

*Speech at the 3rd CLEPA Aftermarket Conference, 24 November 2011, Brussels  
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"The European Commission's recent  
Automotive Legislation and the future  
Work Programme affecting the European  
Aftermarket"

Thank you for the invitation.

As requested by the organizers, I will focus my presentation on the newly adopted legislation on repair and maintenance information in the type-approval framework.

### **Where do we stand with this legislation?**

For light-duty vehicles, Council and Parliament adopted Regulation 715/2007 four years ago. In the meantime, the Commission adopted two implementing Regulations, in 2008 and earlier this year. In June 2011, Commission Regulation 566/2011 was published which brought along important further clarifications of outstanding questions on the subject of repair and maintenance information. I will go into more detail on this regulation in a couple of minutes.

For heavy-duty vehicles, Council and Parliament adopted Regulation 595/2009 in 2009. As you are all aware, on RMI this regulation outlined some principles and for most part referred to the application of Regulation 715/2007 "*mutatis mutandis*". In the meantime, the Commission has adopted a first implementing Regulation in 2011 which however does not regulate the subject of access to repair and maintenance information. The second part of the implementing rules which includes the more specific provisions on repair and maintenance information has received the agreement of Member states. . It is currently under scrutiny by Council and Parliament

Before I address some specific issues, let me briefly recall **the underlying principles of this legislation:**

In 2007, the requirements to grant access to repair and maintenance information were integrated into the type approval legislation. When this was done, it was always agreed that access to repair and maintenance was a horizontal issue and not limited to passenger cars / light-duty vehicles and that it was not meant to be

restricted to emission control equipment and should rather be regulated in the framework legislation laying down general type approval requirements.

The fact that access to RMI is an overreaching horizontal principle is also acknowledged in the reporting obligation of Regulation 715/2007: the Commission shall present to the European Parliament and to the Council a report on the operation of the system of access to vehicle repair and maintenance information, with particular consideration being given to the effect on competition and the operation of the internal market and the environmental benefits. The report shall consider whether it would be appropriate to consolidate all provisions governing access to vehicle repair and maintenance information within a revised framework directive on type approval.

This approach was also endorsed by the Conclusions of the Mid Term Review of CARS 21 in autumn 2008. CARS21 - Conclusion 15 reads:

"Access to technical information has made considerable progress. It is necessary to ensure that in the future access to technical information is provided in a comprehensive manner taking into account consumers protection as well as safety, environmental and intellectual property concerns. In particular, continued importance should be attached to technical information access for independent and multi-brand aftermarket operators."

The importance of access to repair and maintenance information is still growing due to factual developments. The vehicles produced become more and more complex. This concerns in particular the growing number of electronic components which cannot be subject of "traditional" mechanical repair, but which can only be repaired on the basis of specific information regarding their electronic features. These aspects create therefore also a link with the specifications for On-Board Diagnostic systems (OBDS) and the role that these play in providing

information on the performance of several vehicle features, some of which can be of relevance also in the context of market-surveillance activities.

This complexity concerns the mere number of parts, the possible combinations of parts, and the frequency with which different parts are used in identical models. This aspect makes the identification of the part to be replaced in a vehicle more and more difficult and the repairer dependent on information which allows identifying the part built into a given vehicle.

**Let me now explain some important aspects of the most recent legislation in greater detail:**

An important aspect of European type approval legislation on access to RMI is the detailed definition of its beneficiaries, the "independent operators". Article 3(15) of Regulation (EC) 715/2007 clearly stipulates that not only "*repairers*" but all undertakings, "*which are directly or indirectly involved in the repair and maintenance of motor vehicles*" shall get access to RMI.

The political rationale behind this provision is twofold. Firstly, the Regulation wants to create and protect fair market conditions for all kinds of services around the repair and maintenance of motor vehicles, not limited to the immediate repair, as competition for all such services, often performed by independent small and medium enterprises, is highly relevant for consumers.

Secondly, the competitiveness of independent repairers depends to a large extent on the existence and functioning of other independent actors providing a large set of repair and maintenance related services, which go beyond the repair itself. The protection of an independent market for repairers therefore requires regulatory measures, like granting access to RMI, which target this larger set of services.

Let us illustrate these principles by the recent debate on access to vehicle component information, i.e. the complete data on the original equipment parts of individual vehicles identified by their vehicle identification numbers (VIN), which has led to an amendment of Regulation (EC) 692/2008 voted in November 2010.

