

Campagne Européenne
pour la Liberté du Marché
des Pièces de Rechange
et de la Réparation Automobile

Die europäische Bewegung
für die Freiheit
des Kfz-Ersatzteile-
und Kfz-Reparatur-Marktes

The European Campaign
for the Freedom
of the Automotive Parts
and Repair Market



Presentation

Nuria Rodriguez

Legal Officer of BEUC

Ladies and gentlemen,

I am Nuria Rodriguez representing BEUC. BEUC, created in 1962, is a federation which represents 40 independent national consumer organisations including all 27 EU Member States. Our main task is to defend the interests of all European consumers before the European institutions on behalf of our members. Thus a free automotive aftermarket is an issue for us.

The biggest investment for most people – after the acquisition of an own house or flat – is the purchase of a new car. However, running a car during its lifetime exceeds the price of the car by far. These running costs which occur from the first day a car is in use amount to more than 150% of the car's price. The consumer who buys a car worth 20.000 Euro must thus spent about 31.000 Euro to use it – a great portion of it relating to cost for servicing and spare parts

These figures clearly show how important it is for the 260 million EU motorist consumers to safeguard their right to have their cars repaired at the source of their choice and at prices controlled by competition.

All this is at stake if the car industry is given a spare parts monopoly. The vehicle owners become “captive” consumers. Their freedom of repair is seriously threatened. They are charged monopoly prices.

We found robust evidence that there are big differences between the spare parts prices of vehicle makers where they enjoy a quasi-monopolistic position and the prices of the independent aftermarket. Typically, the differences are between 40% and more than 200%. I will not bother you with details here. It makes no sense to enter into a tuppenny-ha'penny discussion whether the difference is x% or y%; and we are not saying – and nobody can honestly say this – that the spare parts prices throughout the EU will decrease by a fixed percentage if design protection is abolished.

Our point and the point that only matters is just this:

- *First*, it is a truism that everybody who is given a monopoly will use it as best as possible.
- *Secondly*, we need free competition in order to keep spare parts prices *in the long run* at a reasonable, consumer-friendly level. Effective competition is the best consumer protection.

To this end the “Repairs Clause” is needed. The only reason why the car industry is so fiercely opposed to is the fact that design protection indeed yields extremely high monopoly rents. Please note that visible spare parts amount to about 3% of a vehicle maker's turnover. In case of liberalisation these 3% are not taken away from him but just are subjected to what

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is normal, namely to competition – competition which the vehicle maker starts from the comfortable position of a 85% market dominance. How does the industry's agitation, in the circumstances, match with an ad where Volkswagen praised the virtues of competition to the skies by quoting the Roman philosopher *Seneca*: "*Marcet sine adversario virtus*" -"Without competition virtues go limp".

In concluding we cannot conceal our surprise that 2 countries – namely France and Germany – still seem to be opposed to the "Repairs Clause" solution although they are materially not affected by it. *France* is not affected because spare parts there will remain protected by her copyright law. And *Germany* is not affected because, in transposing the 1998 Design Directive, it has based its new design law on the explicit assurance of the car industry not to use design rights (should they exist) for hampering free competition – until the issue is solved at EU level. It is now time to "jump" and Germany is simply asked to write into law what it wanted to achieve anyway: Unhindered competition in the automotive aftermarket!

Thank you for your attention.

<p style="text-align: center;">“Without competition virtues go limp”</p> <p style="text-align: center;">Competition is useful to anybody who is prepared to take it up.</p>	<p style="text-align: center;">“ Marcet sine adversario virtus.”</p> <p style="text-align: center;">Ohne Gegner erschlafft die Tugend: Wettbewerb in der Marktwirtschaft konnte der römische Philosoph Seneca noch nicht im Kopf haben, als er dies vor 2000 Jahren sagte.</p> <p>Aber dessen Sinn ist getroffen: Wettbewerb nutzt allen, die sich ihm stellen. Den Engländern der Neuzeit verdanken wir ein weiteres Ideal: das des Fair-play.</p> <p>Ideen, die bewegen. Volkswagen.</p>  <p style="text-align: center;">VOLKSWAGEN KOMMUNIKATION FAX 0511 - 961 88 96</p>
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Assurance of the car industry in Germany

not to hamper independent competition by design rights

Deutscher Bundestag

15. Wahlperiode

Drucksache 15/1075

28. 05. 2003

Gesetzentwurf

der Bundesregierung

**Entwurf eines Gesetzes zur Reform des Geschmacksmusterrechts
(Geschmacksmusterreformgesetz)**

As regards visible spare parts in the vehicle sector harmonization at EU level has not been achieved so far. Until a European-wide solution will be reached the draft bill provides that the existing law remains in force, which means that design protection is possible. In this context the vehicle manufacturers specifically assured that they do not want to hamper competition in the distribution of spare parts and to dispute the market shares of independent repairers and independent distributors by claiming industrial property rights. It is this assurance which is the inherent basis for retaining the existing law that is to make sure that the so far adequate coexistence of the market participants is not impaired.