2 or 3 wheeled vehicles, farm, construction or heavy vehicles, motor homes or buses.

If you are not sure whether a particular motor vehicle is a scheme vehicle, you should seek legal advice.

2.2 Scheme information

Scheme information is information relating to scheme vehicles prepared by or for manufacturers of scheme vehicles (or their related bodies corporate) for use in diagnosing faults with servicing or repairing those vehicles.

Scheme information does not include:

- a trade secret
- the intellectual property of a person, other than intellectual property protected under the *Copyright Act 1968* (Cth) (Copyright Act)
- a source code version of a program
- data automatically generated and transmitted by a scheme vehicle, while it is being driven, regarding driver or vehicle performance
- global positioning system data
- information supplied, or to be supplied, only to a restricted number of repairers for the purposes of developing solutions to emerging or unexpected faults with a scheme vehicle
- information that is commercially sensitive about an agreement between a data provider and another person
- information relating to an automated driving system of a scheme vehicle
- any other information prescribed by the scheme rules.

Scheme information may include:

- manuals, technical service bulletins, wiring diagrams, technical specifications for components and lubricants and testing procedures
- information and codes for computerised systems
- information about a voluntary or mandatory recalled component of a vehicle and information needed to rectify the issue
- software updates, for example where necessary after replacement parts are installed to ensure the vehicle's electronic systems recognise and accept the new part.

2.3 Australian repairer

An Australian repairer is anyone who carries on or actively seeks to carry on, in Australia, a business that involves diagnosing faults with servicing, repairing, modifying, or dismantling scheme vehicles.

People undertaking repairs to their own vehicle or as a hobby are not eligible to access information under this scheme. However, a data provider may choose to make scheme information available to consumers and others, subject to the requirements of the scheme.

2.4 Registered training organisation (RTO) and RTO courses

A scheme RTO is a registered training organisation that provides, or seeks to provide, a course (an RTO course) in Australia providing training in diagnosing faults with, servicing, repairing, modifying, or dismantling scheme vehicles.

RTOs can be searched for on www.training.gov.au.

2.5 Repairer

Repairer in this guidance refers to both an Australian repairer and a scheme RTO.

2.6 Data provider

A data provider is anyone who carries on a business that includes supplying scheme information to one or more Australian repairers.

This definition is intended to capture the sharing of information within vertically integrated structures and with related bodies corporate.

The supply of scheme information from a data provider to an Australian repairer will need to comply with the requirements of the scheme even if the data provider and the Australian repairer are related bodies corporate.

A data provider could include:

- a motor vehicle manufacturer
- an Australian subsidiary of an overseas motor vehicle manufacturer
- an affiliated dealership
- an information owner or licensee
- a data aggregator who sells scheme information in its own right.
- a scan tool provider providing aggregated scheme information such as diagnostic code interpretation
- an Australian new or used vehicle importer providing scheme information.

If you are not sure whether you are a data provider, you should seek legal advice.

2.7 Scheme rules

The [Competition and Consumer \(Motor Vehicle Service and Repair Information Sharing Scheme\) Rules 2021 \(Cth\)](#) (scheme rules) prescribe technical and administrative details necessary to implement the scheme. The scheme rules are referred to throughout this guidance.

3. Data providers' obligations under the scheme

This chapter sets out data providers' obligations under the scheme and the ACCC's guidance to assist data providers comply with those obligations.

If a data provider offers or supplies scheme information to any repairer, it must comply with these obligations. This includes the obligation to make that particular scheme information available to all other repairers.

These obligations apply regardless of whether a repairer is affiliated with, or a related body corporate of, the data provider.

A data provider must comply with the supply obligations in the scheme despite the existence of other rights and obligations – including copyright, contractual or equitable obligations.

Detailed information on managing safety and security information is addressed in chapter 4.

3.1 Offer to supply scheme information

A data provider must offer to supply the relevant scheme information to all repairers (scheme offer). The scheme offer must not contain prohibited terms and conditions (see section 3.6).

Scheme information must be offered in a form that all repairers are able to use, so they can enjoy the same functionality as repairers affiliated with vehicle manufacturers.

Scheme information must be offered in either:

- the same form in which it is supplied or offered for supply to other repairers, or
- if supply in that form is not practicable or accessible – in an electronic form that is reasonably accessible to all repairers.

For example, if a data provider:

- uses a secure gateway to provide information to affiliated repairers, it should allow all repairers to obtain scheme information via its secure gateway provided they meet the other requirements set out in the scheme
- requires the use of a proprietary tool to access and use certain scheme information, the tool must be made available to any repairer who requests it, or otherwise the scheme information would need to be supplied in another electronic form that is reasonably accessible to all repairers.

If a proprietary tool is required to access scheme information, the ACCC's view of best practice would be that that tool should be supplied to any repairer in a timely manner, consistent with the timeframes for the supply of scheme information under the Act, and at a cost that does not exceed the fair market price for that tool.

Where it is not practicable or accessible to offer scheme information to all repairers in the same form as it is offered to one or more repairers – including in circumstances where a necessary proprietary diagnostic tool cannot be supplied to all repairers – then scheme information must be offered in an electronic form that is reasonably accessible to all repairers.

A reasonably accessible electronic form could include using any computer and:

- a non-proprietary vehicle interface which complies with the SAE J2534, ISO 22900 (as updated from time to time) or equivalent generic pass-through device
- an on-board system integrated and entirely self-contained within the vehicle (including service information systems integrated into an on-board display), or
- a system that provides direct access through a non-proprietary interface such as Ethernet, USB or DVD.

