



July 18, 2023

The Honorable Darrell Issa
Chairman
Subcommittee on Courts, Intellectual Property,
and the Internet
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Henry “Hank” Johnson
Ranking Member
Subcommittee on Courts, Intellectual Property,
and the Internet
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Issa and Ranking Member Johnson,

As the singular, authoritative, and respected voice of the automotive industry, the Alliance for Automotive Innovation (“Auto Innovators”) welcomes the opportunity to provide the Subcommittee with its perspective on the importance of right-to-repair to our companies, their customers, and automotive repair in the U.S.

Focused on creating a safe, clean, and transformative path for personal mobility, Auto Innovators represents the entire ecosystem, from manufacturers producing most vehicles sold in the United States to autonomous vehicle innovators to equipment suppliers, battery producers and semiconductor makers. As the nation’s largest manufacturing sector, the automotive industry is responsible for nearly 10 million U.S. jobs and represents five percent of the country’s gross domestic product.

When it comes to right-to-repair, the automotive sector is unlike other sectors of the economy from which the subcommittee may hear testimony. Competition is alive and well in the automotive repair industry. In fact, consumers have a wide range of options on where to seek service or repair; these include a dealer repair facility, a national chain repairer, or an independent repair facility. Individual vehicle owners may choose to repair the vehicle themselves.

Independent repair facilities currently perform the vast majority of automotive diagnostic and repair work. In fact, over 70 percent of out-of-warranty repair work is performed outside of an automaker’s authorized dealer network. This is the very definition of consumer choice.

This well-established, competitive marketplace exists because automakers make all the information and tools necessary to diagnose and repair vehicles available to the independent repair community. This commitment was codified as the 2013 Massachusetts Automotive Right to Repair law, which guaranteed independent repair facilities access to the same information and tools needed to diagnose and repair vehicles that are provided to auto dealers, while respecting consumer privacy and maintaining cybersecurity protections.

In 2014, representatives from the auto industry and the independent repair industry came together to craft a national memorandum of understanding (MOU) memorializing automaker commitments to follow the Massachusetts law across the entire country. That MOU remains in place today and is working well. In fact, the automotive MOU has been cited by the Federal Trade Commission in their 2021 Nix the Fix report (Report) as an ideal model for other industries to follow when looking to ensure consumer repair options. Specifically, the Report states the automotive MOU “...had the effect of creating a broad, if not complete, right to repair in the automotive industry across the United States.”¹

The existing MOU also had the foresight to recognize the automotive industry is constantly evolving and was intentionally futureproofed. For example, as vehicles become more connected, certain categories of vehicle data may be accessible via telematic data systems. The national MOU contemplated this evolution of the industry and explicitly requires that automakers make telematics information available to independent repairers and vehicle owners if that information is needed to repair a vehicle, available to an automaker’s authorized dealer network, and not otherwise available through another source. Likewise – foreseeing the industry-defining shift toward electric vehicles – the MOU does not distinguish among powertrains. Whether a vehicle is powered by an internal combustion engine or an electric motor, automakers are committed to the obligations laid out in the national MOU.

Building on the strength and effectiveness of the existing MOU, Auto Innovators recently announced an additional commitment to right-to-repair with the Automotive Service Association (ASA) and the Society of Collision Repair Specialists (SCRS), two of the largest and most well-respected associations representing independent repairers. This latest commitment between independent repairers and automakers reflects our collective commitment to our shared customers – vehicle owners – and the preservation of consumer choice in automotive repair.

This landmark agreement should reassure the subcommittee that independent repairers and automakers are not at odds when it comes to right-to-repair, but in lockstep on this fundamental principle: consumers should have choice when it comes to repair options and the ability to have their vehicle serviced in anytime, anywhere, anyplace.

This is an exciting and transformative moment for the global auto industry as new technologies reshape personal transportation. Without question, these revolutions in automotive technology will change how consumers, businesses, and society interact with vehicles. This will not happen overnight but rather than viewing innovation as an impediment to the status quo, it an opportunity for collective growth. At this time of tremendous innovation, automakers remain committed to providing independent repairers with the tools, information and training necessary to keep pace with this generational transformation of the industry.

