



Motor Vehicle Service and Repair Information Sharing Scheme

**ACCC Submission in response to the Discussion
paper on the operation of the scheme**

August 2025

Acknowledgement of Country

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Australian Competition and Consumer Commission

Land of the Ngunnawal people

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Executive summary

The [Competition and Consumer Amendment \(Motor Vehicle Service and Repair Information Sharing Scheme\) Act 2021](#) (the scheme) was introduced to promote competition in the Australian motor vehicle aftermarket by improving independent repairers' access to technical information needed for service and repairs, and to benefit consumers through increased choice and price competition.

Being the first right to repair legislation in Australia, the scheme is a significant first step, and its example and outcomes have implications for a broader right to repair framework in Australia. This review provides an important opportunity to improve the scheme's effectiveness and apply learnings to ensure the success of broader right to repair initiatives.

Impact of the scheme on the independent repair sector

Prior to the scheme's commencement, the aftermarket was less competitive because vehicle manufacturers controlled access to certain information needed to repair and service a vehicle. The lack of access to information such as genuine diagnostic software also disproportionately affected availability and choice for consumers in regional or rural areas.

Repairers have responded to the scheme differently, depending on their business needs. One diagnostic and programming specialist reported that while a few brands appear to make it difficult for repairers to access information, overall, the introduction of the scheme has made a positive impact on their ability to compete with dealerships. Other repairers focussing on general servicing have expressed frustration that the scheme has restricted access to information previously available to them.

Specialist repairers providing remote and onsite technical support to independent workshops and brand specialists working on a limited number of vehicle brands are currently most likely to benefit from access to the technical and specialist information under the scheme. This is because they can recoup the costs of purchasing an annual subscription for genuine software and proprietary diagnostic hardware to complete complex diagnostic or programming work on vehicles. However, it is not economically viable for all repairers to maintain annual subscriptions of this kind for a large number of vehicle brands.

Since the scheme was introduced, the ACCC has observed that the labour shortage in the motor vehicle aftermarket led to lengthy delays in some instances for vehicle repairs through dealerships; and dealerships are unlikely to have the capacity or geographical reach needed to service all passenger vehicles in Australia. The scheme has an important role to play in supporting the independent repair market to make up those shortfalls. Benefits will likely grow as the market continues to evolve and the information made available through the scheme becomes a more "essential input" to service and repair a greater proportion of the vehicles on our roads.

Compliance and enforcement barriers prevent the scheme from achieving its full potential

The scheme has the potential to further promote competition by creating a fairer playing field for independent repairers, and benefit consumers through increased choice of repairers

and price competition. However, regulation needs to be effective and efficient to achieve this objective, and the scheme is complex.

The scheme, cannot achieve its objectives unless the following points are addressed:

- compliance challenges associated with safety information requirements impacting data providers;
- removal of technical information previously available to repairers;
- ambiguity of language leading to misinterpretation of the intent of some scheme provisions; and
- a lack of intermediate penalties for some key scheme provisions, which limits enforcement options.

Further, there have been differing levels of compliance with the scheme in its current form, particularly in relation to diagnostic and programming information. To achieve the scheme's full benefits, it is important that regulatory settings are adjusted to allow effective enforcement outcomes and removal of unnecessary barriers to accessing information.

Consideration of these issues and the implementation of effective solutions in a timely manner will be crucial to ensure the scheme is successful and able to meet the needs of the vehicle repair industry as it continues to evolve.

Obstacles arise due to three key differences between the scheme and overseas requirements

Three key differences between the Australian scheme and those overseas have created substantial obstacles to compliance and competition in the aftermarket, namely the:

- treatment of safety information as a separate, restricted category of scheme information
- designation of data aggregators as data providers instead of data recipients, and
- the exclusion of diagnostic hardware and lack of requirement for diagnostic software to be compatible with generic hardware.

Some data providers do not separate safety information where scheme information is delivered via a global service information system, and overseas schemes do not include this requirement. As a result, repairers may be required to meet certain requirements before being able to access repair information that was previously available to them or is available without restriction overseas. The safety information provisions have also reduced the competitive benefits that data aggregators offer to the aftermarket. Given Australia is a small market, data providers may be hesitant to invest in systems required to ensure compliance with the Australian scheme. Some data providers have been slow or resistant to complying with the scheme's requirements relating to supplying diagnostic software and hardware.

Aligning local scheme requirements to those overseas is likely to reduce compliance challenges and competitive barriers, and position Australian regulations to be more responsive to the global vehicle manufacturing and repair market. This is likely to become more critical in the future as driver-assist technology and vehicle-security features that requires diagnostic and programming software to repair becomes more prevalent. We note the important issue of safety is addressed via work health and safety regulations.

Conclusion

If the scheme is amended to address key issues, independent repairers and consumers alike stand to further benefit from the success of the scheme – by improved access to information and improved competition in aftermarket service. This submission acknowledges that, as is expected of any novel regulation, there are certain challenges that have impacted the effectiveness of the scheme. The scheme also suffers from a lack of data to form a more quantifiable evidence base for its evaluation and to ensure the scheme remains effective to meet the needs of the market as the industry continues to evolve.

With vehicle technologies and software-based features developing rapidly, the scheme has provided access to technical information, including software, that will be essential to future vehicle service and repairs. Advancements in vehicle technology, including an increased prevalence of Electric Vehicles (EVs) and advanced driver assistance systems (ADAS), have created a critical need for access to advanced diagnostic tools and technical information.

1. Introduction

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to make a submission in response to Treasury's review of the scheme.

The ACCC is an independent Commonwealth statutory agency that promotes competition, fair trading and product safety for the benefit of consumers, businesses and the Australian community. The ACCC is the statutory authority responsible for administering and enforcing the scheme which is in Part IVE of the *Competition and Consumer Act 2010* (CCA).

The scheme commenced on 1 July 2022 as a response to the recommendations made by the ACCC in the [New Car Retailing Market Study final report in December 2017](#). In that report, the ACCC found that vehicle manufacturers had an incentive to limit independent repairers' access to technical information to steer service work to authorised dealer or affiliated repairer networks.

2. Summary of ACCC views and recommendations

The requirements set out in the scheme are intended to ensure that all repairers have fair access to the information required to safely service and repair increasingly technologically advanced vehicles.

Since the scheme commenced, comparable schemes in other jurisdictions have also changed and the review provides an opportunity to consider whether further alignment is appropriate.

This section provides an outline of the detailed discussion of issues at section 3.

Separation and restriction of safety information:

- This requirement has caused significant adverse and unintended effects for the vehicle repair sector, resulting in some information being removed from data aggregator products and the restriction of access to non-safety scheme information.
- Treasury should consider removing the restriction, in alignment with overseas jurisdictions, and allow safety risks to be addressed in workplace safety regulations; or if the restriction is retained, clarifying the scope of the safety provisions and consider less burdensome ways to mitigate risks to repairers.

Data aggregator compliance:

- The legislation requires that data aggregators comply with the same obligations as vehicle manufacturers who are data providers. This has had unintended consequences that may impact the effectiveness of the scheme.
- Treasury should consider amending the requirements for data aggregators to ensure it is practicable for them to comply.