Scheme information may be supplied or offered in other forms provided they are practicable and accessible.

▶ Example scenario – Must be available in an electronic form

Brisbane Motor Works is an independent motor vehicle servicing and repair business, which has been asked by a customer to service a Brava Motor Company vehicle. Brisbane Motor Works asks Brava Motor Company for access to the relevant scheme information, in order to carry out the service.

Brisbane Motor Works is not a repairer affiliated to Brava Motor Company. Brava Motor Company advises that it normally uses a proprietary diagnostic tool (tool) to provide scheme information.

Brisbane Motor Works requests access to the tool. Brava Motor Company informs Brisbane Motor Works that there is a shortage of the tool caused by international shipping delays, and it will be unable to provide the tool to Brisbane Motor Works for several months.

Brava Motor Company provides the scheme information to Brisbane Motor Works using a non-proprietary vehicle interface that complies with the SAE J2534 and/or ISO 22900, which is an electronic form that individual(s) working at Brisbane Motor Works can access by using any computer.

This scenario complies with the data provider's obligations.

Penalty provision

A pecuniary penalty of up to \$10 million for a body corporate or \$500,000 for an individual may be imposed by a court for a contravention of this obligation.

3.2 Choice of supply period

A data provider may choose to offer scheme information to all repairers on a fee-per-request basis, and/or via a time-limited subscription service.

Where the information is being provided through a time-limited subscription service, the subscription service must include options to subscribe:

- for any time period requested by a repairer, or
- on a daily, monthly and annual basis.

► Example scenario – Choice of supply period

Mike Motor Manufacturer Pty Ltd supplies scheme information that is unique to a particular vehicle (such as immobilizer pin codes and key codes) at the request of a repairer. Mike Motor Manufacturer Pty Ltd can set a fixed fee for each key code or immobilizer pin code supplied to repairers.

However, Mike Motor Manufacturer Pty Ltd provides repairers with access to the remainder of its scheme information through an electronic portal. Mike Motor Manufacturer Pty Ltd requires repairers to sign up for a subscription to access that portal. Mike Motor Manufacturer Pty Ltd must either:

1. offer repairers daily, monthly and yearly subscription options, or
2. allow the repairer to nominate a subscription period.

This scenario complies with the data provider's obligations.

Penalty provision

A pecuniary penalty of up to 600 penalty units (\$133,200) for a body corporate or 120 penalty units (\$26,640) for an individual may be imposed by a court for a contravention of this obligation.

The ACCC may issue an infringement notice of 60 penalty units (\$13,320) to a body corporate or 12 penalty units (\$2,664) to an individual for a contravention of this obligation.

3.3 Scheme offer not to exceed fair market price

A data provider must offer to supply scheme information at a price (scheme price) that does not exceed the fair market value of the information. The fair market value of the scheme information is determined by reference to a number of factors, which include those referred to below.

Where a dispute about the fair market price of scheme information arises between a repairer and a data provider, the parties should seek to resolve the dispute and agree to a fair market price for the scheme information by reference to these factors. While only a court can decide whether a given price exceeds the fair market value, these factors provide a guide to the parties about the issues that should be considered during any negotiation, including the dispute resolution process outlined under this scheme (see section 3.9) or during mediation (see section 3.10).

Price charged to other repairers for supplying scheme information in relation to a scheme vehicle

When determining the fair market value for scheme information, the price paid by other repairers for the same scheme information sets a guide for the value of that information.

Where scheme information has not previously been supplied in relation to a scheme vehicle of a particular make, model and year, data providers should consider the price of scheme information in relation to similar vehicles.

The ACCC will be particularly concerned where the cost for scheme information is so high that it does not allow an independent repairer to effectively compete with repairers within a manufacturer's dealership network.

Terms and conditions on which scheme information is offered for supply to repairers

The fair market value of the scheme information may vary depending on the terms of the offer. For example, a data provider may set reasonable terms on which scheme information is supplied to repairers, such as:

- the permitted use of the scheme information
- the means of access to the information
- the number of permitted users
- the frequency and duration of the use of the information.

Anticipated demand by repairers

The anticipated demand by repairers for the supply of scheme information on the basis of the scheme offer may affect the commercial value of the information.

Reasonable recovery of costs

Where a data provider incurs costs in developing, creating, producing and providing scheme information in the required form, the reasonable recovery of these costs is a consideration in determining the fair market value.

Prices for information in overseas markets

The price paid in overseas markets may be used as a guide for ascertaining a fair market value of that information. While prices in overseas markets may reflect different market conditions and information supplied, this information may still be relevant in determining a fair market value in Australia.

Any amount payable to a third person with proprietary interest

Where a data provider does not own the scheme information it is required to provide under the scheme, it is possible that the data provider is licenced to provide data to certain entities, not including independent repairers.

In order to provide scheme information as required by the scheme, it is expected the data provider may need to renegotiate its contract (such as a licensing agreement it may have entered with a data owner or other licensee governing the data provider's use of intellectual property or copyright material). Such renegotiations are likely to result in payments being made by the data provider to the copyright owner to compensate for the additional copying/sharing of intellectual property.

▶ Example scenario - Pricing new scheme information

Taylor's Cars Pty Ltd is a vehicle manufacturer that has released a new model of a vehicle. Taylor's Cars Pty Ltd has not supplied scheme information to Australian repairers for this new model before.

Taylor's Cars Pty Ltd must price this information at a fair market value.