¹ Federal Trade Commission, *Nixing the Fix: An FTC Report to Congress on Repair Restrictions* (May 2021), available at, https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repair-restrictions/nixing_the_fix_report_final_5521_630pm-508_002.pdf, p. 45.

On behalf of our members and the approximately 10 million American jobs they support - including those across the independent repair community - we look forward to working with you on this important topic and other measures necessary to keep the United States at the forefront of defining the cleaner, safer, and smarter future for the auto industry.

Sincerely,

A handwritten signature in black ink that reads "Garrick C. Francis". The signature is written in a cursive, flowing style.

Garrick Francis
Vice President, Federal Affairs
Alliance for Automotive Innovation

Attachments:

Automotive Repair Data Sharing Commitment – July 2023
Letter to PTO Director Katherine Vidal on H.R. 1707 – March 2023



July 11, 2023

The Honorable Maria Cantwell
Chairwoman
U.S. Senate Committee on Commerce,
Science, and Transportation
Washington, D.C. 20510

The Honorable Ted Cruz
Ranking Member
U.S. Senate Committee on Commerce,
Science, and Transportation
Washington, D.C. 20510

The Honorable Cathy McMorris Rodgers
Chairwoman
U.S. House Committee on Energy and
Commerce
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
U.S. House Committee on Energy and
Commerce
Washington, D.C. 20515

The Honorable Jim Jordan
Chairman
U.S. House Committee on the Judiciary
Washington, D.C. 20515

The Honorable Jerrold Nadler
Ranking Member
U.S. House Committee on the Judiciary
Washington, D.C. 20515

The Honorable Dick Durbin
Chairman
U.S. Senate Committee on the Judiciary
Washington, D.C. 20510

The Honorable Lindsey Graham
Ranking Member
U.S. Senate Committee on the Judiciary
Washington, D.C. 20510

Dear Chairwoman Cantwell, Ranking Member Cruz, Chairwoman McMorris Rodgers, Ranking Member Pallone, Chairman Jordan, Ranking Member Nadler, Chairman Durbin, and Ranking Member Graham:

We write today with an important announcement on a national automotive right-to-repair commitment between representatives of the independent repair community and automobile manufacturers.

The attached commitment – entered into by the [Automotive Service Association](#), the [Society of Collision Repair Specialists](#), and [Alliance for Automotive Innovation](#) – is noteworthy for it represents thousands of auto repair professionals and small businesses in all 50 states as well as the manufacturers producing most vehicles sold in the U.S.

The Federal Trade Commission, the government's top consumer protection and competition agency, has rightfully placed a focus on the repair options available to consumers for all the products they purchase – far beyond just automobiles. They have previously highlighted the automotive repair marketplace as a model for other industries to follow, noting it is “working well.” We agree! Today, 70 percent of post-warranty vehicle repairs today happen outside the dealer network, while automakers' own certified collision networks are comprised of shops that are more than 70 percent non-dealer owned. In other words, competition is alive and well in the auto repair industry.

Our commitment ensures that this competition remains and guarantees consumers a range of service options for their vehicles well into the future, including independent repairers, national service chains, authorized dealers, or undertaking the repair themselves, if technically inclined. It also guarantees the country's small and independent auto repairers continued unrestricted access to the various tools, information, and data needed to repair vehicles.

This commitment was created with our mutual and valued customers in mind: vehicle owners. It affirms that consumers deserve access to safe and proper repairs throughout a vehicle's lifecycle. Finally, it is built to last because it anticipates changes in automotive technologies and market evolutions.

It should reassure you that independent repairers and automakers are not at odds on automotive data access, but rather in lockstep on this fundamental principle: consumers should have choice when it comes to repair options and the ability to have their vehicle serviced in well-equipped shops by well-trained technicians anytime, anywhere, anyplace.