Third-party suppliers:

- The definition of data provider may also capture third parties such as software and hardware manufacturers and retailers.
- Treasury should consider narrowing the definition of data provider to exclude businesses that may be inadvertently captured and clarifying that vehicle manufacturers (and distributors) remain responsible for compliance with the scheme even where utilising third parties to fulfil their obligations.

Diagnostic hardware and software:

- There is no requirement for data providers to supply proprietary diagnostic hardware required for reprogramming and programming of in-vehicle electronic systems or to supply software that is compatible with generic hardware suitable for multiple brands.

- Treasury should consider including diagnostic hardware as scheme information and aligning the scheme with overseas jurisdictions by requiring data providers to offer diagnostic software in a form compatible with generic hardware (SAE J2534 compatible) to the aftermarket for vehicles of model year 2018 onwards.

Fair market value:

- Determining the fair market value of information under this regime ultimately relies on a court's assessment of all the circumstances and factors in section 57CA(5). This is challenging because it depends primarily on factors that may not be fit for purpose or have limited utility when applied in practice.
- The process of determining the fair market value of scheme information is complex and challenging to enforce. Treasury may consider reviewing the effect of section 57CA(4)-(5) to improve its enforceability and practical utility.

Supply periods – day, month, year:

- Data providers may interpret the legislation to argue that, if its current form of diagnostic software has no time-limiting mechanism applied, the software does not 'allow for' variability in supply periods, and therefore does not need to be offered by day, by month and by year.
- Treasury should consider clarifying that where scheme information is provided in electronic formats (such as software), it is expected to 'allow for' supply on a time-variable basis, including by day, month and year.

Timeframes for delivery of information:

- Concerns have been raised about the timeframes within which scheme information is provided in circumstances where immediate delivery of electronic information is required.
- Treasury should consider clarifying what 'immediate' delivery requires of data providers and consider whether this needs to be more prescriptive and/or precisely defined.

Penalties for non-compliant scheme offers:

- Currently, sections 57CA(2) and 57CA(4) are not infringement notice provisions under section 57GB. The ACCC can only obtain a penalty against a data provider for contravening the main obligation or fair market value requirement by successful litigation.
- Treasury should consider amending the legislation to provide for a substantial infringement notice penalty in respect of sections 57CA(2) and 57CA(4).

Prohibited terms and conditions:

- Some data providers require repairers to purchase proprietary hardware and diagnostic software as a bundle, but such conditions are not always included in formal, written terms and conditions or agreements. Additionally, the form of software

may effectively compel a repairer to purchase proprietary hardware to access and use the software.

- This conduct undermines the intent behind section 57CC(2), to prevent conditions that would make scheme information more inaccessible to independent repairers. Treasury should consider how to strengthen and complement the prohibitions in section 57CC(2), including by an express prohibition in the scheme on restricting the use of scheme information on condition that another product or service is purchased by the repairer.

Reporting to scheme adviser

- The requirement to notify the scheme adviser within two days of supplying scheme information may be burdensome for both the scheme adviser and data providers.
- Treasury should consider requiring data providers to provide this information periodically, for example quarterly, or upon request from the scheme adviser.

Vehicle telematics:

- Telematics data is data automatically generated and transmitted by a scheme vehicle while it is being driven, regarding driver or vehicle performance and is excluded from scheme information by section 57BD(2)(d).
- Since the scheme came into effect, access to telematics data has been introduced in comparable schemes operating in the US and EU. The scheme review provides an opportunity to reconsider the risks and benefits of including telematics data as scheme information.

Interaction between scheme and type-approval framework

- Type-approval regulations ensure that all new vehicles imported and sold in the Australian market meet domestic standards in the Australian Design Rules (ADRs). Currently, the ADRs do not require manufacturers to make spare parts and scheme information available to Australian repairers at the time a new vehicle enters the market.
- Treasury should consult with the Department of Infrastructure, Transport, Regional Development, Communications and the Arts on potential amendments to the ADRs to complement the effective operation of the scheme, particularly in relation to ensuring scheme information is available when a new vehicle enters the market and the SAE J2534 standard for programming.

3. Issues for consideration

3.1. Separation & restriction of safety information

Restricting access to safety information has resulted in some information becoming less accessible to independent repairers

Safety information is defined in the scheme rules as repair information relating to systems found in electric and hybrid vehicles, namely the hydrogen, high voltage or electric propulsion systems, or any other system connected to these. Data providers must keep safety information separate from other scheme information to the extent it is reasonably practicable to do so and ensure that only repairers who meet certain criteria can access safety information.

This requirement is unique to the Australian scheme, with no equivalent in overseas jurisdictions. In the EU and the US, there are restrictions on accessing security (anti-theft) information but none for information on electric vehicle systems, which are treated the same way as Internal Combustion Engine (ICE) vehicles.

The policy intent of the scheme's safety information provisions is to protect the workplace safety of repairers and indirectly, vehicle users. However, any technical work involved in servicing and repairing vehicles comes with potential safety risks to repairers and there are state-based workplace safety laws and trade certification requirements in place to address those risks. The scheme is only concerned with safety risks related to servicing or repairing electric vehicle or hydrogen systems, whereas state workplace safety laws and trade certification requirements have much broader coverage and already address safety risks that affect repairers and the drivers or passengers of the vehicles they service.

This requirement has caused adverse and unintended effects for the vehicle repair sector, resulting in some data providers (data aggregators) removing repair information from their multi-brand products (see section 3.2), and other data providers (manufacturers) imposing broad restrictions on access to information beyond the category of information about electric vehicle systems.

Definition of safety information is broad and lacks clarity

By defining safety information to include information about *any system connected to* the hydrogen, high voltage or electric propulsion systems in a vehicle, the scheme rules may have encouraged data providers to take an overly broad approach to restricting access to information. The definition may reflect the increasingly computerised and interconnected nature of vehicle systems, but it leaves too much ambiguity and breadth in the meaning of safety information.

Impact on data providers

The uniqueness of this provision to the Australian market is burdensome to many data providers, which operate on a global scale and often use one global web portal for service information. Some manufacturers also supply repair information for all variants (electric,

hybrid and ICE) of a model in one package, either in a service manual or another web-based format. The ACCC is aware of at least one repairer that was denied access to safety information for an ICE vehicle because information for the hybrid and ICE version of that model was included in the same manual.

The ACCC has observed uneven compliance across data providers, some of which have invested in updating their repair information to separate out safety information, while others have not taken any steps, claiming that it is not 'reasonably practicable' to do so. In some cases, this means that access to all scheme information is restricted to repairers who have completed training to work on electric vehicles, even if that repairer only needs access to information to repair an ICE vehicle.

This requirement is also the main cause of data aggregators' compliance issues as described at section 3.2.

Impact on independent repairers

The broad definition of safety information, combined with the requirement that data providers need only separate safety information as far as 'reasonably practicable,' enables data providers to restrict access to a broader scope of information than intended. In practice this may mean, for example, that an independent repairer needing to update a logbook for a customer could be denied access due to not meeting fit and proper person criteria. The justification being that allowing access to logbooks via a global web portal provides access to all other repair information for the brand, including for electric vehicle models.