Taylor's Cars Pty Ltd considers the following when determining how much to charge for this information the:

- price charged for scheme information for a similar vehicle recently released by Mike Motor Manufacturer Pty Ltd
- cost of the administration costs incurred in providing the information to a repairer
- fee it will need to pay to the copyright holder to compensate them for the additional copying/sharing of intellectual property
- number of permitted users and the duration the information is to be used. Taylor's Cars Pty Ltd has decided to permit the information to be used by either one or 5 users at a single time
- price at which Taylor's Cars Pty Ltd is currently supplying this information to repairers in Europe.

Accounting for these factors, Taylor's Cars Pty Ltd sets a price and outlines the factors it had considered to determine this price to repairers.

This scenario complies with the data provider's obligations.

Penalty provision

A pecuniary penalty of up to \$10 million for a body corporate or \$500,000 for an individual may be imposed by a court for a contravention of this obligation.

3.4 Publication of scheme offer

A data provider must publish the scheme offer:

- in English
- on the internet
- in a form that is accessible free of charge.

We expect data providers to provide details on what scheme information they offer on a website or another online platform. This information cannot only be made available on a subscriber-only website or hidden behind a paywall.

Penalty provision

A pecuniary penalty of up to 600 penalty units (\$133,200) for a body corporate or 120 penalty units (\$26,640) for an individual may be imposed by a court for a contravention of this obligation.

The ACCC may issue an infringement notice of 60 penalty units (\$13,320) to a body corporate or 12 penalty units (\$2,664) to an individual for a contravention of this obligation.

3.5 Timeframes for the supply of scheme information

A data provider must supply scheme information requested by a repairer within prescribed timeframes. The timeframe for supply starts once the repairer has paid, or offered to pay, the price to the data provider for the information requested.

The prescribed timeframe for supply of scheme information varies depending on the circumstances. The scheme outlines 3 relevant timeframes for the supply of scheme information, as follows.

Immediate delivery

Scheme information must be supplied immediately if that scheme information:

- has been supplied to any repairer previously in that form, or
- is readily accessible by the data provider and can be provided in the form requested.

This applies if access to the information listed above does not require an individual to meet the fit and proper person criteria for the individual to access safety or security information. Determining whether an individual meets the criteria as a fit and proper person may not be required because the data provider has previously determined the individual as a fit and proper person to access that type of information, or the information is not considered safety or security information.

Two business days

Scheme information must be supplied within 2 business days if:

- a repairer requests scheme information that contains safety and security information from a data provider
- that data provider has not previously determined whether the individual is a fit and proper person to access that type of information (see chapter 4).

Once the data provider has received the relevant information from the individual, they have up to 2 business days after receiving it to determine if the individual meets the criteria as a fit and proper person and, if applicable, to supply the safety and security information.

Five business days

Scheme information must be supplied within 5 business days (or an alternative timeframe agreed upon by the parties) if:

- a data provider has not previously supplied the requested scheme information to any repairer, and
- the requested scheme information is not readily accessible.

If both parties are unable to come to an agreed upon timeframe, the data provider must provide the scheme information within 5 business days.

▶ Example scenario 1 – Immediate supply

In order to complete the repairs on a customer's vehicle, a repairer requires the vehicle's wiring diagram.

Automaker Pty Ltd supplies the wiring diagram that the repairer requires. The repairer has previously purchased scheme information from Automaker Pty Ltd. This means Automaker Pty Ltd already has the necessary information to provide the repairer with access to the requested scheme information.

The repairer pays Automaker Pty Ltd for the wiring diagram they require. Automaker Pty Ltd must supply the wiring diagram to the repairer immediately.

▶ Example scenario 2 – Supply within 2 business days

A repairer needs information on the traction motor speed control device in an electronic vehicle from Electronic Vehicle Company Pty Ltd, in order to carry out modifications on a customer's car. Information on the traction motor speed control device in an electronic vehicle is safety information.

The repairer frequently obtains scheme information from Electronic Vehicle Company Pty Ltd and has an annual subscription with them. However, the repairer has not previously purchased safety information from Electronic Vehicle Company Pty Ltd.

Before supplying the requested information, the data provider must first determine whether the repairer meets the requirements for accessing safety information. The repairer submits the necessary information to enable Electronic Vehicle Company Pty Ltd to make this determination on Monday 4 July.

Electronic Vehicle Company Pty Ltd must determine whether the repairer meets the requirements for accessing safety information and, if so, supply the information, by Wednesday 6 July.

▶ Example scenario 3 – Alternative timeframe agreed upon by both parties

The repairer has not previously obtained scheme information from Electronic Vehicle Company Pty Ltd, and the information the repairer has requesting has not been previously supplied to the market. Electronic Vehicle Company Pty Ltd explains to the repairer it may take longer than 5 days to provide the information. Both the repairer and Electronic Vehicle Company agrees on an alternative timeframe for the information to be supplied.

These scenarios comply with the data provider's obligations.

Penalty provision

A pecuniary penalty of up to \$10 million for a body corporate or \$500,000 for an individual may be imposed by a court for a contravention of this obligation.

The ACCC may issue an infringement notice of 600 penalty units (\$133,200) to a body corporate or 120 penalty units (\$26,640) to an individual for a contravention of this obligation.

3.6 Prohibited terms and conditions of supply

A data provider must not enter into a contract for the supply of scheme information that contains a term or condition:

- requiring a repairer to acquire one or more services or products from anyone; or
- allowing an increase in the price for the supply of the scheme information once the contract has been agreed to.

Examples of terms and conditions that are prohibited include those that:

- enable the information to be provided in an inaccessible format
- require a repairer to buy other services or products (for example, tools or spare parts) as a condition of purchasing scheme information
- allow a price increase after the contract is made.

