

Nov. 9, 2016

TO: Australian Competition & Consumer Commission

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

RE: New Car Retailing Industry Market Study

The Auto Care Association is responding to the Commission's request for comments on its market study regarding the new car retailing industry. Our comments are primarily focused on access to repair and service information and data.

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 of both service and parts for car owners. In fact, nearly 75 percent of car owners use repair shops that are independent of the vehicle manufacturer once their new car warranty has expired because of price, convenience and service.

As you may be aware, the independent repair industry was involved in a battle for the "Right to Repair" in the U.S. that was settled in 2012 when the state of Massachusetts passed legislation that required car companies to make all repair information, software and tools available to independent repair shops at fair and reasonable prices. The industry then negotiated a memorandum of understanding (MOU) whereby the manufacturers agreed to abide by the Massachusetts statute nationwide.

This victory was only accomplished after years of hearings during which it became apparent that vehicle manufacturers were not providing full access to the repair information and tools needed to maintain and repair vehicles. It also became apparent that the manufacturers were withholding the availability of key repair capabilities in order to both drive business to their dealers and leverage the sale of their brand name replacement parts.

Notwithstanding the growing evidence of anti-consumer and anti-competitive behavior, the manufacturers were able to use their political muscle to stall the issue at the national level. However, in 2012, the Auto Care Association and its partners introduced a ballot measure in Massachusetts, which the people overwhelming (86 percent) voted to require that vehicle manufacturers make all of their repair information and tools available to independent repair shops. An interesting turnaround occurred at the end of our battle when the new car dealers in Massachusetts actually supported Right to Repair based on their concerns regarding access to service information for the non-nameplate vehicles that are playing a more important role in their profit structure.

As a direct result of the Massachusetts law and MOU, car companies are now maintaining websites that contain all of their repair information affordably available to independent shops. Further, for model year 2018 vehicles and beyond, both the state law and the MOU require car companies to maintain all of their diagnostic and repair software on the cloud and make available for download onto a generic PC by independent repair shops. Technicians will then have the capability, using a standardized interface, to work on any make or model of vehicle without the need to purchase expensive proprietary hardware. We hope that this new requirement will further open up repair options for consumers and should act to help keep repair prices affordable in the U.S.

It is important to note that the state legislation and the MOU provide strong protections for the vehicle manufacturers' intellectual property. In fact, despite strong intellectual property arguments raised by the vehicle manufacturer during the legislative and ballot measure debate, there has not been a single IP-related issue produced by a car company since the Right to Repair law and MOU became effective.

With the Right to Repair battle, for the most part, in the rear view mirror, the independent aftermarket and vehicle manufacturers are now discussing how to resolve the issue of vehicle data and telematics, which also threatens competition. Late-model vehicles now have the ability to transmit a significant amount of information including diagnostic, geo location and personal data wirelessly to the manufacturer, with little transparency or control made available to the car owner. The independent repair groups are pushing for the car companies to inform consumers that their vehicle is transmitting data and ensure that the vehicle owner has the ability to ultimately control where that data is sent, if anywhere. Thus far, while we hope to avoid legislation on this important issue, the industry is prepared to launch another campaign should current discussions not result in full control of vehicle data being provided to car owners.

Just as the motor vehicle industry has become global, the issues of repair access and vehicle data that we continue to face in the U.S. are occurring in nearly every nation. We feel fortunate that consumers in the U.S. now have requirements in place that ensure they will continue to have access to a competitive repair market. This is an important issue to the motoring public here in the U.S. since our studies indicate that repairs in the new car dealer network cost about 42 percent more than repairs performed at independent shops. The result is a savings to American consumers of \$26 billion per year.

While we are certain the numbers will be different in Australia, we are also certain that ensuring competition in your vehicle service market will have a strong positive economic impact on your citizens and small businesses. Further, due to the work in the U.S., the infrastructure requirements for making information available are already in place and therefore should be able to be cost effectively adopted in Australia should you adopt the same requirements.

Thank you for your attention and please feel free to contact me at aaron.lowe@autocare.org should you need any further clarification or assistance in this very important matter.

Sincerely,

A handwritten signature in black ink that reads "Aaron Lowe". The signature is written in a cursive, flowing style.

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