The ACCC understands that this provision creates a burden on repairers that is compounded by labour shortages in the industry, and the potential shortage of TAFE and RTO trainers. Many repairers lack the time and incentive to invest in a full electric vehicle training course that has to be completed in person over the course of a week. Out of around 30,000 independent repairers in Australia, approximately 7,000-8,000 are trained to work on electric vehicles; and around 800 are registered with and vetted by AASRA to access safety information.

Safety risks associated with access to scheme information

The ACCC's 2017 New Car Retailing Industry Market Study final report found that most vehicle manufacturers were not sharing technical information they deemed as being environmental, safety or security-related, even where it may be necessary for the repair or service of a new vehicle.

To the ACCC's knowledge, information captured by the scheme's definition of safety information was available to independent repairers prior to the scheme coming into effect without incident. The market study did not report any concerns regarding safety risks associated with the supply of this information.

While there are legitimate safety risks associated with these systems including the risk of electrocution, fire, and high-pressure release associated with hydrogen fuel cells, we understand that the risk is low. For example, EV FireSafe, an Australian company that monitors electric vehicle fires and is funded by the Australian Department of Defence to research electric vehicle battery fires, found 511 verified electric vehicle battery fires globally between 2010 and 2024, out of an estimated 40 million electric vehicles on the road worldwide.¹

¹ <https://www.evfiresafe.com/ev-battery-fire-data>

The benefits of restricting safety information are likely outweighed by the barriers it has created for competition in the aftermarket as well as the implementation, compliance and enforcement of the scheme.

There could have been a theoretical benefit to the independent repair sector if the safety restrictions in Division 4, Part IVE of the CCA encouraged repairers to upskill and be trained to service electric vehicles. However, there is no indication that the provision has incentivised repairers to undertake further training. Instead, repairers have been blocked from accessing important repair information such as logbooks and general scheme information that data providers package together with safety information.

The safety information requirement undermines the intent of the scheme as it has resulted in the withdrawal of some information from the market by data aggregators, and restricted access to non-safety information that was previously accessible before the scheme commenced.

The safety protections of the scheme overlap with and partly duplicate work health and safety laws that require employers to provide training to workers as is necessary to perform their work in a way that is safe (e.g., Section 21 of the [Occupational Health and Safety Act 2004 \(VIC\)](#)). It is open to the states to legislate additional trade certification requirements to ensure repairers have completed appropriate training to service and repair all vehicles.

The ACCC recommends the following amendment should be considered as part of the review of the scheme:

- Remove the restriction on safety information, but keep the restrictions on accessing security information, which aligns with overseas jurisdictions.
 - This would allow repairers to access electric vehicle repair information without needing to prove training certifications to the data provider, consistent with access to all other scheme information.
 - To address safety concerns for repairers (and indirectly, vehicle users), the scheme could require data providers to include prominent safety warnings about safety precautions and adequate training in scheme information.
 - Treasury should consult with state and territory-based work safe regulators regarding how safety concerns and risks relating to the service and repair of electric vehicles could be monitored or mitigated through work safety regulations and/or trade certifications.
 - While this solution may undermine the sunk costs of data providers that have separated safety information from other information it will make the regime more effective.

3.2. Data aggregators and third-party suppliers

A data provider is defined as a person carrying on a business that includes supplying, to any extent and whether directly or indirectly, scheme information to one or more Australian repairer or RTO. The scheme's definition of 'data provider' treats data aggregators as data providers and may also capture other third-party suppliers.

Imposing obligations on data aggregators under the scheme has caused unintended consequences for Australian repairers

Data aggregators are third party aftermarket suppliers which include commercial publishers and diagnostic tool suppliers.

- Commercial publishers obtain vehicle diagnostic, repair and service information from a range of sources which is then made available to independent repairers in an accessible, usable and affordable format.
- Diagnostic tool suppliers supply hardware (and related software) that connects to a vehicle's computer systems to either diagnose and resolve electronic faults, or safely install and configure new parts.

The products and services data aggregators supply enable independent repairers to service and repair vehicles manufactured by the majority of vehicle brands supplied in Australia. With over 68 manufacturers supplying 380 different models to the Australian market, independent repairers generally work on multiple brands and remain reliant on data aggregators for most of their service and repair information needs.

The requirement for data aggregators to comply with the same obligations as vehicle manufacturers has resulted in some information being removed from multi-brand products supplied by data aggregators to achieve compliance. This action has had the effect of reducing the availability of repair information in the market and directly conflicts with the intent of the legislation to increase the availability of service and repair information to all Australian repairers.

Data aggregator products and information delivery systems were designed for the global market. It is estimated less than 1.4% of vehicles globally are located in Australia. Data aggregators have reported challenges with adapting their pre-existing systems and processes to comply with the scheme requirements to separate safety information and to ensure recipients of this information satisfy the fit and proper person requirements.

This issue is compounded by ambiguity in the definition of safety information which is broad and allows for an overly cautious approach to the provision of information.

Data aggregators in overseas jurisdictions

Data aggregators are not treated as data providers by service and repair information-sharing schemes in the EU, UK and US. Instead, they are treated as data recipients with access to repair information on a commercial basis.

The ACCC understands that in practice, data aggregators are continuing to obtain primary data from a range of sources and translate it into a usable form for technicians, rather than purchase information through the EU scheme, which involves a costly and time-consuming commercial negotiation process.

The ACCC recommends the following options should be considered as part of the review of the scheme:

Option 1

Amending the definition of 'data provider' to expressly exclude data aggregators.

Option 2

Exempting data aggregators from the safety information requirements of the scheme and instead requiring information about the potential risks associated with working on hydrogen, high voltage, hybrid or electric propulsion systems be provided at the point of sale.

This may be a more proportionate measure to address concerns about misuse of safety information, given OH&S (and trade certification) regulations already include similar obligations such that it is duplicative to include such regulation in the Scheme.

Outsourcing supply of scheme information to third-party suppliers may create uncertainty about who is responsible for compliance

The ACCC has observed a range of ways in which data providers in Australia are outsourcing the supply of scheme information to independent repairers. In some instances, manufacturers have suggested this also shifts compliance obligations with the scheme. It would be beneficial to clarify liability for contraventions of the scheme such that its policy intent is not undermined.

International corporations

Most distributors of vehicles in Australia are not the same entities as the international corporations responsible for manufacturing the branded vehicles. The Australian entities are often subsidiaries of the vehicle manufacturer, although some distributors are legally distinct entities with separate commercial arrangements with the vehicle manufacturer.

While the Australian entities are primarily responsible for facilitating supply of scheme information to independent repairers, the ACCC has observed instances where the international entities are distributing scheme information directly to independent repairers.

Diagnostic hardware and software suppliers

Manufacturers of diagnostic hardware and software, which often have a global presence, may be in a unique position of supplying both the aftermarket with generic hardware and parts as well as supplying vehicle manufacturers with proprietary diagnostic hardware and software.

These third-party suppliers may be engaged by vehicle manufacturers to:

- establish and manage the online platform where dealerships and independent repairers purchase the hardware and software,
- supply the diagnostic hardware and software directly to dealerships and independent repairers, and
- resolve technical issues with the diagnostic hardware and/or software, including handling complaints or enquiries.