Protections in the ACL and Part IV of the Act may also apply to the terms and conditions imposed by data providers. For example, the ACL provides protections against the inclusion of unfair contract terms in standard form contracts with small businesses. The Act also prohibits exclusive dealing where it has the effect of substantially lessening competition – that is where a person imposes restrictions on another person’s freedom to choose with whom, in what, or where they deal.

More information on [unfair contract terms](#) and [anti-competitive behaviour](#) can be found on our website.

Penalty provision

A pecuniary penalty of up to 600 penalty units (\$133,200) for a body corporate or 120 penalty units (\$26,640) for an individual may be imposed by a court for a contravention of this obligation.

The ACCC may issue an infringement notice of 60 penalty units (\$13,320) to a body corporate or 12 penalty units (\$2,664) to an individual for a contravention of this obligation.

3.7 Paying compensation to third parties that hold copyright

A data provider must supply scheme information even though by doing so it may result in an infringement of copyright, a breach of contract, or a breach by the data provider of an equitable obligation of confidence.

If a third-party holds copyright in relation to some or all of the scheme information supplied by the data provider, that data provider must pay compensation to the copyright holder.

If you are not sure whether this applies to you, you should seek legal advice.

3.8 Notifying the Scheme Adviser of relevant matters

A data provider must notify the Scheme Adviser, in writing:

- as soon as reasonably practicable, of any published scheme offers, and of any changes to scheme offers
- of the terms and conditions on which scheme information has been supplied, including the price, within 2 business days of the supply.

Penalty provision

A pecuniary penalty of up to 600 penalty units (\$133,200) for a body corporate or 120 penalty units (\$26,640) for an individual may be imposed by a court for a contravention of these obligations.

The ACCC may issue an infringement notice of 60 penalty units (\$13,320) to a body corporate or 12 penalty units (\$2,664) to an individual for a contravention of these obligations.

3.9 Dispute resolution under the scheme

Data providers and repairers can use any process to resolve a dispute about the operation of the scheme – including in relation to what is or is not scheme information, the timeliness of access to scheme information, and whether the price charged for scheme information exceeds its fair market value.

The scheme includes a process that may be used to resolve disputes at any time. If one of the parties chooses this procedure, it must be followed to resolve the dispute. A data provider or repairer can still choose to take legal action or make a complaint to us when they participate in the dispute resolution procedure under the scheme.

Follow these steps to use the scheme's dispute resolution procedure.

Step 1: Inform the other party – The person initiating the complaint must inform the other party in writing of the dispute and state:

- what the dispute is about
- how the dispute relates to the scheme
- the action they think will resolve the dispute, and
- their desired outcome.

Step 2: Try to resolve the dispute – The parties should then try to resolve the dispute.

Step 3: Mediation – If the parties cannot agree how to resolve the dispute within 2 days, either party may refer the dispute to a mediator.

3.10 Mediation under the scheme

Mediation is a cost-effective way to resolve disputes without going through complex and costly legal action.

Mediators do not give legal advice or make decisions like a judge. They assist parties to reach an outcome that is acceptable to both parties.

Mediation typically includes the following elements:

Step 1: Beginning mediation

When a party opts for mediation, both parties should try to agree who should be the mediator for the dispute.

If the parties cannot agree on the mediator, either party may request that the Scheme Adviser nominate a mediator.

Step 2: Taking part in mediation

Once the mediator is appointed, they decide how, where and when the mediation will be carried out. The mediator will let all parties know.

Both parties must attend the mediation and try to resolve the dispute. Penalties may apply if a party fails to attend the mediation.

If a party cannot attend mediation, they must send a representative. This representative must have authority to enter into an agreement to settle the dispute on the person's behalf.

Step 3: Ending a mediation

If the dispute has not been resolved within 30 days of the commencement of the mediation, the mediator:

- may terminate the mediation at any time, unless satisfied a resolution is imminent
- must terminate the mediation if either party asks the mediator to do so.

If the mediation is terminated, the mediator must issue a certificate to each of the parties and the Scheme Adviser.

Costs of mediation

Unless the parties agree otherwise, they must each pay:

- half the costs of the mediation (including any technical expert), and
- their own costs of attending the mediation.

▶ Example Scenario - Dispute resolution regarding fair market value

Brett's repair workshop wants to repair a Car Brand Pty Ltd vehicle, and contacts Car Brand Pty Ltd to purchase scheme information.

Car Brand Pty Ltd informs Brett that the price for the information is 40 Australian dollars a day. Brett does not believe this is a fair market price, as Car Brand Pty Ltd currently charges customers in the USA the equivalent of 20 Australian dollars per day for the same information. Brett writes to Car Brand Pty Ltd and explains that he does not think 40 Australian dollars per day is a fair market price for Car Brand Pty Ltd's scheme information. Brett asks Car Brand Pty Ltd to revise the price of its scheme offer to 20 Australian dollars per day. Brett is not able to reach an agreement with Car Brand Pty Ltd within 2 days and contacts AASRA. AASRA nominates a mediator to assist. Brett and Car Brand Pty Ltd attend mediation and are able to agree on a price for the scheme information.

This scenario complies with the data provider's obligations.

Penalty provision

A pecuniary penalty of up to 600 penalty units (\$133,200) for a body corporate or 120 penalty units (\$26,640) for an individual may be imposed by a court for a failure to attend mediation.

The ACCC may issue an infringement notice of 60 penalty units (\$13,320) to a body corporate or 12 penalty units (\$2,664) to an individual for a contravention of this obligation.

4. Managing safety and security information

This chapter outlines data providers' obligations around managing safety and security information.

