



The Honorable Lisa R. Barton
Secretary to the Commission
U.S. International Trade Commission
500 E Street S.W. Room 112A
Washington, D.C. 20436

Re: Inv. No. 337-TA-1292

Dear Secretary Barton,

My name is Edward Salamy, the Executive Director of the Automotive Body Parts Association (ABPA), and I am reaching out to you in response to the Commission's request for written submissions regarding Investigation No. 337-TA-1292. The ABPA is a trade organization that represents the manufacturers and distributors of aftermarket collision repair parts. Previously, the ABPA provided documentation in March 2023 during the Commission's first request for submissions on this investigation. We have additional insight that we feel may compel a change in the Final Initial Determination (FID) as ruled on January 24, 2023.

Articles potentially subject to the exclusion order are automotive repair parts, specifically aftermarket replacement automotive lamps that are used to repair a vehicle involved in a collision. These parts are generally purchased and installed by both vehicle owners and repair shops throughout the country as an alternative to more expensive original equipment manufacturer (OEM) parts.

Identify welfare concerns related to the recommended exclusion order: The exclusion order of these vehicle repair parts would have a tremendous negative impact on the US automotive repair parts supply chain. Consumers rely on these parts to repair their vehicles and bring them to pre-accident condition. The absence of these repair parts would lead to higher motor vehicle repair costs due to lack of competition from the OEMs. Additionally, consumers would face higher automotive insurance costs due to more expensive parts pricing as well as a significant time delay in getting their vehicles repaired due to fewer options in the supply chain.

Identify like or competitive articles that could be made in the US to replace excluded articles: In general, most aftermarket automotive lamps such as those imported by LKQ Corporation and manufactured by TYC Genera originate from Taiwan. At present time, there is no major aftermarket manufacturing presence of these repair parts in the US which would serve as an alternative to those manufactured overseas. This would leave the OEM manufacturers, most of whom have their lamps manufactured overseas as well, as the only choice for consumers.

Complainant's ability to replace the volume of articles listed in the recommended exclusion order within a commercially reasonable time: Should a precedent be set from the recommended limited exclusion order, the number of additional OEM manufacturer claimants would rise and threaten to continue to reduce more aftermarket automotive lamp applications available to vehicle owners. The OEM manufacturers have historically failed to fill the void when an aftermarket part is not available in the supply chain. This situation was magnified with their recent supply chain issues where the OEMs continued to be unable to supply the consumers in a timely manner while the aftermarket equivalent parts were available. As non-OEM collision parts represent over 35% of the parts used in a repair¹, the effect on consumers would be highly detrimental in their ability to get their vehicles repaired.

Higher costs to consumers: The rate of inflation for auto body repair and auto insurance has been at levels not seen since the late 1970s and early 1980s. In January 2023, US Bureau of Labor Statistics CPI data reports that the annual inflation rate for motor vehicle maintenance was 14.2%². Compared to the already elevated general inflation rate of 6.4% for all items in January 2023, the costs to repair a vehicle in the US is far outpacing inflation. This trend of outpacing general inflation has been ongoing for many years, and it is only getting worse. Utilizing the same CPI data source as previously noted, automotive insurance rates were up 14.7% in January 2023 which again is more than double the overall rate on inflation. The main

¹ CCC Crash Course 2022, page 28, figure 48 - <https://cccis.com/crash-course-2022/>

² US Bureau of Labor Statistics – Consumer Price Index -<https://www.bls.gov/cpi/factsheets/motor-vehicle-insurance.htm>

reason for this increase is mainly due to the increases in part prices as well as the increased costs incurred by insurance companies (rental cars) due to supply chain issues. In Q4 2022, Enterprise rental car reported an average of 18.7 days for insurance direct pay rentals. This is in comparison with Q4 2021 where the average was 17 days³.

Denying consumers a choice of an alternative part such as an auto lamp will lead them to no choice but to purchase the part from the OEM at a significantly higher price. In general, aftermarket collision parts are anywhere from 25-50% less expensive than the car company branded parts⁴. The effects of an OEM obtaining patents on even basic parts such as steel truck bumpers show a profound impact to consumers. In her recent white paper “Gaming the System”, Dr. Blaire O’Neal provides OEM list pricing comparisons between patented and non-patented truck bumpers. In the case of a 2007-2013 GMC Sierra pickup truck, the price of the non-patented front bumper (part # 15902856) is \$358. The 2019-2021 GMC Sierra front bumper has been patented by GM and has a list price of \$1123 – a 213% increase⁵. The results are similar to the Ford Super Duty pickup line where the non-patented 2008-2010 front bumper (part # 8C3Z-17757-B) price is \$626 compared to the patented bumpers from 2011-2016 and 2017-2019 (part #'s B3CZ-17757-E & HC3Z-17757-AB) which are priced at \$1186 and \$1283, respectively. This represents a 104% price increase⁶. According to leading industry data, the average cost per part for auto lamps (the part type listed in the limited exclusion order) has increased over 13% between 2019 and 2021 alone⁷.

In consideration of the adverse effects of the enforcement of an inclusion order on these automotive repair parts, we would ask that you reconsider the Final ID in this Investigation. I would also encourage you to read the FTC’s report to Congress “Nixing the Fix: An FTC Report to Congress on Repair Restrictions”

³ Enterprise Rent-A-Car “US Length of Rental by State Q4 2022”

⁴ American Property Casualty Insurance Association (APCIA) Micra Report

⁵ O’Neal, “Gaming the System”, 2023, p.17

⁶ O’Neal, “Gaming the System”, 2023, p.17

⁷ CCC Crash Course 2022, page 30, figure 51 - <https://cccis.com/crash-course-2022/>



where the long-time abuse of the design patent system by the car companies is clearly explained⁸. Should you have any questions or need additional information, please contact me at your convenience.

Best Regards,

Edward Salamy

Edward Salamy

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⁸ FTC Nixing the Fix Report to Congress, <https://www.ftc.gov/reports/nixing-fix-ftc-report-congress-repair-restrictions>