We have attached a copy of our full commitment to this letter, but highlight a few points below:

- **Access to diagnostic and repair information:** We reaffirm the 2014 Memorandum of Understanding and commit that independent repair facilities shall have access to *the same* diagnostic and repair information that auto manufacturers make available to authorized dealer networks. This applies to all vehicle technologies regardless of powertrain, including gasoline, diesel, fuel cell, electric battery, hybrid, and plug-in hybrid electric powertrains. This also applies to telematic data needed to diagnose and repair a vehicle if not otherwise available.
- **Education and training:** We pledge to work together on education and training programs so mechanical and collision repair facilities are aware of their right to this information and know exactly where to find it, whether directly through an automaker's repair website, a shared access point like www.OEM1Stop.com or via third-party information providers, software, and tools.
- **Future Advancements:** Automotive technology continues to advance, with nearly every vehicle now equipped with advanced safety features and increasingly efficient propulsion systems. Repairers meet this challenge every day through investments in training and equipment. As vehicle technologies and obligations on repairers evolve, this


commitment provides an avenue to ensure a level playing field and a forum to discuss future repairer needs as they arise.

Collectively, we recognize the importance of providing a wide range of repair options to meet the needs of our shared customers throughout the lifecycle of a vehicle. This renewed commitment should give policymakers full confidence that repairers and manufacturers are committed to cooperation and allied on this shared goal.

Sincerely,



Julie Massaro
President
Automotive Service Association



Aaron Schulenburg
Executive Director
Society of Collision Repair Specialists



John Bozzella
President and CEO
Alliance for Automotive Innovation

Cc: The Honorable Ann Carlson, Acting Administrator, National Highway Traffic Safety Administration
The Honorable Lina Khan, Chair, Federal Trade Commission
The Honorable Earl L. "Buddy" Carter (R-GA), Vehicle Data Access Caucus
The Honorable Darren Soto (D-FL), Vehicle Data Access Caucus

Enclosure: Appendix 1 – Commitment on Automotive Repair Information Sharing

Appendix 1



Automotive Repair Data Sharing Commitment

This commitment was created with one group of people in mind: vehicle owners. It recognizes and reaffirms the belief that consumers should have access to safe and proper repairs throughout a vehicle's lifecycle.

The parties commit to ensure consumer choice in vehicle repair decisions and support the independent repair community as provided below and as outlined in the existing 2014 Memorandum of Understanding:

Access to diagnostic and repair information – There shall be available for purchase by owners of motor vehicles and by independent repair facilities on fair and reasonable terms the same diagnostic and repair information, including service manuals and technical repair updates, that a manufacturer makes available to its authorized dealers through the manufacturer's internet-based diagnostic and repair information system or other electronically accessible repair information system.

Access to vehicle systems – There shall be available access to vehicle diagnostic systems through (i) a non-proprietary vehicle interface device that complies with the Society of Automotive Engineers standard J2534, commonly referred to as SAE J2534, the International Organization for Standardization standard 22900, commonly referred to as ISO 22900 or any successor to SAE J2534 or ISO 22900 as may be accepted or published by the Society of Automotive Engineers or the International Organization for Standardization; (ii) an onboard diagnostic and repair data system integrated and entirely self-contained within the vehicle, including, but not limited to, diagnostic or service information systems integrated into an onboard display; or (iii) a system that provides direct access to onboard diagnostic and repair data through a non-proprietary vehicle interface, such as ethernet, universal serial bus or digital versatile disc; provided that each manufacturer provides access to the same onboard diagnostic and repair data and functions available to their dealers, including technical updates to such onboard systems, through such non-proprietary interfaces as referenced in this paragraph.

Alternate Fueled Vehicles – Just as is the case for traditional internal combustion vehicles, access to vehicle diagnostic data and to vehicle systems for diagnostic and repair purposes shall be available for purchase by vehicle owners and by independent repair facilities on fair and reasonable terms for alternately fueled vehicles. This commitment applies to all vehicle technologies regardless of powertrain, including gasoline, diesel, fuel cell, electric battery, hybrid, and plug-in hybrid electric powertrains.

