



Preserving consumer choice and affordable repair in the automotive collision parts industry

July 1, 2020

The Honorable Roger Wicker
Chairman
Committee on Commerce, Science and
Transportation
United States Senate
512 Dirksen Senate Building
Washington DC, 20510

The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science and
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United States Senate
425 Hart Senate Building
Washington, DC 20510

Chairman Wicker and Ranking Member Cantwell:

We are the Consumer Access to Repair (“CAR”) Coalition, a group of independent automotive parts and repair companies, associations and insurers dedicated to preserving and protecting consumer choice, transparency, and affordability in the post collision repair market. We write to you regarding a recent letter to this Committee from the Alliance for Automotive Innovation (“the Alliance”) on behalf of auto manufacturers (“OEMs”) which opposed offering consumers choice over the use of their vehicle-generated data.

Increasingly, tactics employed by OEMs – including the use of embedded software and data restrictions – are driving out repair competition, while the consumer cost of auto repair has risen dramatically¹. OEMs are now calling for a five-year federal preemption of any state action regarding access to telematics data, a move which would only strengthen their developing monopoly of the automotive collision repair chain. The CAR Coalition urges you to reject this proposal. The American public would be better served by an open dialogue on these issues – including Congressional hearings – resulting in comprehensive legislation that preserves consumer choice and control over their data while ensuring cybersecurity, privacy, and safety protections.

The CAR Coalition rejects any suggestions that empowering consumers to control their data must come at the expense of road safety or that we would support measures that would jeopardize safety. Our members have an extensive history of being at the forefront of improving

¹ In fact, auto repair costs continue to rise. Two years ago, the average collision cost [hit \\$3,000 for the first time – a 33% increase since 2010](#). With [nearly 60% of Americans living paycheck to paycheck](#) and [about 40% acknowledging that they would face difficulty paying \\$400 for an unexpected bill](#), even a minor fender bender can disrupt someone’s life. This is particularly true of low-income consumers, seniors on fixed incomes, and those paying for repairs out of their own pocket.



road and vehicle safety, from seatbelts and airbags to distracted driving laws². Our members are also industry leaders when it comes to consumer choice, whether it be allowing a consumer to choose who fixes their car or what a consumer should be allowed to do with their data.

In their recent letter to the Committee, the OEMs revealed their contempt for consumer choice, claiming that “while manufacturers remain committed to allowing consumers to decide where to take their vehicle for repair and maintenance needs, there is no scenario in which real-time, remote access by third parties would be necessary to diagnose or repair a vehicle.” Real consumer choice starts with transparency and allowing consumers to actually choose what happens to their data, not with OEMs serving as gatekeepers with consumers forced to seek their permission. Manufacturers should offer consumers clear and easy-to-use tools for authorizing data access, which could include notifications of persistent third-party access. Such safeguards would dramatically reduce the opportunity for any malicious third-party actions as would requiring OEMs to support their stated priority of protecting system integrity through vigorous cybersecurity protocols. If OEM-developed vehicle systems are adequately protected, as OEMs claim they will be, then malicious activity would not be the dire concern the Alliance is making it out to be.

Consumer choice/control and safety are not and should not be considered mutually exclusive. By controlling access to their vehicle-generated data, consumers will be better positioned to protect their private information. Allowing an OEM exclusive control access and sharing of this data will inhibit consumer choice and allow it to potentially exploit the data for its own enrichment through targeted advertising, promoting their own products and services, or even selling it. Moreover, as advanced driver assistance systems (“ADAS”) become more prevalent, enshrining OEMs as the gatekeepers of critical driving data would make it more difficult for car owners to share that data with experts. This raises the risk that OEMs may often avoid responsibility for security and safety incidents caused in full or in part by failures of their own systems.

Consumers can also see tremendous cost-savings through choosing real-time data sharing. While independent repair shops and parts manufacturers routinely access vehicle data during a repair or claim, the data being generated in real-time has enormous consumer benefits if it can be shared with these entities in the same way it is being shared with the OEM. Relaying real-time diagnostics and operational data to a repair shop will allow a consumer to be alerted that a vehicle is in need of a checkup or replacement parts before it suffers a breakdown or malfunction. By blocking consumers from sharing this real-time data, OEMs force consumers to rely on their own repair shop networks, limiting consumer choice and perpetuating the OEMs’ profit cycle.

Additionally, insurance companies readily offer telematics-based premium reductions by analyzing good driving behavior, as well as pay-per-mile insurance which also relies on driving data. Creating a barrier to choose by requiring consumers or insurers to go through an OEM first will drastically limit choice, innovation and competition.

² Insurers also founded the Insurance Institute for Highway Safety, which engages in rigorous vehicle and road safety research, as well as vehicle testing and grading – always raising the bar for its “Top Safety Picks” – a safety assessment which automobile manufacturers now regularly endorse in their advertising



These concerns are not speculative. OEMs have long taken many monopolistic actions in the automobile repair market. This latest effort by the OEMs is part of a broader strategy to move the repair of damaged vehicles to a captive environment, restricting choices for consumers. Some OEMs' tactics have also included the abuse of design patents, mandated use of OEM parts in repair procedures and position statements, and steering consumers following an accident to "OEM Certified Shops." These moves have only served to reduce repair options and increase prices for consumers. Vehicles are often the second biggest purchases consumers will ever make and they deserve access to affordable repair options. Congress recognized the need to protect consumers' access to independent repairers in the Magnuson-Moss Warranty Act by prohibiting OEMs from voiding warranties for consumer vehicles based solely on consumers' use of independent repair facilities and/or aftermarket parts (unless the OEM requires the use of specific service facilities or parts provided for free under the warranty)³. An OEM that denies vehicle owners and independent repair facilities access to necessary repair information, diagnostics, and tools to communicate with the vehicles it manufactured forces consumers to patronize its affiliated dealerships for expensive maintenance and perpetuates the monopolistic profit grabbing practices that have become the norm for OEMs.

The significance of maintaining consumer choice, transparency, and affordability in auto repair cannot be downplayed. Consumers deserve to decide how and with whom they share their vehicle data. Rather than the Alliance's approach of offering dubious and emotionally-manipulative assertions regarding safety, OEMs should promote consumer choice by empowering them to easily and transparently control their data while protecting vehicles' systems through robust cybersecurity measures. We understand that vehicle safety regulation is controlled by the Department of Transportation ("DOT"), but Congress and the DOT should work together to examine this issue closely through official hearings and stakeholder input. Accordingly, we recommend that the Committee hold an appropriate hearing on the matter before considering any new federal laws. The CAR Coalition stands ready to aid Congress as it examines these important issues.

Sincerely,

The Members of the CAR Coalition

³ 15 U.S.C. § 2302(c).

