

September 5, 2017

TO: Australian Competition & Consumer Commission (ACCC)

FR: Aaron Lowe, Senior Vice President, Regulatory and Government Affairs, Auto Care Association

RE: New Car Retailing Industry – a market study by the ACCC

The Auto Care Association is writing in support of the findings detailed in the draft entitled: “New Car Retailing Industry – a market study by the ACCC.” The Auto Care Association is a U.S.-based trade association representing over 3,000 manufacturers, distributors, retailers and installers of automotive parts. Our members are a competitive source for both service and parts for vehicle owners. The association was a lead organization in the multi-year campaign to enact Right to Repair legislation in the U.S., which requires new vehicle manufacturers to share information, software and tools with independent repair entities.

The draft report released by your agency outlines the absence of compliance by the vehicle manufacturers with the voluntary agreement, citing the problems that the independent repair industry continues to face in obtaining access to the tools, software and information needed to repair late-model vehicles. The draft correctly concludes:

“A mandatory scheme should be introduced for car manufacturers to share with independent repairers technical information, on commercially fair and reasonable terms. The mandatory scheme should provide independent repairers with access to the same technical information which car manufacturers make available to their authorised dealers and preferred repairer networks.”

The Auto Care Association strongly agrees with this finding and urges that the ACCC finalize the report and further urge the government to take immediate action and implement its recommendations.

In the U.S., the auto care industry also attempted a voluntary agreement for years with disappointing results. It was only after Right to Repair legislation passed in the Commonwealth of Massachusetts, which put legal requirements on vehicle manufacturers to share information, software and tools, that actual progress was achieved. In fact, our members have informed us that the manufacturers are now sharing virtually the same capabilities and information that they provide their franchised dealers with the independent repair industry. Further, new requirements go into effect this year that will require manufacturers to maintain all of their software and repair information in the cloud, accessible on a subscription basis by independent repair shops. These new requirements should greatly reduce repair costs for consumers and increase the effectiveness of vehicle repairs. Based on our initial analysis, most of the major manufacturers in the U.S. are or soon will be in full compliance with this new requirement nationwide.

The success of Right to Repair in the U.S. came about despite arguments by the vehicle manufacturers that compliance with such a law would force the release of intellectual property and expose vehicles to security concerns. Since passage of the Massachusetts legislation and subsequent nationwide agreement to comply with the law's requirements, none of the concerns expressed prior to passage have become a reality. To the contrary, many vehicle manufacturers have expressed pride in the service information systems that they have created to comply with the new law.

Furthermore, many of the security issues that were raised during Right to Repair debates, most of which related to anti-theft systems, have been resolved through the successful development and implementation by both the vehicle manufacturers and the aftermarket of the Secure Data Release Model (SDRM). SDRM provides a traceable method for locksmiths and vehicle service providers to obtain codes needed to start vehicles and complete most repairs. Managed by the National Automotive Service Task Force (NASTF), use of SDRM has continued to grow in the U.S. and is continuing to provide safety and security to consumers without jeopardizing competition in the vehicle service market.

Based on the positive experiences of our members and consumers with the Right to Repair law in the U.S., Auto Care hopes that the Australian government will take action such that your vehicle repair industry and its customers can enjoy access to a similar competitive and effective repair market.

In order to provide a more complete picture of the Right to Repair situation in the U.S. and to answer any questions you might have, our organization would be happy to participate in a teleconference with your agency at a mutually convenient time. Please let me know if you think that this would be helpful and we can begin the planning process.

Thank you for the opportunity to comment and we look forward to future interactions with the ACCC in resolving this very important issue.