4.1 Key concepts and definitions – safety and security information

Safety information

Safety information is scheme information relating to any of the following installed in a scheme vehicle:

- the hydrogen system
- the high voltage system
- the electric propulsion system, or
- any other system that is connected to the hydrogen system, high voltage system or the electric propulsion system.

These systems are broadly understood to mean:

- hydrogen system – has one or more hydrogen (gas) fuel containers fitted to the vehicle
- electric propulsion system – is powered by one or more electric motors or traction motors
- high voltage system – includes a system that has a hazardous voltage (if its working voltage is greater than 60 V and less than 1,500 V direct current (DC) or greater than 30 V and less than 1,000 V alternating current (AC)). This is compared to a standard starting, lighting and ignition battery which is generally 12V DC.

Security information

Security information is all scheme information relating to the security of the vehicle (including the locking and immobilising of the vehicle), where that information is:

- unique to the vehicle, and/or
- only able to be used for a limited period of time.

In modern vehicles, security information is generally unique to the vehicle identification number (VIN). Some examples of types of security information may include a code used to:

- cut a key that fits a particular vehicle
- program an electronic component of the vehicle's locking or immobilisation systems
- allow the operation of a component to the vehicle.

Security information also includes information that is time limited (for example, a reset code which changes regularly). Any system of a vehicle that passes through a security system (that is, needs a unique code) is captured by the definition.

4.2 Restricting access to safety and security information

While repairers have unrestricted access to purchase general information about a scheme vehicle, a data provider must restrict access to safety and security information to those who meet the relevant fit and proper person criteria. Data providers must also keep records regarding access to security information.

A data provider must not provide safety and security information to an individual unless there are reasonable grounds based on information provided by the individual to believe that the:

- information is solely for use for the purposes of a repairer's business or providing an RTO course
- individual is a fit and proper person to access and use the information.

An individual is a fit and proper person to access and use safety and security information if the individual meets the criteria prescribed by the scheme and the scheme rules.

Different criteria and information requirements apply for safety information versus security information, which are detailed below.

Penalty provision

A pecuniary penalty of up to 600 penalty units (\$133,200) for a body corporate or 120 penalty units (\$26,640) for an individual may be imposed by a court for a contravention of this obligation.

The ACCC may issue an infringement notice of 60 penalty units (\$13,320) to a body corporate or 12 penalty units (\$2,664) to an individual for a contravention of this obligation.

4.3 General personal information data providers can seek

A data provider must only assess whether an individual meets the relevant fit and proper person criteria based on personal information provided by the individual. The scheme limits the personal information a data provider can seek from the individual seeking access to safety and security information. See the table at section 4.8 for information on what data providers can collect when determining whether to supply safety and security information to an individual.

For an individual seeking access to safety or security information they must use that information for the sole purpose of an Australian repairer's business or an RTO course. For example, a mechanic may be self-employed and also work with multiple independent repair workshops. They can provide information about their relationship to a repair workshop they are working for to gain access for the purposes of repairing a vehicle at that specific repair workshop. Or they could demonstrate they own and operate their own workshop (qualifying in their own right) and are repairing a vehicle in that capacity.

4.4 Safety information - fit and proper person criteria

A data provider must only supply safety information to an individual who is a fit and proper person. A fit and proper person to access safety information is someone:

- whose relationship to the relevant Australian repairer or RTO is appropriate for the purposes of ensuring the safety information is used solely for the repairer's business or providing an RTO course
- has completed the required training, if the safety information relates to the high voltage, electric propulsion or hydrogen systems.

The required training for safety information regarding:

- High voltage or electric propulsion system or a system connected to one of those systems – is that the individual has successfully completed training that teaches competency in safely depowering, isolating and re-initialising a high voltage battery installed in a scheme vehicle.

This training must be provided by an RTO or provided directly or on behalf of a manufacturer of one of these systems. This means that the training is interchangeable, so a repairer trained to work on an electric system in one make can transfer those skills to another electric system in a different make.

- A hydrogen system or a system connected to a hydrogen system – is that the individual has successfully completed training that teaches competency in safely working on the specific brand scheme vehicle with that hydrogen system installed.

This training must be provided by or on behalf of a manufacturer of that kind of scheme vehicle or system. Training for a specific hydrogen system in a specific scheme vehicle is not transferrable between different brands.

4.5 Security information – fit and proper person criteria

A data provider must only supply security information to an individual who is a fit and proper person. An individual will be a fit and proper person to access security information if:

- their relationship to the relevant Australian repairer or RTO is appropriate for the purposes of ensuring the security information is used solely for the repairer’s business or providing an RTO course, and
- they have either:
 - provided a national police check report dated within the last 2 years, and that report does not show a conviction for any relevant offence, or
 - in states and territories with legislated licensing or registration regimes for repairers, hold a repairer licence that took into account a national police report check when it was issued—not solely a state police check which was issued or renewed no earlier than 2 years before the information is requested
- they have provided a written declaration that they have not been convicted of any offence since the date of the national police check report that was given to the data provider or that was taken into account when issuing the repairer licence.

Before accessing security information, repairers must also provide a declaration to the data provider that:

- confirms that the repairer is authorised by the owner of the scheme vehicle to access and use the security information for that vehicle
- specifies the VIN of the vehicle.

Requirements for a national police check report

An individual is not eligible to access security information if their national police check report shows they have been convicted of any of the following offences in Australia:

- an offence involving theft, where a custodial sentence was imposed
- an offence involving theft of a motor vehicle or motor vehicle component even if the individual did not receive a custodial sentence
- an offence involving deception, fraud or dishonesty, whether or not a custodial sentence was imposed
- any other offence involving tampering with a motor vehicle or motor vehicle component, whether or not a custodial sentence was imposed.

