



Presentation

Alberto Olati

President of EAPA

Ladies and Gentlemen,

I am Alberto Olati. I own and manage my family's company ISAM in Italy where we produce with 120 employees body spare parts, in particular bumpers. I also represent EAPA – the association of independent EU parts producers in this industry sector. All of them are SMEs.

In order to explain *how* we are affected by this design legislation may I invite you to have a brief look at the basic structure of the automotive spare parts market as a whole? Contrary to a wide-spread public belief vehicle makers produce less than 20% of the spare parts requirements themselves; the by far greater portion they buy from parts producers and – by trading these parts through – have reached a dominant position at the *distribution* level. This way and for almost one century there have always been 2 channels of spare parts supply: The one of the independent aftermarket (blue line) and the one of the vehicle makers (red line) – both competing with each other to the benefit of now 260 Million EU vehicle owners.

This structure and – even more so – my own and my colleagues' existence is at threat if vehicle makers are allowed to extend their rights on the body "design" of *new* cars (which is perfectly legitimate) to the corresponding spare parts: To body panels, lighting and automotive glass. If this is the case nobody else can offer such spare parts any more; competitors and competition are completely eliminated; the car industry would be given a watertight monopoly over a €12 billion market. And I would have to close my business!

In Italy we had this kind of bitter experience in the late 1980s until our Supreme Court, the *Corte di Cassazione*, ruled in 1996 that design protection of such spare parts is unlawful and an abuse of the design regime. This view which in the meantime is prevailing legal doctrine in Europe (and elsewhere) is the right and convincing answer to the spare parts issue.

Now, where do we stand today?

Thanks to the Commission, the European Parliament, national legislators and courts design protection of spares has been abandoned in certain Member States which cover more than 50% of the pertinent market. Despite this step forward we are again at a crucial crossroads. The Commission's topical proposal to end this patchwork situation and to ensure free competition *throughout* the Community is not only faced with opposition but also with attempts to even turn the clock back and to restore design protection where it currently does not exist.

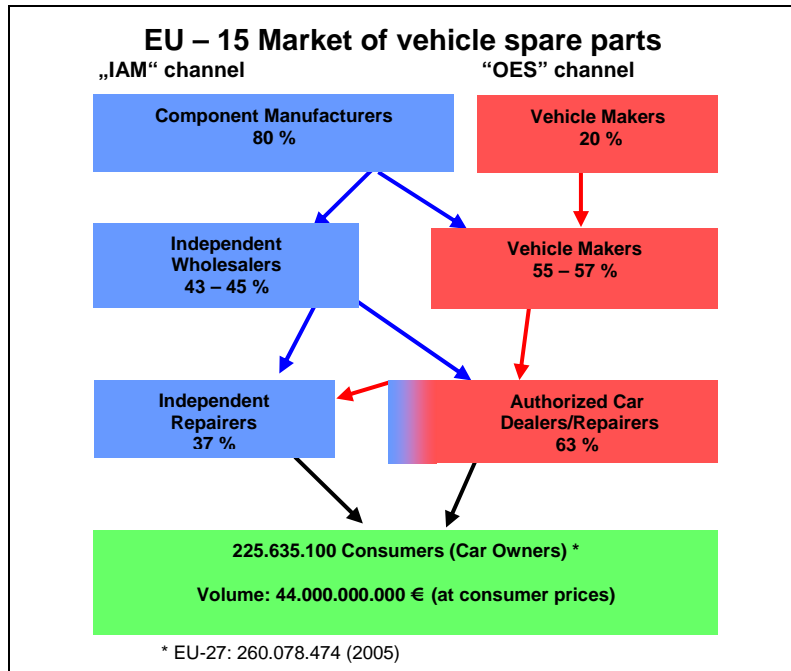


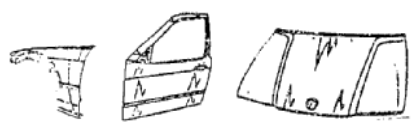
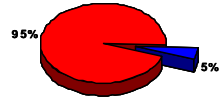

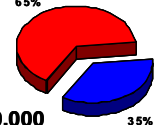

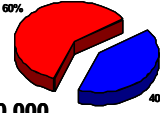
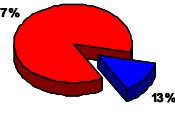
How does this scenario affect me?

1. If design protection – even for a limited period of time – is re-introduced EU-wide I and my colleagues must close our businesses. A SME structure, which - despite of all adversities - has proven to be efficient, will be wiped out by a legislative act – upon pressure and to the benefit of a few large combines.
2. The social consequences of this are severe. Since I produce both my spare parts and the tooling in Italy the jobs lost by such measure are EU jobs. In contrast to that, a great part of the jobs involved in the car industry are foreign jobs because, already today, vehicle makers import about 40% of their parts requirements from non-EU, low-cost countries (with increasing tendency!).
3. Irrespective of whether a Repairs Clause existed or not vehicle makers *always* had the right to freely sell *their* spare parts throughout the Community. We lack this legal certainty for more than 2 decades. We urgently need and deserve it now in order to ensure and plan our future competitiveness.
4. If I now look at the status quo, this fragmented market, our competitive situation is dire. I can not sell my parts which are legally produced in Italy in those Member States where design protection still exists. Whereas the vehicle makers (including those from abroad) enjoy the full benefits of the European Single Market and can use the economies of scale inherent in it I – a small EU producer – can not!
5. Finally: Today, I am under threat of being jailed if my spare parts are distributed in Member States with design protection. How is this possible in a community like the European Union in 2007?