The involvement of third-party suppliers creates uncertainty about which entity is obligated to comply with the scheme. This is further complicated by commercial arrangements where the overseas manufacturer or parent company of vehicle distributors in Australia contracts with the third-party supplier directly.

Dealerships and retailers

At least one vehicle manufacturer has sought to outsource the responsibility of supplying diagnostic hardware, embedded with software required to diagnose faults and perform software updates, to its dealership network. This type of arrangement reduces transparency for independent repairers and allows dealerships to act as a gatekeeper by applying their own mark-ups and conditions of access not necessarily compliant with scheme requirements.

Currently the scheme appears to capture retailers who supply diagnostic scan tools pre-loaded with software for use by DIY mechanics or hobbyists. The ACCC considers that third party suppliers such as dealerships or retailers should not be captured in the scope of the scheme, as real control over access to information still lies with the vehicle manufacturer and its local subsidiary or distributor.

The ACCC recommends that Treasury amends the scheme to ensure it is clear that manufacturers (and their local subsidiaries, distributors or importers) are the parties that are obligated to comply with the scheme even when third-party suppliers are involved. Treasury could consider:

- excluding from the definition of 'data provider' any third-party providers of scheme information that may be inadvertently captured by the scheme obligations, such as retailers, and
- clarifying that vehicle manufacturers (and local importers/distributors) are still responsible for non-compliance with the scheme, even where third party providers (such as tool manufacturers, dealerships or retailers) are involved in the supply of information to Australian repairers and scheme RTOs.

3.3. Diagnostic hardware and software

Barriers to accessing diagnostic software and hardware continues to limit competition in the independent repair sector

The definition of 'scheme information' includes diagnostic software but not diagnostic hardware.

- Diagnostic software can allow a repairer to identify and resolve issues with the vehicle, view real-time data from the vehicle for troubleshooting, test the vehicle's system functions and update or write software for the vehicle's in-built computers (programming).
- Diagnostic hardware is needed to use the software functions on the vehicle's in-built computers. It usually requires a laptop or tablet with diagnostic software installed and a vehicle communication interface box (VCI) which provides a physical connection between the laptop and the vehicle.

The scheme requires data providers to supply the same diagnostic software to independent repairers as provided to dealerships or affiliated repairers, either in the 'same' form where practicable to do so, or in an electronic form that is 'reasonably accessible' to all repairers.

Many data providers supply dealerships with diagnostic software pre-installed onto a proprietary VCI interface and laptop/tablet (**proprietary hardware**). Other brands supply proprietary hardware with software embedded in it, so there is no need for a laptop or tablet.

The Explanatory Memorandum states at 1.62 that a reasonably accessible electronic form includes 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' (**generic hardware**).

Generic hardware, which can be used for multiple brands, has some limitations but can usually be used for most diagnostic purposes. Access to software in a form that is compatible with generic diagnostic hardware would enable repairers to use the same hardware for multiple brands, reducing costs to businesses and consumers.

Proprietary hardware may be required to perform some complex repair procedures including reprogramming and programming a vehicle's in-built computers. Independent repairers who specialise in programming work have reported difficulty obtaining access to proprietary hardware from some vehicle manufacturers, which means they are unable to work on those vehicles.

As diagnostic hardware is not included in the definition of 'scheme information', there is no obligation for data providers to supply proprietary hardware to independent repairers at fair market value. Although software is included in scheme information, its functions may depend on proprietary hardware, and the cost of hardware can be prohibitive.

Impact on independent repairers

Independent repairers have reported difficulties accessing diagnostic software from some manufacturers. Repairers who service and repair multiple brands can save money by accessing information on a daily or monthly basis. Annual subscriptions to diagnostic software or the need for the repairer to buy proprietary hardware to use the software can impose significant costs that repairers cannot afford.

The ACCC understands some data providers require repairers to purchase the proprietary hardware as a condition of buying access to the diagnostic software. Certain data providers have claimed that their diagnostic software can only be used with the manufacturer's proprietary hardware, which can cost in excess of \$10,000. In some cases, the diagnostic software may be able to operate very limited functions using generic hardware, but complex diagnostic or programming functions can only be completed using proprietary hardware, because the software is not fully compatible with generic hardware.

Additionally, some newer vehicles have in-built 'security gateways', which act as an electronic barrier that requires a repairer to use proprietary hardware and diagnostic software to unlock the vehicle's systems. Whilst generic hardware may be able to be used to repair older vehicles, the ACCC understands that generic hardware cannot be used with vehicles that have security gateways.

The ACCC is concerned that, in the absence of a fair market value requirement applying to hardware, some data providers may offer to supply independent repairers with proprietary hardware at significantly marked-up prices. The cost of proprietary hardware remains a barrier and it renders diagnostic software, however reasonably priced, inaccessible to many independent repairers.

Improved access to diagnostic software through time variable subscription periods and ensuring diagnostic software is compatible with generic hardware would reduce the cost for independent repairers and help them compete with dealerships.

International standard for vehicle programming adopted in the EU, UK and US

Developed by a global association of engineers, SAE International, SAE J2534 is a standardised interface that can be adopted by any vehicle manufacturer to ensure that their programming software is compatible with generic hardware.² A generic interface (known as a 'pass-through') that meets the SAE J2534 standard can in theory be used to connect a vehicle to any brand's compatible diagnostic software.

The EU Regulation 2018/858 requires that:

- the programming of in-vehicle computers can be conducted with generic hardware, in accordance with international standard ISO 22900-2 or SAE J2534 or TMC RP1210B,³ and
- independent repairers have access to a manufacturer's proprietary hardware.

Following its separation from the EU, the UK government passed equivalent legislation to mirror the EU regulations.

The US voluntary agreement and the Maine and Massachusetts laws require manufacturers to provide for vehicles from model year:

- 2002 – the same diagnostic repair tools as supplied to dealerships (i.e. proprietary hardware), and
- 2018 – access to diagnostic software using a SAE J2534 pass-through device (generic hardware).

Although the Explanatory Memorandum refers to SAE J2534 as an example of a 'reasonably accessible' form of information, the standard is not mandatory. There are vehicle brands that offer SAE J2534-compatible software overseas where it is mandatory to do so, but not in Australia. Data providers also claim that the requirement to separate safety information (see section 3.1) is a barrier to providing Australian repairers with access equivalent to overseas schemes.

Increasing need for diagnostic software and hardware in vehicle repairs and servicing

Diagnostic hardware and software are designed to be used together. A repairer who has access to diagnostic software cannot compete with a dealership if they do not have access to suitable diagnostic hardware to connect the software to a vehicle. The most suitable diagnostic hardware depends on the type of service or repair work needed for the vehicle, so in order to benefit the aftermarket and equip them to compete effectively, they need options to suit their business models, which differ from the dealership model.

Increasingly, vehicles are designed with more computerised systems and safety features such as cameras or sensors known as Advanced Driver Assistance Systems (ADAS). These systems usually require diagnostic software and proprietary hardware to conduct repairs. For example, a repairer completing a windscreen replacement may need software to recalibrate sensors at the front of the vehicle before it can be safely returned to the consumer.