When some original part of a vehicle has to be replaced at maintenance or repair, the customer in principle has the choice between the original spare part marketed by the vehicle manufacturer or the original equipment (OE) suppliers and a wide range of competitive alternative parts.

The latter are made available to repairers by independent spare part manufacturers and distributors.

The complex information on spare parts suitable for individual vehicles typically is collected, edited and sold by parts producers and distributors as well as publishers of technical information.

While authorised dealers normally will only offer spare parts branded by the vehicle manufacturers, independent repairers can provide a greater product variety and a less costly choice to the customer. Since often the price of the service is the main reason for a customer calling on an independent repairer, the possibility of offering alternative spare parts in an efficient manner to customers is essential for an independent repairer's business model. Regulation (EC) 715/2007 defines independent spare part manufacturers and distributors as well as publishers of technical information as recipients of RMI, thus benefitting on the one hand these categories of independent operators directly and providing on the other hand support to the business model of independent repairers.

In order to offer alternative spare parts, the repairer or an independent distributor of spare parts will verify in an IT application the options suitable for a given vehicle.

These IT applications typically are multi-brand, designed by parts producers and distributors or publishers of technical information, can be bought or leased by other independent operators and need automatic access to the original vehicle component identification information for their functioning.

In the past vehicle manufacturers had sometimes provided vehicle component information mostly in a way, via paper documents or unstructured electronic documents. Publishers had to process these data manually for preparing their multi-brand IT applications, what is a tedious, costly and error-prone task, potentially leading to incomplete data.

In a world where vehicles contain more and more and highly integrated electronic components, what results in an ever more complex search for appropriate spare parts, this manual processing of parts data is not sustainable. The European legislators are aware since several years that robust regulatory action is necessary in this respect to create an equal level playing field for independent operators and authorised dealers, ensuring the survival of an independent after-market on a long term basis.

After basic Regulation (EC) 715/2007 with its provisions on access to RMI was published in 2007, the controversy among stakeholders soon focused on the meaning of Article 6 of Regulation 715/2007, requiring vehicle manufacturers to provide access to vehicle component information " *using a standardised + in a readily accessible and prompt manner*" .

It became soon obvious that further regulation was necessary to resolve this issue. During the political decision process Member States and the Commission had to balance concerns about compliance costs raised by vehicle manufacturers with demands of independent operators. In essence the recent amendment to the

implementing Regulation (EC) 692/2008<sup>1</sup> resulting from this discussion stipulates that

*"Information on all parts of the vehicle, with which the vehicle, as identified by the vehicle identification number (VIN) ... shall be made available in a database easily accessible to independent operators. ..."*

The legislation as amended still does not require a specific format for exchanging vehicle component information, but the quality of such format is now described by several provisions:

- 1) *"shall be made available in a database"*<sup>1</sup>: the term *"database"* is defined in Article 1(2) of the European database Directive (EC) 96/9, which says:

*"database` shall mean a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means."*

- 2) *"easily accessible to independent operators"*<sup>1</sup>: qualifies the access to be granted to the data base as not requiring any undue particular effort from the independent operator considering the intended use of the data. Given that the objective for granting access to vehicle component data is their use in IT applications, an *"easy access"* (to data provided in a database) means at least automatic access with appropriate performance.
- 3) *"...using a standardised format in a readily accessible and prompt manner"*<sup>2</sup>: this provision highlights the requirement that the data can be retrieved in a structured format, timely and without delay.

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<sup>1</sup> Regulation (EC) 692/2008, Annex XIV, Section 2.1

<sup>2</sup> Regulation (EC) 715/2007, Article 6(1)

The amended legislation also ensures that regular updates of the vehicle component information are given to independent operators in the same way as they are given to authorised dealers<sup>1</sup>.

In summary, the legislation mandates the access to vehicle component data to be provided in a way, which makes their automatic processing possible.

It should therefore facilitate the efficient design and deployment of multi-brand IT applications permitting the identification of alternative spare parts by independent operators. It should be noted that current legislation does not require the vehicle manufacturer to pre-process vehicle component data electronically according to a database structure defined by the independent operator. However these data are to be provided in a structured state, which allows the independent operator to perform any necessary processing with reasonable effort.

The Commission services expect that on this basis stakeholders can find agreements on the specific conditions of vehicle component data exchange or access. They will carefully monitor the practical effects of the new Regulation on the repair and spare parts market, given the high commercial interests at stake. According to recital (18) of the amending Regulation in the future the standardisation of the format for exchanging vehicle component information by CEN is envisaged, which will be necessary to be defined in greater detail if no agreement among stakeholders on the practicalities of data exchange can be found.