For the purposes of the scheme, motor vehicle component includes any of the following:

- vehicle parts and items attached to the vehicle which would ordinarily be considered a component of a motor vehicle – for example, the engine, the engine number plate/label attached to the engine, the VIN plate/label
- unique vehicle or component identifiers – for example, the VIN or engine number
- the registration number or registration plate allocated to the vehicle.

A national police check report is a point-in-time document – it shows the details of criminal convictions recorded against an individual as at the date the report was issued.

For the purposes of the security criteria, the national police check is only valid for 2 years from the date of issue.

The individual will also need to give a written declaration that they have not been convicted of any offence since the date of the national police check report. If the individual has been convicted of an offence since the date of the report, a new police check should be conducted for the purposes of reassessing that individual's eligibility against the security criteria.

Requirements for a state or territory repairer licence

For the purposes of this scheme, a repairer licence is a licence or registration issued (or renewed) under a law of a state or territory that:

- authorises the individual to diagnose, repair, service, modify or dismantle a scheme vehicle, or to operate a business that diagnoses, repairs, services, modifies, or dismantles a scheme vehicle
- included an assessment of the individual's fitness to hold the licence or registration which took into account a recent national police check report about the individual.

A state or territory licence or registration regime can only be recognised for the purposes of this scheme if its police check requirements include a national police check. A state or territory-based police check only would not meet the requirements of the scheme.

► Example scenario - Fit and proper person criteria for safety and security information

Jill Lee works at Sam's Autoworks Pty Ltd. Jill is working on Alex Smith's car, which is a Future Vehicles Pty Ltd hydrogen vehicle. In order to complete these repairs, Jill requires the vehicle's immobilizer pin code and information on replacing a fuel line outboard of the hydrogen tank. Jill wants to purchase this information from Future Vehicles Pty Ltd.

Jill provides the following information to Future Vehicles Pty Ltd:

1. A repair licence issued in her home state on 1 July 2022. Repair licences issued in Jill's state include a national police check as part of the assessment process.²
2. Details of training that Jill completed on how to safely work on Leading Cars Pty Ltd brand hydrogen vehicles, and a copy of the certificate that was issued at the completion of that training.
3. A declaration from Sam's Autoworks Pty Ltd specifying the VIN number for the vehicle and confirming that Alex Smith has authorised Jill Lee to access and use safety information for their vehicle.
4. The following written declaration:

I, Jill Lee, declare the following:

My full name is Jill Lee

My residential address is 22 Opal Avenue, Sydney, NSW, 2000

I am employed by Sam's Autoworks Pty Ltd, ABN 11 100 100 1000, as a Senior Mechanic

I have successfully completed a Hydrogen Vehicle Diagnosis and Repair Skill Set provided by Leading Cars Pty Ltd

I have not been convicted of any offence since 1 July 2022.

Future Vehicles Pty Ltd determines it can supply the immobilizer pin code requested by Jill, because:

- Based on the information submitted by Jill, Future Vehicles Pty Ltd believes that the safety and security information is being requested for the purposes of Sam's Autoworks Pty Ltd's business.
- Jill's employment relationship with Sam's Autoworks Pty Ltd is appropriate for ensuring she only uses the security information for the purposes of that business.
- Jill has provided a valid repair licence, and a written declaration confirming she has not been convicted of any offence since that licence was issued.
- Jill and Sam's Autoworks Pty Ltd have provided the necessary declarations.

However Future Vehicles Pty Ltd determines it cannot supply the requested safety information to Jill. While Jill has completed training on Leading Cars Pty Ltd brand hydrogen vehicles, she has not completed training specific to Future Vehicles Pty Ltd brand hydrogen vehicles.

This scenario complies with the data provider's obligations.

² Only some states and territories require that motor vehicle repair business require a repairer licence and that anyone working as a tradesperson must also have a tradesperson certificate for the relevant classes of work. every state and territory require such licences. If a licence is needed in a state and territory has a respective office that handles motor vehicle repair licences.

4.6 Separating safety and security information

A data provider must separate safety and security information from other scheme information to the extent that it is reasonably practicable to do so. If this information cannot be separated, the data provider must only provide access if the individual meets the relevant criteria to access safety and security information.

Determining what is reasonably practicable will be assessed on a case-by-case basis. When investigating any complaints, the ACCC may seek information from data providers about:

- the steps that a data provider would need to take to separate the safety and security information
- whether the safety or security information is necessary to understand some or all of the data provider's other scheme information.

The ACCC expects that most safety and security information will be able to be separated from other scheme information that has no relation to a feature of the vehicle that the safety or security information relates to, for example tyres, oil changes, air conditioners, basic sensor replacement etc.

The ACCC expects data providers to consider appropriate solutions and options to ensure general scheme information is available to repairers without the need to meet the relevant fit and proper person criteria for safety and security information.

Even if it is not reasonably practicable for some safety and security information to be separated from other scheme information, data providers should still separate as much of that information as reasonably practicable.

Penalty provision

A pecuniary penalty of up to 600 penalty units (\$133,200) for a body corporate or 120 penalty units (\$26,640) for an individual may be imposed by a court for a contravention of this obligation.

The ACCC may issue an infringement notice of 60 penalty units (\$13,320) to a body corporate or 12 penalty units (\$2,664) to an individual for a contravention of this obligation.