Repairers that specialise in complex diagnostic work or ADAS repairs may need access to proprietary hardware, which is built for optimal use of the diagnostic software. Some of

² Society of Automotive Engineers (SAE), Recommended Practice for Pass-Thru Vehicle Programming [J2534](#), SAE, 5 January 2022, accessed 6 April 2023.

³ Regulation (EU) 2018/858 OJ L151/1, annex X para 6.4.

these independent repairers have explained that the SAE J2534 compatible software available in other jurisdictions is not always the most effective option to complete complex repairs, nor is it as up to date as the version of diagnostic software built for proprietary hardware and used by dealerships.

To complete repair work reliably and efficiently, some repairers prefer to purchase proprietary hardware. If proprietary hardware continues to be outside the scope of scheme information, independent repairers may continue to be priced out of the market because data providers aren't required to supply proprietary hardware at a price limited to its fair market value.

On the other hand, repairers that do not need to complete complex programming work or do not have the financial ability to invest in proprietary hardware for every vehicle brand that they service may not be able to compete effectively with dealerships unless they have access to diagnostic software that is compatible with generic hardware that can be used for multiple brands.

Treasury should consider the risks to the scheme's future effectiveness if the scope of 'scheme information' remains unchanged. If diagnostic hardware remains excluded and is therefore not subject to the fair market value requirement, there is a real risk that diagnostic software will become inaccessible to independent repairers as the costs of proprietary hardware increase.

The ACCC recommends the following amendments should be considered as part of the review of the scheme to:

- expressly include diagnostic hardware in the definition and scope of 'scheme information'; and
- require data providers to offer for supply:
 - the same proprietary hardware as is supplied to dealerships from model year 2002; and
 - diagnostic and programming software in a form that is compatible with SAE J2534/generic hardware.

To minimise the compliance burden on data providers, the scheme could be aligned with the US and EU regulations by limiting the requirement for software compatibility with SAE J2534 to vehicles from model year 2018.

3.4. Fair market value

There are challenges associated with determining the fair market value of information under this regime

Fair market value is central to the scheme's intent to make repair information from manufacturers accessible to independent repairers, to ensure they can compete fairly with dealerships. Increased price competition offers consumers more value for vehicle maintenance and repairs.

Under section 57CA(4) of the CCA, data providers are required to offer scheme information at a price that does not exceed the fair market value of that information. Section 57CA(5) provides for factors to be considered when determining this price, including the:

- price charged to other Australian repairers and RTOs for supplying scheme information for that model of vehicle, or a similar model and make,
- price charged for similar information in overseas markets, and
- reasonable recovery of costs incurred in creating, producing, and providing the scheme information.

The ACCC understands that in the development of the scheme, 'fair market value' was the preferred benchmark because it is recognised in both Australian and International Law as an objective test, being 'the price a willing buyer would pay a willing seller in a transaction on the open market'.⁴ Determining the fair market value of information under the scheme ultimately relies on a court's assessment of all the circumstances and factors in section 57CA(5). It requires a complex economic analysis and, therefore, enforcing fair market value is not straightforward.

The ACCC has considered 'fair market value' issues in relation to several data providers scheme offers. Some data providers have relied on the mandatory factors in section 57CA(5) to justify prices charged to Australian repairers. Common issues that arise when assessing fair market value include:

- **Factor 1:** price charged to other Australian repairers for scheme information of that particular make, model and year (s 57CA(5)(a)) requires a court to consider prices charged to dealerships. Some brands charge significant yearly fees to dealerships (which may be subsidised by a local distributor) for repair information. An independent repairer that services multiple brands cannot compete fairly with a dealership that pays only one yearly fee, if the cost is excessive.
- **Factor 2:** terms and conditions on which scheme information is offered for supply (s 57CA(5)(b)). Some data providers use global information systems to deliver scheme information and may charge higher prices to independent repairers for access to all vehicle brands owned by the same parent company. While a higher price might reflect access to multiple brands' scheme information available on a shared platform, a repairer may only need access to information for one brand and is disadvantaged when charged a higher price than dealerships for the same information.
- **Factor 3:** anticipated demand by Australian repairers (s 57CA(5)(c)). Low demand may be used to justify the cost of scheme offers to independent repairers, further reducing demand.
- **Factor 4:** reasonable recovery of costs incurred in creating, producing and providing the scheme information (s 57CA(5)(d)). Because the scheme requires the separation of safety information from other scheme information (see section 3.1), data providers often cannot directly offer Australian repairers the same form of information (including diagnostic software) as is available in the EU or US. They may need to modify existing software applications and service information to comply with

⁴ See, e.g., *MMAL Rentals Pty Ltd v Bruning* [2004] NSWCA 451.

restrictions on safety information. Data providers may rely on this factor to justify higher costs to independent repairers.

- **Factor 5:** price charged for supply of similar information overseas (s 57CA(5)(e)). This does not require a consideration of whether prices offered overseas are fair or reasonable.
- **Factor 6** is about payments made by a data provider to the copyright owner (s 57CA(5)(f)) and has not emerged as an issue yet.

Definition of 'market' and the ability to substitute

Section 57CA(5)(a)(ii) provides that 'if pricing is not available for information in relation to a scheme vehicle of that particular make, model and year, pricing for information in relation to a scheme vehicle of a similar make, model and year' should be considered. This factor assumes that prices can be compared between different brands for similar scheme information relating to similar vehicles, and that the market for scheme information includes multiple competing brands.

The ACCC has observed that scheme prices for diagnostic software in particular vary considerably between brands who offer a range of prices for annual subscriptions for diagnostic software access. Due to the increasingly complex nature of computerised systems in vehicles, repairers often need brand-specific scheme information (such as programming or diagnostic software and proprietary hardware) to complete repairs.

For some newer vehicles, repairers raised concerns that certain repairs need genuine diagnostic software and proprietary hardware, with no other substitutes available. This may reduce the incentive to keep prices affordable or reasonable for repairers, because there is no real competition in the supply of brand-specific programming and diagnostic software.

Similarly, competition reduces significantly when multiple vehicle brands are part of a global conglomerate, which may set prices overseas for all its brands without any incentive to compete on price or regard for local scheme prices offered by other data providers. These practical realities curb the intent and utility of section 57CA(5)(a)(ii) to assist a court to determine the fair market value.

Pricing of scheme information is likely to become one of the main obstacles to making information accessible to repairers and has the potential to undermine the scheme's success, if the mandatory factors in section 57CA(5) do not adequately account for the nature of the 'market' for brand-specific scheme information.

Lack of enforcement precedent in comparative jurisdictions

The EU scheme permits manufacturers to charge 'reasonable and proportionate' fees for access to information and requires manufacturers to provide access for free to national authorities including the European Commission. The US scheme deals with price under a broader obligation to supply information on 'fair and reasonable terms'. However, there has not been any enforcement by regulators in Europe or the US to date.

In light of the importance of section 57CA(4) to the purpose of the scheme, the ACCC recommends that Treasury consider investigating how sections 57CA(4)-(5) may be amended to account for the practical difficulties discussed above. In doing so, Treasury may wish to examine and consult on the price differences between data providers' brands

for similar types of scheme information, to test whether the factors in section 57CA(5) are fit for purpose.