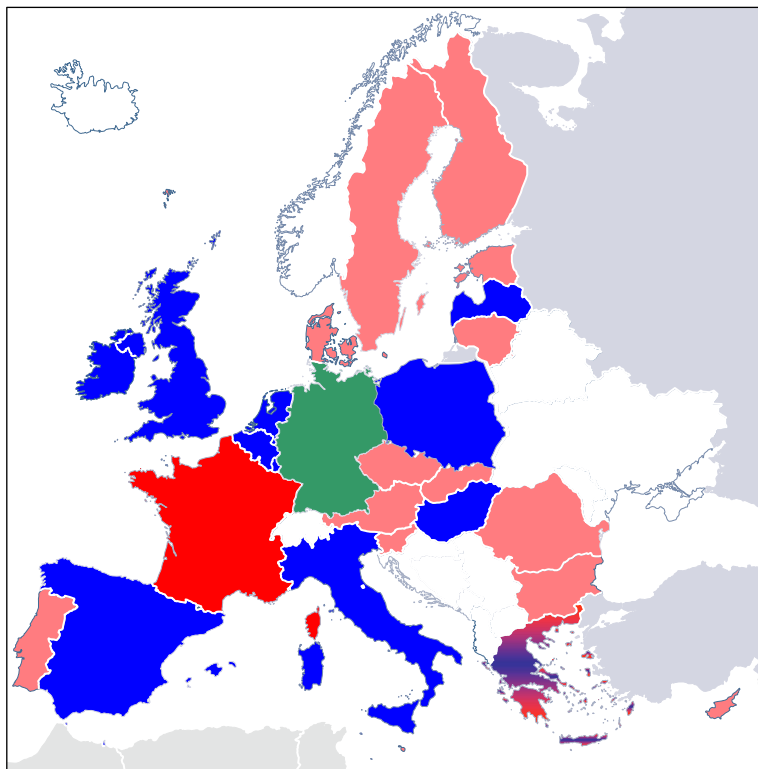
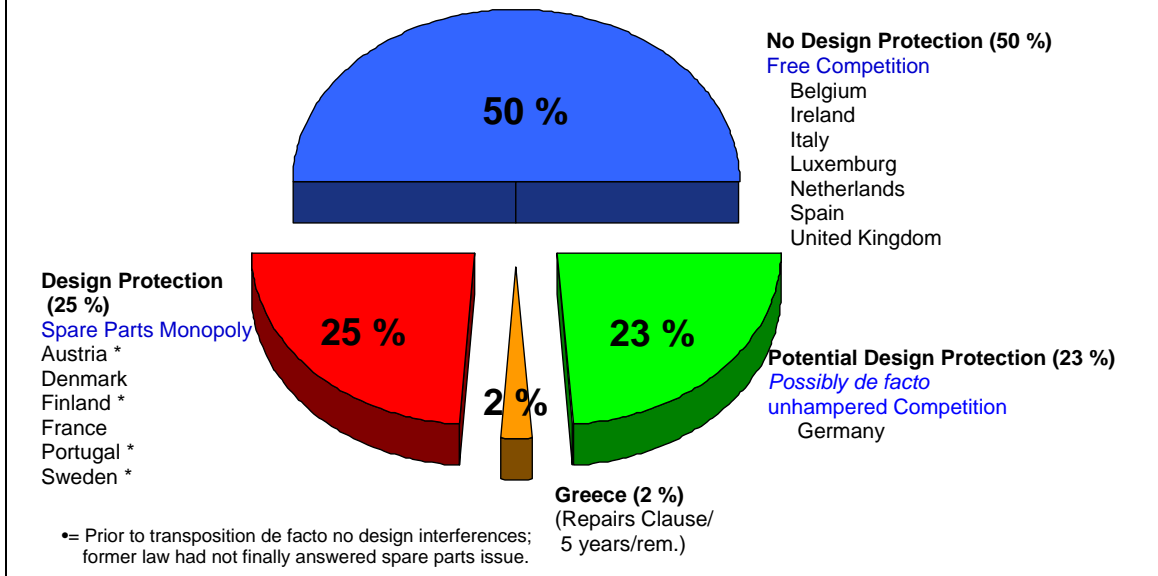
It is for all these reasons that I urgently request both the Legal Affairs Committee of the Parliament and the Council of Ministers to adopt *now* the “Repairs Clause” as proposed by the Commission.

Thank you for your attention.



EU-15 market of body-integrated visible („must match“) spare parts	
Parts	Size and share of the market
 <p>Car body panels</p>	 <p>€7.500.000.000</p>
 <p>Integrated lighting</p>	 <p>€1.380.000.000</p>
 <p>Automotive glass</p>	 <p>€1.160.000.000</p>
<p>Total Market</p> <div style="display: flex; align-items: center; justify-content: center;"> <div style="margin-right: 20px;"> <p>Blue = free (IAM) market</p> <p>Red = captive (OES) market</p> </div>  </div> <p>€10.040.000.000</p>	

**„Design“-Directive 98/71/EC
Effects of the „stand still *plus*“ Clause (Art. 14) after transposition
on the EU - 15 market of automotive „must match“ spare parts**



- Blue: Member States with a Repairs Clause and thus free competition
- Dark Red: Member States without a Repairs Clause and design protection for spare parts
- Red: Member States without a Repairs Clause where, however, prior to harmonising the design law, there were de facto no design interferences; former law had not finally answered the spare parts question
- Green: Germany: Assurance of the vehicle makers to the German Government not to use (possible) design protection for hampering competition in the spare parts market until the spare parts issue is solved at EU level