4.7 Records of access for supplying security information

If a data provider supplies security information about a scheme vehicle to a repairer, it must keep a record of the supply of the security information for a period of 5 years after the day it is supplied, including the following:

- the time and date of supply
- the name and contact details of the repairer
- any personal information used by the data provider to determine whether an individual is a fit and proper person to access and use the security information
- the VIN of each vehicle for which the security information is supplied
- details of the security information supplied.

These records can be stored electronically.

Penalty provision

A pecuniary penalty of up to 600 penalty units (\$133,200) for a body corporate or 120 penalty units (\$26,640) for an individual may be imposed by a court for a contravention of this obligation.

The ACCC may issue an infringement notice of 60 penalty units (\$13,320) to a body corporate or 12 penalty units (\$2,664) to an individual for a contravention of this obligation.

4.8 Collecting personal information for the fit and proper person criteria

The following table sets out the information that data providers can collect when determining whether to supply safety and security information to an individual.

What information can data providers request?	When can data providers request that information?
Safety or Security	
A written declaration stating: <ol style="list-style-type: none"> the name and residential address of the individual who will be provided with the security information the name and ABN of the repairer the individual's relationship with the repairer. 	Each time safety or security information is requested.
Safety	
A written declaration providing information about the individual's qualifications.	Each time safety information is requested.
Safety	
Evidence of an individual's qualifications.	If safety information has been requested, and the data provider has not previously been provided with evidence of the qualification.
Security	
A national police check or a valid repair licence, issued in the last two years.	If security information has been requested, and: <ol style="list-style-type: none"> the individual requesting that information has not previously provided a national police check or a valid repair licence, or the individual has previously provided a national police check or a valid repair licence, but that police check or repair licence was issued more than 2 years ago.
Security	
A written declaration providing details of the individual's repair licence.	Each time security information is requested.
Security	
A written declaration confirming that the individual has not been convicted of any offence since the national police check or repair licence was issued.	Each time security information is requested.
Security	
A written declaration confirming: <ol style="list-style-type: none"> the VIN of the relevant vehicle that the repairer is authorised by the vehicle owner to access and use the security information. 	Each time security information is requested.

4.9 Handling sensitive information

The scheme imposes requirements on data providers on how they handle sensitive information about individuals obtained for the purposes of conducting the fit and proper person assessment to access safety information or security information.

These requirements apply in addition to any other requirements in the scheme and the obligations imposed by the *Privacy Act 1988* (Cth) (Privacy Act). The scheme also extends the application of the Privacy Act to small business operators, within the meaning of the Privacy Act, in relation to sensitive information obtained by a data provider.

Sensitive information is defined in the Privacy Act. One example of sensitive information is information about a person's criminal record. Data providers should seek legal advice if they are unsure whether particular information is considered sensitive information.

The scheme requires that sensitive information obtained about an individual in order to conduct the fit and proper person assessment – such as information about a person's criminal record – must be stored in Australia or an Australian external territory.

The data provider must also not do anything that might reasonably enable the sensitive information to be accessed outside Australia by the data provider, or any other person.

In some instances, data providers may appoint another party (who is based in Australia and subject to the Privacy Act) to handle personal and sensitive information on their behalf.

Penalty provision

A pecuniary penalty of up to 1,500 penalty units (\$333,000) for a body corporate or 300 penalty units (\$66,660) for an individual may be imposed for a contravention of these obligations.

Glossary

AASRA	Australian Automotive Service and Repair Authority
ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
Act	<i>Competition and Consumer Act 2010</i> (Cth)
C&E Policy	Compliance & enforcement policy & priorities
Copyright Act	<i>Copyright Act 1986</i> (Cth)
OAIC	Office of the Australian Information Commissioner
Privacy Act	<i>Privacy Act 1988</i> (Cth)
scheme	Motor Vehicle Service and Repair Information Sharing Scheme
scheme rules	<i>Competition and Consumer (Motor Vehicle Service and Repair Information Sharing Scheme) Rules 2021</i> (Cth)
Repairer	Means an Australian repairer and scheme RTO within the meaning of the Act
RTO	Registered training organisation within the meaning of the <i>National Vocational Education and Training Regulator Act 2011</i> (Cth)
VIN	Vehicle identification number

Appendix A - Table of scheme pecuniary and infringement notice penalties

The table below outlines the maximum pecuniary penalties and infringement notice penalties that may be imposed for a contravention of the Motor Vehicle Service and Repair Information Sharing Scheme obligations under the Act.

For reference, as of 1 July 2022:

- 12 penalty units equals \$2,664
- 60 penalty units equals \$13,320
- 120 penalty units equals \$26,640
- 300 penalty units equals \$66,660
- 600 penalty units equals \$133,200
- 1,500 penalty units equals \$333,000.

Provision	That relates to..	Maximum pecuniary penalties		Infringement notice penalties	
		Corporations	Individual	Corporations	Individual
S57CA(2)	<i>Data provider must make a scheme offer</i> (2) The data provider must make an offer (a scheme offer) to supply, on terms and conditions that comply with section 57CC, the same scheme information in relation to that kind, or those kinds, of vehicle to all Australian repairers and scheme RTOs: (a) in the same form in which it is supplied or offered for supply under subsection (1); or (b) if supply in that form is not practicable or accessible—in an electronic form that is reasonably accessible to all Australian repairers and scheme RTOs.	Up to \$10 million.	Up to \$500,000	N/A	N/A
S57CB(2)	<i>Supply of scheme information</i> (2) The data provider must supply the scheme information to the Australian repairer or scheme RTO: (a) in accordance with terms and conditions that comply with section 57CC; and (b) within the period covered by subsection (3).	Up to \$10 million.	Up to \$500,000	600 penalty units	120 penalty units
S57CA(4)	<i>Scheme offer not to exceed fair market price</i> (4) The data provider must make a scheme offer for the supply of the scheme information in relation to a particular make, model or year of scheme vehicle at a price (the scheme price) that does not exceed the fair market value of the information, as determined by reference to matters including those covered by subsection (5).	Up to \$10 million.	Up to \$500,000	N/A	N/A
S57CA(3)	<i>Choice of supply period in scheme offer</i> (3) If the form in which scheme information is supplied allows for variability in the period for which the information is supplied, the data provider must make the scheme offer on terms and conditions that include provision for the supply of the scheme information: (a) for any period nominated by an Australian repairer or scheme RTO; or (b) by day, by month and by year.	600 penalty units	120 penalty units	60 penalty units	12 penalty units