3.5. Supply periods – day, month, year

Daily subscriptions are the most cost-effective and accessible option for independent repairers

Where the form of scheme information ‘allows for variability in the period for which the information is supplied’, data providers must offer to supply the information either:

- for any period nominated by an independent repairer, or
- by day, by month and by year (section 57CA(3)).

The Explanatory Memorandum states that flexibility with respect to the time period improves the affordability of scheme information by enabling independent repairers to match the financial outlay with the expected use. This aligns with feedback the ACCC has received from independent repairers, that daily subscriptions are most cost-effective and accessible, having significant impact on increasing competition between independent repairers and dealerships.

Supply period variability has been an ongoing compliance issue and has been the subject of multiple referrals to the ACCC from the scheme adviser. Data providers have interpreted the provision favourably to argue that the current form of their software has no time-limiting mechanism applied, so the software does not ‘allow for’ variability in supply periods, and therefore does not need to be offered by day, by month and by year.

Some data providers have also relied on wording in the Explanatory Memorandum that references an option of providing scheme information on a ‘fee per request’ basis. This has been interpreted to mean that they can offer diagnostic software on a ‘fee per request’ basis, even if the software has the capability to be offered on a time variable basis.

The ACCC understands that:

- the intent of this provision was to ensure that repairers do not have to purchase an annual subscription for software or other scheme information, whilst acknowledging that the variable time period may not be practical when supplying information in paper form; and
- the provision contemplated that all information offered in an electronic form would be able to allow for variability of the period, whether or not that feature is enabled.

The comparative EU and US schemes require software information to be offered to repairers on a daily, monthly and yearly basis, and data providers are offering diagnostic software overseas in such a manner. Evidently, the technology applied to limit access to software by variable time periods exists.

In September 2024, the ACCC issued Honda Australia with an infringement notice of \$18,780 for only offering diagnostic software on a yearly subscription basis and not giving independent repairers the option to purchase subscriptions on a daily or monthly basis. The ACCC has also received additional complaints that other data providers may also be engaging in similar conduct.

The ACCC recommends that Treasury clarify that for the purposes of section 57CA(3):

- data providers must offer a time-variable supply period should the form of information allow for variability, even if the dealership is only able to purchase the information on a yearly subscription basis, and
- generally, all electronic forms of information can reasonably be expected to allow for variability of the supply period, when the appropriate technology is applied and enabled.

As discussed in further detail at section 3.7, the ACCC recommends that Treasury consider increasing the penalty units for an alleged contravention of section 57CA(3).

3.6. Timeframes for delivery of information

Manual processes that delay immediate access to scheme information give dealerships an unfair advantage

Section 57CB requires a data provider to supply scheme information ‘immediately’ after a repairer or scheme RTO pays, or offers to pay, the scheme price or another agreed price for the information, in the following circumstances:

- either:
 - the data provider has previously supplied the scheme information in the form requested to any person, or
 - the scheme information is readily accessible by the data provider and can be provided in the form requested; and
- in addition, the scheme information either:
 - does not include safety and security information, or
 - includes safety or security information, and the data provider has already been given the information required to determine whether or not the repairer meets the criteria in section 57DB(2) to access that information.

The timeframe for delivery is triggered to start by the earlier of:

- payment of the scheme price or another agreed price, or
- the repairer making an offer to pay the scheme price or another agreed price.

Automated vs manual processes

Many data providers use automated systems to deliver scheme information to repairers, which allows a repairer to instantly purchase scheme information on the data provider’s website and receive access within minutes of payment. This includes automating the process to verify, through AASRA’s website, whether a repairer meets the fit and proper person criteria under section 57DB(2) to access safety and security information.

Some data providers use a manual process to manage requests for scheme information from repairers. A manual process may require a repairer to request specific scheme

information by email or through an online platform, and the data provider then views that request and responds by email or by adding the requested item to an online 'cart' to enable payment.

The ACCC is aware of complaints from repairers who are frustrated by manual processes that delay access to scheme information required to be delivered 'immediately'. Repairers have reported that they have had to wait hours or until the next day before receiving a response to their request for scheme information.

Security information

In the case of security keycodes, locksmiths need immediate delivery of information to effectively service consumers locked out of their vehicles, as they cannot be waiting at a consumer's vehicle for hours (or until the next day) to receive the security code needed to unlock a vehicle. This is likely to be impractical for repairers and may deter them from purchasing security information in this way.

Industry stakeholders have informed the ACCC that independent repairers require timely and immediate delivery of scheme information in order to compete effectively with dealerships, which can access the same information immediately.

The ACCC recommends that Treasury consider amendments to section 57CB that could:

- ensure that locksmiths can get security keycodes within minutes, not hours, of requesting the information from a data provider, provided they have already been assessed as having met the criteria to access security information;
- require data providers to setup an automated process to request and pay for scheme information at any time, not only during the data provider's business hours;
- require data providers to ensure that access to information can take place within minutes rather than hours or days of the request, where information is supplied in an electronic form (e.g. software).

3.7. Penalties for non-compliant scheme offer

Infringement notice penalties for some provisions may provide more proportionate enforcement options

Section 57CA sets out data providers' obligations relating to the supply of scheme information to repairers, including the:

- main obligation to make a scheme offer (s 57CA(2)) (**main obligation**)
- choice of supply periods (such as day, month and year) if the form allows for variability (s 57CA(3))
- price of scheme offers to not exceed fair market value (s 57CA(4)) (**fair market value requirement**)
- publication of scheme offers and notifications to AASRA (ss 57CA(6)-(7)).

Currently, the ACCC may issue infringement notices for alleged contraventions of sections 57CA(3), 57CA(6) or 57CA(7), but not for sections 57CA(2) or 57CA(4).

One of the most persistent and systemic compliance issues since the commencement of the scheme relates to the main obligation. The ACCC can only obtain a penalty against a data provider for contravening the main obligation or fair market value requirement by successful litigation.

The civil pecuniary penalty for the main obligation is up to \$10m, which reflects the importance of this provision to achieving the objectives of the scheme. However, it would be more effective for enforcement purposes to also have an intermediate option of an infringement notice penalty.

Contraventions of sections 57CA(2) and 57CA(4) have the potential to cause harm to repairers and consumers when non-compliant scheme offers deter independent repairers from purchasing scheme information and effectively prevent them from offering a competitive price or service.

Without suitable infringement notice penalties to provide deterrence to data providers and more efficient enforcement options to the ACCC, some data providers may continue to resist or delay compliance with the scheme's key requirements, undermining competition in the aftermarket.

The ACCC recommends that Treasury amend section 57GB to:

- provide for an infringement notice penalty for alleged contraventions of sections 57CA(2) and 57CA(4)

3.8. Prohibited terms and conditions

Despite the intent of section 57CC, repairers are still being required by some brands to purchase proprietary hardware in order to access diagnostic software

Section 57CC prohibits data providers from entering into contracts to supply scheme information containing certain terms and conditions. Section 57CC(1) states that, subject to that section, nothing prevents a data provider from supplying scheme information on reasonable terms and conditions that do not prevent, restrict or limit the access to or use of scheme information.