Telematics – Telematics systems shall not be used to circumvent the commitments made in this commitment to provide independent repair facilities with access to vehicle diagnostic data. To the extent that specific telematic diagnostic and repair data is needed to complete a repair, and also provided to an automaker’s authorized dealers, the automaker shall make such information available to vehicle owners and independent repair facilities, if it is not otherwise available through a tool or third-party service information provider. This does not apply to any telematics data beyond what is necessary to diagnose and repair a vehicle.

Access to tools – There shall be made available for purchase by owners of motor vehicles and by independent repair facilities diagnostic repair tools incorporating the same functional capabilities that a manufacturer makes available to its authorized dealers.

Fair and Reasonable Terms – There shall be access to diagnostic and repair information and tools on fair and reasonable terms, consistent with U.S. Environmental Protection Agency, California Air Resources Board, and Massachusetts statutory requirements.

Support of Third-Party Tool Manufacturers – Diagnostic and repair information shall be made available to each third-party tool manufacturer and each third-party service information provider with whom a manufacturer has appropriate licensing, contractual, or confidentiality commitment for the sole purpose of building diagnostic tools and third-party service information publications and systems.

Trade secret protections – Nothing in this commitment shall be construed to require a manufacturer to divulge a trade secret.

Education – The parties shall develop a plan to educate both mechanical and collision repair facilities on the avenues by which they can access repair information, including directly through manufacturer repair websites, on www.oem1stop.com, or by accessing third-party tool and data service providers, among others.

Training – The parties shall review existing training options for both mechanical and collision repair facilities and work to ensure repairers have access to the latest training opportunities.

Working Together to Address Any Identified Gaps

As a complement to the existing process for resolving disputes involving the availability of diagnostic and repair information from specific manufacturers established in the 2014 MOU, the parties commit to establish a Vehicle Data Access Panel (VDAP) to identify issues a party may have with respect to the availability of diagnostic data and repair information as pledged in this commitment and collaborate on potential solutions where feasible. The VDAP shall be comprised of representatives from Automotive Service Association, Society of Collision Repair Specialists and Alliance for Automotive Innovation, and shall meet, at a minimum, biannually.

Periodic Review to Ensure Continued Relevancy

In recognition of this industry's dynamic marketplace, the parties commit to review this commitment annually and update, if appropriate. To that end, the parties shall establish a Data Access Working Group to consider any technological advancements that may alter the vehicle repair marketplace. The size and membership of this Working Group shall be established by the parties and can be altered at any time with the commitment of the signing parties.

Cooperation and Advocacy

Federal legislation – The parties commit to working together in support of federal legislation to codify the various provisions of this commitment, ensuring consumer choice in vehicle repair across the country. The parties also commit to working together against any legislation that is in direct conflict with the tenets of this document.

Federal regulations – The parties commit to working together in support of a petition to the Environmental Protection Agency to ensure reparability of electric vehicles by requiring standardized data communication protocols from OBDII-type connectors on all battery electric, plug-in hybrid, hybrid, and fuel cell vehicles model year 2026 and beyond in alignment with California's Advanced Clean Cars II regulation.

State legislation – The parties commit to working together against any legislation that is in conflict with the tenets of this commitment. Engagement on state legislation not in conflict with the tenets of this commitment shall be evaluated on its merits and subject to the commitment of the parties.

Signing Parties

Automotive Service Association (ASA)

ASA is the largest and oldest national organization committed to protecting the automotive repair industry with ONE VOICE. Our members own and operate automotive mechanical and collision repair facilities responsible for the majority of all, post warranty, repair services in the United States. ASA advocates for the interests of its members and their customers in Washington, D.C. The education, resources, and services ASA provides empowers its members in all 50 states to remain trusted stewards of mobility in their communities. www.ASAShop.org

Society of Collision Repair Specialists (SCRS)