Provision	That relates to..	Maximum pecuniary penalties		Infringement notice penalties	
		Corporations	Individual	Corporations	Individual
S57CA(6)	<p><i>Publication of a scheme offer</i></p> <p>(6) The data provider must publish the scheme offer:</p> <p>(a) in English; and</p> <p>(b) on the internet; and</p> <p>(c) in a form that is accessible free of charge.</p>	600 penalty units	120 penalty units	60 penalty units	12 penalty units
S57CA(7)	<p><i>Notifying the scheme adviser about scheme information offered</i></p> <p>(7) The data provider must:</p> <p>(a) as soon as reasonably practicable after it publishes a scheme offer under subsection (6)—provide a copy of the scheme offer, in writing, to the scheme adviser; and</p> <p>(b) notify the scheme adviser, in writing, as soon as reasonably practicable after any change to the scheme offer.</p>	600 penalty units	120 penalty units	60 penalty units	12 penalty units
S57CB(4)	<p><i>Data provider to notify scheme adviser of terms and conditions of supply</i></p> <p>(4) If the data provider supplies scheme information to an Australian repairer or scheme RTO under this Part, the data provider must, within 2 business days after the supply, notify the scheme adviser, in writing, of the terms and conditions of the supply, including the price for which the information is supplied.</p>	600 penalty units	120 penalty units	60 penalty units	12 penalty units
S57CC(2)	<p><i>Prohibited terms or conditions</i></p> <p>(2) However, a data provider must not enter into a contract for the supply of scheme information under this Part that contains any of the following terms or conditions:</p> <p>(a) a term or condition requiring an Australian repairer or scheme RTO to acquire one or more services or products from the data provider or any other person;</p> <p>(b) a term or condition allowing an increase, after the contract is made, in the price for the supply of the scheme information under the contract;</p> <p>(c) a term or condition prohibited by the scheme rules.</p>	600 penalty units	120 penalty units	60 penalty units	12 penalty units

Provision	That relates to..	Maximum pecuniary penalties		Infringement notice penalties	
		Corporations	Individual	Corporations	Individual
S57DA	<i>Safety and security information - packaging</i> A data provider must, in a scheme offer, separate safety and security information from other scheme information to the extent it is reasonably practicable to do so.	600 penalty units	120 penalty units	60 penalty units	12 penalty units
S57DB(1)	<i>Restrictions on supplying safety and security information</i> (1) A data provider must not supply scheme information under this Part that is, or includes, safety and security information for a scheme vehicle of a particular make, model and year unless: (a) there are reasonable grounds, based on information provided by the Australian repairer or scheme RTO, to believe that the requirements covered by subsection (2) are satisfied in relation to the scheme information for that vehicle; and (b) the Australian repairer or scheme RTO has provided the required declaration, or declarations, covered by subsection (3) in relation to that vehicle.	600 penalty units	120 penalty units	60 penalty units	12 penalty units
S57DD(2)	<i>Sensitive information must be stored in Australia</i> (2) If a data provider holds the sensitive information, the data provider must store the information in Australia or an external Territory.	1,500 penalty units	300 penalty units	N/A	N/A
S57DD(3)	<i>Preventing access to sensitive information outside Australia</i> (3) A person must not do anything that might reasonably enable the sensitive information to be accessed outside Australia by the data provider, or any other person.	1,500 penalty units	300 penalty units	N/A	N/A

Provision	That relates to..	Maximum pecuniary penalties		Infringement notice penalties	
		Corporations	Individual	Corporations	Individual
S57DE(2)	<p><i>Record-keeping requirement</i></p> <p>(2) The data provider must keep a record of the supply of the security information for a period of 5 years after the day it is supplied, including the following:</p> <p>(a) the time and date of supply;</p> <p>(b) the name and contact details of the Australian repairer or scheme RTO;</p> <p>(c) any personal information used by the data provider to determine whether an individual is a fit and proper person to access and use the security information;</p> <p>(d) the vehicle identification number of each vehicle for which the security information is supplied;</p> <p>(e) details of the security information supplied.</p>	600 penalty units	120 penalty units	60 penalty units	12 penalty units
S57EF(5)	<p><i>Failing to attend mediation</i></p> <p>(1) Subject to this section, a mediator appointed by the parties to a dispute may decide the time and place for mediation.</p> <p>(2) The mediator may, with the agreement of the parties to the dispute, appoint a technical expert to assist in the resolution of the dispute.</p> <p>(3) Unless the mediation is conducted using the technology referred to in subsection (4), the mediation must be conducted in Australia.</p> <p>(4) The mediation may be conducted using any technology that allows a person to participate in the mediation without being physically present at the mediation.</p> <p>(5) The parties must attend the mediation.</p>	600 penalty units	120 penalty units	60 penalty units	12 penalty units



AUSTRALIAN COMPETITION
& CONSUMER COMMISSION