Section 57CC(2) sets out prohibited terms or conditions. Specifically, section 57CC(2)(a) prohibits data providers from supplying information on the condition that the repairer purchase another product or service, whether from the data provider or a third party. This provision ensures that repairers are not deterred from accessing scheme information by having to purchase products or services they do not need.

Scheme offers must comply with section 57CC and not contain prohibited terms, however, a data provider only breaches s57CC(2) when they supply information to any repairer on terms that include a prohibited term. Having a scheme offer that contains a prohibited term is not a contravention, however, a scheme offer that contains a prohibited term can still disincentivise independent repairers from taking up the offer.

This has implications on the penalties available for the data provider's conduct.

The ACCC is concerned that:

- some scheme offers currently require repairers to purchase proprietary hardware (not scheme information) to access scheme software. This may deter some independent repairers from purchasing software, because they may not be able to justify the additional cost, if they already possess suitable hardware (whether proprietary or generic), and;
- the form of the data provider's software may effectively force an independent repairer to purchase another product or service (such as proprietary hardware or a subscription to a service manual) without it being an express written term or condition of supply.

Limited enforcement options for scheme offers containing prohibited terms

In practice, it is unlikely a data provider will be found to have contravened section 57CC(2) because if the scheme offer contains a prohibited term, it may already have deterred repairers from entering into a contract to purchase scheme information.

There is a notable difference between the scope and type of penalties available for potential breaches of sections 57CC(2) and 57CA(2):

- Section 57CC(2) - where the data provider is a corporation, it may be subject to an infringement notice of 60 penalty units or a civil penalty of 600 penalty units.
- Section 57CA(2) – where the data provider is a corporation, a pecuniary penalty of up to \$10m.

The ACCC has been informed that although some repairers already owned proprietary hardware, some data providers refused to sell software access as a standalone product. In this situation, section 57CC(2) does not apply because no one has entered into a contract for the supply of information, so the infringement notice penalty for that provision is not available to the ACCC as an enforcement option.

In this situation the ACCC's only option would be to litigate under section 57CA(2), which for the reasons discussed at section 3.8, is often not a straightforward or proportionate measure.

This seems to be an unintended consequence, since a data provider's *refusal* to supply to a repairer unless they agree to a prohibited term likely does more harm than an *agreement* to supply the information, because in the former, the repairer cannot access the information at all.

Form of software compels repairers to purchase proprietary hardware

As discussed in detail at section 3.3, the ACCC has observed that in practice, a data provider's software may be designed to be compatible only with the proprietary hardware, or the data provider has only tested its software with the proprietary hardware and does not know if the software will function on generic hardware. While there may be no prohibited term or condition expressly stated in a scheme offer or contract, the data provider's conduct may effectively compel repairers to purchase these products as a bundle, undermining the intent of section 57CC(2)(a).

Data providers may also be circumventing the prohibition in section 57CC(2)(a) by supplying diagnostic software in a form that restricts access to some, but not all, software functions unless the independent repairer purchases another product or service such as a service manual subscription or proprietary hardware.

It is not clear that this conduct falls within the scope of the prohibition in section 57CC(2)(a), however this conduct has the effect of making diagnostic software inaccessible by imposing additional costs on independent repairers, even if the condition is not found in any formal written agreement between a repairer and the data provider.

The ACCC recommends that Treasury consider amending the scheme to:

- prohibit data providers from supplying information in a form that would prevent, restrict or limit the access to, or use of, the information. This prohibition should not fall under section 57CC(2) such that the contravention is dependent on how the 'terms and conditions' of the supply contract are construed; rather it should depend on the data provider's *conduct* in the course of supplying the scheme information.

Expanding the available penalties for section 57CA(2) to include infringement notices would assist the ACCC's ability to enforce section 57CC(2).

3.9. Reporting to scheme adviser

There is minimal reliable data about the effectiveness of the scheme

Section 57CB(4) requires data providers to provide a report to the scheme adviser containing details of the terms and conditions and the price of information supplied to a repairer or RTO within 2 business days of supplying the information.

As at June 2024, 3265 independent repairers in Australia were AASRA members, of which 939 repairers were certified to access security information and 792 to access safety information from brands that participate in AASRA's vetting process.⁵ There are several limitations in relying upon this data to assess the impact of the scheme:

- It is not clear whether each AASRA membership correlates to a business (where multiple repair technicians use the same account) or to individual technicians.
- Some repairers allow their yearly membership to lapse until they next need to access scheme information, so the current membership figures may not reflect the full number of repairers utilising the scheme.
- We do not know how often each repairer is accessing information or what proportion of vehicle servicing and repairs depend on access to scheme information (see section 3.9).
- Some specialist repairers offer remote diagnostic or programming services to non-AASRA members (such as mechanics), therefore the full number of repairers and consumers benefiting from scheme information is unknown.

⁵ AASRA, Annual Report 2023-24, <https://aasra.com.au/wp-content/uploads/2024/11/Annual-Report-2023-2024.pdf>, accessed 26 June 2025.

In the absence of reliable, up-to-date data on the number of independent repairers (individuals) or workshops currently operating in Australia, it is not clear what proportion of the independent repair sector has used the scheme to access information for servicing and repairing vehicles. There is also a lack of reliable data about the uptake of the scheme overall, such as what types of information has been purchased, which brands' information has been most sought after, and what type of independent technician or business model is benefiting from the scheme.

As noted above, the scheme has a built-in data collection mechanism for AASRA which, if slightly amended in form, could be a valuable source of evidence and data for AASRA and Treasury to understand the impact of the scheme on the independent repair sector.

The reporting function in section 57CB(4) would be a beneficial source of reliable data about how many repairers are using the scheme and what prices they have paid, which could demonstrate how the scheme is benefiting repairers. For example, if the data shows that most repairers are paying for software access under a daily subscription, this means that short-term access is most useful and beneficial to repairers and consumers.

However, the requirement to provide notification within 2 business days of each supply of scheme information appears to be overly burdensome on data providers and the scheme adviser, which has led to widespread non-compliance with this provision.

The consequence is that the scheme adviser does not have access to this data. This undermines its ability to promote the scheme and report to Treasury on the scheme's effectiveness.

The ACCC recommends that Treasury consult with the scheme adviser and data providers to determine a suitable balance between the burden on both parties and the benefit of having this data, to provide reliable evidence for reviewing the effectiveness of the scheme. The scheme adviser must have the ability to monitor the operation of the scheme on a regular basis, however compliance with the current provision may overwhelm it with data.

Treasury should consider a periodic (e.g. quarterly) reporting requirement or giving the scheme adviser the power to make requests for reports from data providers, if and when it needs to, instead of within 2 business days of supplying the scheme information.

Separately, data providers should be required to keep records of every supply of information under the scheme (including the terms and conditions of supply and price of scheme information). This should not be a difficult task because data providers likely have systems in place already to store such commercial information and retrieve it when necessary.

3.10. Vehicle telematics

Lack of access to telematics data may limit the effectiveness of the scheme over time

Telematics is defined in the scheme as 'data automatically generated and transmitted by a scheme vehicle, while it is being driven, regarding driver or vehicle performance', and is excluded from scheme information by section 57BD(2)(d).

