

House Committee on Energy and Commerce
September 27, 2023, Hearing of the Subcommittee on Innovation, Data, and Commerce
“Proposals to Enhance Product Safety and Transparency for Americans”

Responses to Submitted Questions for the Record

Scott Benavidez

Chairman, Automotive Service Association

Attachment—Additional Questions for the Record

The Honorable Neal P. Dunn

Mr. Benavidez, You testified that your organization, ASA, is not funded by car manufacturers or car dealers. I visited ASA’s website on October 11, 2023, and the page on “Corporate Members”, includes four car manufacturers (Stellantis, Ford, Audi, and Nissan). And at the top of that page, it reads “Thank you to our Corporate Members for their continued support. We really appreciate everything they provide.” Attached is a copy of the “Corporate Members” page (see also <https://www.asashop.org/corporate-members/> (last visited Oct. 11, 2023)).

1. Given your testimony, are we to infer that these corporate memberships do not require any dues or in-kind contributions? What is the nature of “their continued support”?

Thank you for providing me an opportunity to clarify. Meeting revenue and the dues paid by independent automotive repair shops – the sole constituency of ASA - comprise ASA’s largest source of financial resources by a significant margin. The corporate participation you referenced allows for additional education and training initiatives.

ASA values and is grateful for the collaborative and mutually beneficial partnerships between our members, aftermarket companies, auto manufacturers and others. ASA is the only national trade group devoted solely to advancing the interests of independent mechanical and collision automotive repair shops.

The Honorable Tim Walberg

I’m co-chair of the Motorcycle Caucus and personally enjoy doing my own maintenance, repairs, and modifications on my bikes. I worry that as motorcycles get more advanced, gearheads like me will no longer be able to fix their bikes without going to a dealership directly.

1. Does the 2021 MOU or the July agreement that you are currently operating under include “Right to Repair” protections for motorcycles? If not, why not?

Thank you for asking this important question, Congressman Walberg. ASA’s members specialize in repairing automobiles. There are important distinctions between the automobile and motorcycle industry. It would not be appropriate for our association to determine how to secure the right to repair in the motorcycle market. However, we are most qualified to determine the appropriate solution to safeguard the continued right to repair automobiles. Therefore, the agreement that ASA, SCRS, and the Alliance for Automotive Innovation signed in July 2023 applies solely to the automobile market.

The Honorable Jeff Duncan

Mr. Benavidez, the Automotive Service Association is a member of the American Alliance for Vehicle Owners' Rights (AAVOR). AAVOR's website notes that they are "a diverse group of stakeholders united by the common goal of guaranteeing the right of all vehicle owners to have access to, and control of, the data generated by their vehicles." Specifically, AAVOR "believes Congress should have the lead role in guaranteeing vehicle owners and lessees access to and control of all data generated, collected and stored by vehicles."

Given this, I think it is especially important to point out [a recent study by the non-profit Mozilla Foundation](#) which said that "cars are the worst product category we have ever reviewed for privacy," and which found that 84% of car companies review, share or sell data collected from car owners, leading to a "privacy nightmare," where car manufacturers "have the unmatched power to watch, listen, and collect information about what you do and where you go in your car."

This is obviously very alarming. As policymakers, and Americans, we have a duty to ensure we are doing all we can to protect folks fundamental right to privacy.

1. Therefore, my question to you is, is there any reason why consumers should not own and control all of their data that they generate when using an automobile, or any other piece of technology for that matter?

Thank you for your concern for privacy. ASA's members share your concern. To protect the interests of their business and customers, independent repairers only want access to the limited data necessary to diagnose and repair a vehicle's issues, and nothing more. ASA is ambivalent on the question of who should own the data as long as the ownership does not interfere with independent repairers' ability to serve our customers.

The Honorable Russ Fulcher

1. What types of limits on the sharing of data does the bill set? I have heard that information going beyond what is necessary for diagnostics and repair is included. Is that true? How does the bill envision third party repair businesses will share, store, and protect the vehicle's owner, and limits on designees' access to vehicle-generated data?

The concerns that you have heard, regarding the bill including access to information beyond what is necessary for diagnostics and repair, is well founded. The most alarming clause in the bill is Section 7(b)(1)(C), which empowers the Commission, through regulation, the authority to: "add additional types of data to the definition of vehicle-generated data under subsection (a)(20), regardless of whether those types of data are related to motor vehicle repair, taking cybersecurity and privacy into consideration, to allow consumers and their designees to directly access additional types of vehicle-generated data, and for additional purposes." The bill does not include provisions that would protect vehicle owners nor repairers from vulnerabilities associated with unfettered access to vehicle-generated data.

2. Ms. Callahan testified in response to a question that "currently many of the European auto manufacturers do not participate in the MOUs that we have had in place since 2014 with modifications." What is your response to that point raised?

Thank you for providing me an opportunity to clarify my testimony during the hearing and respond to statements made by other parties. Mainstream European auto manufacturers BMW (including its Mini and Rolls Royce brands), Ferrari, Jaguar Land Rover, McLaren, Mercedes-Benz (including its Maybach brand), Stellantis (including its Alfa Romeo, Chrysler, Dodge, Fiat, Jeep, Maserati, and Ram brands) Volkswagen (including its Audi, Bentley, Lamborghini, and Porsche brands), and Volvo are all subject to the agreement based on their membership in the Alliance for Automotive Innovation (Alliance). The Alliance represents the companies that manufacture 98 percent of the vehicles sold today in the United States. Rivian and Tesla support the 2023 agreement as well, which further narrows the small gap of vehicles sold today in the United States.

3. Are you aware of any manufacturers that have not honored the MOUs or have failed to respond to protests filed by independent repairers via the National Automotive Service Task Force?

To date, our experience with the 2002 service information agreement, and what we expect from this latest agreement, is that these agreements work. Any issues have been negligible and resolved. We anticipate this experience to continue moving forward. To help assure this, our Agreement with the automakers includes two panels that address issues that may arise; The Vehicle Data Access Panel provides a forum “to identify issues a party may have with respect to the availability of diagnostic data and repair information as pledged in the commitment and collaborate and potential solutions where feasible.” The Data Access Working Group allows the stakeholders “to consider any technological advancements that may alter the vehicle repair marketplace.”