

free competition and fair prices for vehicle spare parts

ECAR supports the EC's proposal to amend "Design" Directive 98/71/EC

EU legislators are called to solve the "spare parts" issue after more than a decade's discussion. At stake: Should vehicle makers be given a monopoly over a € 12 billion market of visible spare parts (body panels, lamps, glass) to the detriment of 250 million EU motorist consumers? Or should there be free competition, fair pricing and a true Single Market?

The latter is what the Commission, as guardian of the public interest, wants. It has proposed a **Repairs Clause** which gives vehicle makers full protection over the design of new cars and thus over their core business, whilst avoiding the creation of spare parts monopolies.

ECAR fully supports the "Repairs Clause" proposal - for compelling reasons.

- **The Repairs Clause is just plain "right"**

Design law is intended to protect the outside appearance (the "design") of a product while encouraging product competition. It is thus fundamentally anti-monopolistic. For example, every one of the numerous designs of new cars is protected, but there is competition between different designs and consumer choice in the car market. But different designs are not possible for visible spare parts; they must exactly match the original to be replaced. Granting them design protection would therefore lead to spare parts monopolies - a blatant abuse of design law!

- **The Repairs Clause is "fair"**

Car body "designs" are created and used by manufacturers to sell cars in a competitive market, not to sell spare parts. If a consumer buys a new car he pays for good design - voluntarily and at his discretion. This way the car maker gets a fair return on his design investment. If a spare parts monopoly is created by design protection the consumer has to pay again and again for the same design whenever he needs a spare part. To make matters worse, he has no choice: he must buy the part to keep his vehicle running. He is forced to pay the prices fixed by the vehicle makers, whether he wants to or not. This is unfair.

- **The Repairs Clause is "economically sound"**

Monopolies are harmful. A watertight monopoly in visible spare parts would drive thousands of aftermarket companies, most of them SMEs, from the market; and it would put competition in the entire EU parts and repair market (worth more than € 84 billion) at a serious risk. Undermining this way the competitiveness of the automotive sector by favouring its biggest and most powerful members, the vehicle makers, is bad economic policy.

- **The Repairs Clause is "the guardian of consumer rights"**

The Repairs Clause ensures that 250 million EU motorist consumers enjoy the benefit of spare parts prices kept low by competition, and retain the choice of where and how to have their vehicles repaired. The clause thus safeguards the car owner's vested "right to repair".

- **The Repairs Clause has "no impact either way on safety or quality"**

Safety and quality are not design issues, since design protection is based on the appearance, not on the structural quality of a product. That is why in the EU the safety of all critical products or parts is guaranteed by a different, and very tough, regulatory framework: the type approval regime! The European Court of Justice has thus logically enough ruled out the use of industrial property rights for safeguarding product safety. Quality is a simpler issue: it is guaranteed by consumer preferences and market forces.

- **The Repairs Clause is "good for EU employment"**

Foreign and EU vehicle makers together already import about 40% of their parts from non-EU countries (while 0.5% is imported by the independent aftermarket). A design law giving them full control over the Community market would encourage their ongoing efforts to shift EU jobs abroad. A Repairs Clause, on the other hand, would enable EU parts producers (most of them too small to engage in job off-shoring) to compete with their local workforce against the imports of the car industry and would thus help maintain and generate jobs in the EU. Therefore, the Clause sustains or improves EU employment.

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Contacts

Campaign Coordinator: Gerhard Riehle - Dr.iur.; LL.M.

Gähkopf 29 - 70192 Stuttgart - Germany

Fon: +49.711.257 85 15 - Fax: +49.711.256 83 02 - g.riehle@gmx.de

Executive Assistant to ECAR: Sylvia Gotzen - Secretary General of FIGIEFA

Bld. de la Woluwe 42, bte 5 -1200 Brussels - Belgium

Fon: +49.711.257 85 15 - Fax: +32.2.762 1255 - figiefa.secretariat@federauto.be



ECAR

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