Telematics data includes location, speed, and performance data, and can be used to diagnose potential faults or predict vehicle maintenance needs. This data is usually

transmitted wirelessly back to the manufacturer and is increasingly common in newer 'connected' vehicles and particularly in hybrid and electric variants.

As telematics data is not scheme information, manufacturers (and potentially dealerships) may have exclusive access to data that can be used for diagnosing faults with, servicing or repairing vehicles that generate telematics data. This may allow manufacturers or dealerships to diagnose faults preemptively based on the telematics data, bypassing the need to have a repairer physically inspect and service the vehicle.

Exclusive access to telematics data gives a competitive advantage to manufacturers and may over the long term undermine the effectiveness of the scheme to increase competition in the aftermarket. As telematics systems are mostly found in newer vehicles that are likely captured within new car warranty periods, it is not yet clear how manufacturers' access to telematics data may have impacted competition in the Australian aftermarket. It is also unclear whether there is sufficient demand amongst independent repairers for access to telematics data to justify including it in the scheme at this stage.

Since the scheme commenced, the ACCC is aware of telematics data being included in right to repair schemes in the EU (2023) and in the US states of Maine (2023) and Massachusetts (2020).

US developments

- Since the Massachusetts right to repair scheme was expanded in 2020 to mandate access to telematics data, it has been subject to litigation brought by the Alliance for Automotive Innovation (AAI, representing vehicle manufacturers). The AAI challenged the validity of the new law, arguing that it conflicted with federal motor vehicle safety and emissions regulations.
- In February 2025, the US District Court of Massachusetts dismissed the AAI's case.⁶ The Court also interpreted the scope of the telematics provisions, noting that manufacturers aren't required to give access to all telematics data, but only data that relates to the diagnosis, repair or maintenance of a vehicle. AAI has since appealed the decision.
- In November 2023, voters in the state of Maine passed an automotive right to repair law similar to the Massachusetts scheme. The Maine law, which includes access to telematics data, also faced opposition from the AAI, which commenced litigation to prevent enforcement of the law.
- As of June 2025, there are equivalent right to repair bills currently before state governments of Maryland and Hawaii which propose access to telematics data.⁷

EU developments

- In December 2023, the European Data Act commenced,⁸ creating a broad data-sharing scheme to capture data generated by internet-enabled 'connected' goods including vehicles. The enactment of the Data Act follows a detailed assessment by the European Commission (DG MOVE) in 2017 of the legal, technical and socio-

⁶ *Alliance for Automotive Innovation v. Campbell* (D Mass, 1:20-cv-12090, 11 February 2025).

⁷ <https://www.repairerdrivenews.com/2025/02/13/maryland-house-committee-members-question-necessity-of-proposed-right-to-repair-bill/>, accessed 2 June 2025.

⁸ Regulation (EU) 2023/2854 (Data Act): https://www.eu-data-act.com/Data_Act_Articles.html.

economic implications of providing timely and equal access to telematics data in a standardised form that promotes fair and undistorted competition.⁹

- Crucially, the Data Act, which applies from 12 September 2025, will require vehicle manufacturers (being data holders) to provide access to data for free in a secure, interoperable form and in real time. The new law will put consumers in control of accessing and sharing telematics data with independent repairers.

The ACCC recommends that Treasury investigate the inclusion of telematics data in the scheme, aligning with international developments since the scheme commenced.

If telematics data remains excluded from the scheme:

- In the long term, on-board diagnostic (OBD) ports in vehicles, which are used to directly access in-vehicle data and connect diagnostic hardware and software, may become obsolete for vehicles that have telematics systems and transmit data wirelessly. This could disadvantage independent repairers who currently rely on accessing in-vehicle data through OBD ports.
- Independent repairers may not be able to compete as effectively with manufacturers/dealerships, in cases where telematics systems enable manufacturers to offer predictive maintenance, diverting consumers to dealerships or even repairing some faults remotely through wireless software updates.

If telematics data is included in the scheme, it should be limited to data that is relevant to diagnosing, servicing or repairing vehicles, rather than all data generated by a vehicle, including personal or location data.

Factors that Treasury may need to investigate include how data providers currently collect and use telematics data for predictive maintenance, diagnostics, service and repair activities; and whether that information is provided to dealerships. The approach taken in the EU and the US may be influential in developing an approach that balances the need to protect competition in the aftermarket with consumer interests such as privacy, convenience of predictive maintenance solutions and cost-effective repairs.

Including telematics data as scheme information, and imposing requirements on data providers to offer wireless and unrestricted access to that data through a secure platform, may require data providers to invest significantly in upgrading existing data infrastructure and developing secure and safe systems for sharing data wirelessly. However, this may already be taking place in preparation for the EU's Data Act, which commences in September 2025.

⁹ <https://transport.ec.europa.eu/system/files/2017-08/2017-05-access-to-in-vehicle-data-and-resources.pdf>.

3.11. Interaction between scheme and type-approval framework

Spare parts and repair information are currently not required to be made available at the time a new vehicle is introduced to the Australian market, causing significant delays for new car owners

The Australian scheme differs from the EU scheme as it forms part of competition and consumer legislation, rather than type-approval regulations. Type-approval regulations in Australia ensure that all new vehicles imported and sold in the Australian market meet local standards set out in the ADRs. However, currently the ADRs do not include any requirements for manufacturers to make spare parts and repair information available to Australian repairers at the time a new vehicle is introduced to the Australian market.

Under the EU scheme, manufacturers need to ensure that repair information is available for supply within 6 months of a new vehicle being placed on the market. If manufacturers cannot meet this requirement, the new vehicle model will not receive type-approval. Under the Australian scheme, the trigger for the data provider's obligations to commence is when a data provider supplies information to at least one repairer (typically, a dealership or other affiliated repairer).

Section 58 of the Australian Consumer Law provides for a guarantee that the manufacturer of goods will take reasonable action to ensure that facilities for the repair of goods and parts for the goods are reasonably available for a reasonable period after the goods are supplied. Despite this, issues may arise when a new brand entering the Australian market does not yet have an established network of affiliated repairers and/or their dealerships are not equipped with the necessary parts and technical information to conduct repairs. This may result in significant delays for consumers due to the need to source parts that are not readily available.

The ACCC has observed this problem occurring with a new market entrant in 2023 and anticipate that the prevalence of this problem is likely to increase as new electric vehicle brands enter the Australian market.

The type-approval framework also determines the specifications of vehicles entering the Australian market. One manufacturer stated that their vehicles sold in Australia were not compatible with generic hardware (see the discussion on international standard SAE J2534 at 3.3). Instead, the data provider charges a high price for access to proprietary hardware needed to use the software. Ideally, the type-approval regulations and the scheme's requirements should complement each other to improve compliance with the scheme and enable independent repairers to compete fairly with dealerships for new makes in the Australian market.

The ACCC recommends that Treasury consult with the Department of Infrastructure, Transport, Regional Development, Communications and the Arts on the feasibility of amending the ADRs to complement the effective operation of the scheme. In particular, the Australian type-approval requirements may need amendments to:

- require manufacturers to ensure that technical information and/or parts are available for supply to Australian repairers at the time a new vehicle is placed on the market, and

- new vehicles should conform to standard SAE J2534 (or other equivalent standard) for vehicle programming (see 3.3 for further discussion).