Through our direct members and affiliate associations, SCRS proudly represents over 6,000 collision repair businesses and 58,500 specialized professionals who work to repair collision-damaged vehicles. Since 1982, SCRS has served as the largest national trade association solely dedicated to the hardworking collision repair facilities across North America. Since its formation, SCRS has provided repairers with an audible voice, and an extensive grassroots network of industry professionals who strive to better our trade. Additional information about SCRS including other news releases is available at the SCRS website. www.scrs.com

Alliance for Automotive Innovation

From the manufacturers producing most vehicles sold in the U.S. to autonomous vehicle innovators to equipment suppliers, battery producers and semiconductor makers – Alliance for Automotive Innovation represents the full auto industry, a sector supporting 10 million American jobs and five percent of the economy. Active in Washington, D.C. and all 50 states, the association is committed to a cleaner, safer and smarter personal transportation future.

www.autosinnovate.org

Effective Date

This Commitment is effective immediately upon signed letter transmittal to Chairwoman Cantwell, Ranking Member Cruz, Chairwoman McMorris Rodgers, Ranking Member Pallone, Chairman Jordan, Ranking Member Nadler, Chairman Durbin, and Ranking Member Graham.



March 31, 2023

Katherine K. Vidal
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
United States Patent and Trademark Office
600 Dulany Street
Alexandria, Virginia 22314

Dear Under Secretary and Director Vidal:

The Alliance for Automotive Innovation (“Auto Innovators”) would like to share its perspectives with you regarding H.R. 1707, the Save Money on Auto Repair Transportation (“SMART”) Act. As the automotive industry undergoes a generational transformation with new technologies and innovations reshaping the future of personal mobility, Auto Innovators remains focused on ensuring that domestic policies continue to support automotive manufacturing and investment in the U.S.

Auto Innovators represents the manufacturers that produce most cars and light trucks sold in the U.S., original equipment suppliers, technology companies, battery makers, and other value-chain partners within the automotive ecosystem. Representing approximately 5 percent of the country’s GDP, responsible for supporting 10 million jobs, and driving \$1 trillion in annual economic activity, the automotive industry is the nation’s largest manufacturing sector.

As you are aware, automotive companies are not just manufacturers; they are inventors. These companies rely on strong and high-quality intellectual property rights and robust enforcement to bring new vehicle technologies to the U.S. market. The automotive industry invests billions of dollars into the research and development of their vehicle models and related component parts to develop and deploy technologies that benefit consumers, the environment, and society overall. This includes investment in unique designs that set a manufacturer’s vehicles apart from its competitors. In fact, virtually all major automakers – regardless of their headquarters’ location – maintain design centers here in the U.S. that employ highly skilled workers to create vehicles that appeal to American consumers. Design patent protection encourages this innovation and supports these jobs.

The SMART Act seeks to reduce the term of protection for automotive design patents to 2.5 years, which would devalue the work of design center employees and place their jobs at risk. There is nothing unique about automotive replacement parts that should warrant discriminatory treatment under the law. In fact, the SMART Act may very well violate the WTO-administrated Agreement on Trade-Related Aspects of Intellectual Property (“TRIPS Agreement”), which requires WTO members to make patent rights available without discrimination as to the field of technology.

In addition, the legislation presupposes that competition in automotive replacement parts requires copying; it does not. Aftermarket companies commonly produce automotive replacement parts that are interchangeable with genuine original equipment manufacturer (“OEM”) parts, but do not infringe design patents. These companies create original designs based on the rough mounting points of the genuine OEM part. In fact, some aftermarket companies have their own design patents.

The U.S. automotive industry is in the midst of an exciting, transformative moment as innovative technologies and cutting-edge designs reshape personal mobility. U.S. policy should support this transformation by protecting intellectual property rights, not by discriminatorily reducing their term of protection.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Tara Hairston".

Tara Hairston
Senior Director, Technology, Innovation, & Mobility Policy

CC:
Secretary of Commerce, Gina Raimondo
Director of White House National Economic Council, Lael Brainard
Director of the USPTO Office of Government Affairs, Ellen McLaren