



Vehicle Type Approval Framework Regulation COM(2016) 31 Automotive Repair and Maintenance Information (RMI) ⁱ

AFCAR Position Paper

- Commission's 'Ricardo-AEA' Report identified serious deficiencies in the system of access to RMI
- Structural adaptations needed now to maintain the initial intention of the RMI legislation
- Omissions in the current RMI consolidation exercise to be corrected

This position paper is addressed to you from the AFCAR Alliance, which speaks on behalf of a wide range of stakeholders representing motoring consumers and a major part of the automotive aftermarket ranging from test equipment and diagnostic tool manufacturers, parts wholesalers, data publishers as well as independent and authorised repairers (please find a more detailed description at the end of this paper).

Our aim is to promote free competition and fair access to technical information and more generally to all features that allow multi-brand market operators, employing 3.5 million peopleⁱⁱ in over 500.000 companies, to offer competitive repair and maintenance services to the 285 million motoring consumers and duty vehicles operators in the EU. Together, our SMEs constitute a dedicated supply chain, which ensures the competitiveness and dynamism of the automotive industry sector as a whole. Our members are an integral part of the European economy. The independent aftermarket value chain ensures lasting innovation and effective competition which provides European motorists with the freedom of choice in the aftermarket care of their vehicles.

AFCAR supports the Commission's general approach, in particular the:

- Strengthening of the type-approval system and **independence of testing**;
- Strengthening of the **EU-wide supervision and a coordinated enforcement** to ensure a robust implementation and enforcement of the legislation throughout the Internal Market.

This position paper focusses on the issue of Repair and Maintenance Information (RMI):



Introduction:

“Just” a RMI consolidation exercise? – Why adaptations are needed now!

The draft Vehicle Type Approval Framework Regulation [COM (2006) 31] intends to merge the current framework on Repair and Maintenance Information (**RMI**) from the Euro 5/6 passenger cars/light duty vehicles Regulation 715/2007 and the Euro VI heavy duty vehicles Regulation 595/2009, but without any improvements at this stage.

AFCAR strongly upholds that some adaptations are vitally needed now to remedy legacy problems.

The RMI legislation dates back from 2007 and therefore needs urgent updates in order to maintain its initial purpose. In order to ensure that vehicles conform to EU emission and safety standards *throughout their entire life-cycle*, they require regular servicing and repair. Reparability is essential to maintain the functionality, safety and environmental compliance of vehicles.

The Commission’s Ricardo-AEA Reportⁱⁱⁱ identified in 2014 however a number of structural deficiencies and implementation problems. This ‘inventory’ of 160 pages demonstrated that repairers as well as the entire aftermarket supply chain, who in turn support repairers with competitive solutions for spare parts, tools, lubricants, training and technical information, are hampered in their competitiveness due to a series of obstacles and refusals to grant access to RMI. The Report’s problem inventory was followed by a series of concrete recommendations on a revised EU Framework Regulation.

However, the follow-up measures to this study have not yet been formally communicated to the Parliament and Council, which is pending since 2011^{iv}.

Once the Vehicle Type-Approval Framework Regulation will be closed, there will be a significant delay before it is reopened. **Therefore, it would be unfair to postpone changes into a far future.**

The structural deficiencies and legacy problems in accessing RMI should be addressed now in the current legislative exercise to maintain the current level playing field and the competitiveness of the automotive aftermarket value chain. This should be combined with a first set of measures and associated empowerment for the Commission for an efficient ‘adaption to technological progress’, independent of any possible future bigger revision as planned by the Commission with the increasing adaptation of telematics and connected vehicle technologies.

Concrete AFCAR proposals:

AFCAR approach and methodology – a high level description

The following AFCAR proposals are based feedbacks from the market and are completely in line with the findings and recommendations of the Commission's Ricardo-AEA Report.

The rationale behind the AFCAR proposals:

- a) Introducing clarifications to obtain a respect of the spirit and more robust application of the existing RMI legislation. This is needed to avoid loopholes and to reinstate the initial intention of the RMI legislation.
- b) Reintroducing important provisions which have been omitted in the RMI current consolidation exercise or correcting misleadingly worded terms;
- c) Strengthening the RMI verification and enforcement mechanisms;
- d) Some "low level adaptations to technical progress" to avoid discrimination of Independent Operators and to ensure a fair level playing field)
- e) Paving the way to make the RMI legislation future-proof: giving the Commission the flexibility to adapt legislation to wider technical progress (e.g. telematics).

In more detail:

The Commission's Ricardo-AEA Report outlined a number of areas where

- a) an improvement of the current verification and enforcement system is needed and
- b) where vehicle manufacturers did not respect the intent of the legislation, used interpretation margins or re-interpreted the current legislation to hamper or restrict access to RMI. This cannot be allowed to continue, and therefore the following clarifications and improvements should be introduced.

1. Clarification: An improved definition of RMI

1.1. Improved availability of RMI for all IOs: The vehicle manufacturer as the benchmark

The 'Euro 5' Regulation was written in 2006. The reference to the "non-discrimination principle with the dealer/authorised repairers" initially referred to the contents/scope of the technical information with the understanding that all independent operators (IOs) enshrined in the Euro 5/6 and Euro VI RMI legislations would be able to access the information they need for carrying out their business.

However, various vehicle manufacturers have re-interpreted the 'non-discrimination principle' and are extending it also to the format, referring to their understanding that they just have to deliver exactly "the same in the same manner" as they do for their dealers/authorised repairers. This introduced a new obstacle because the technical information was then delivered in a proprietary, OEM-specific manner, which made the information de facto unusable for operators who deliver services or products at a wholesale level. This undermined the RMI legislation "through the backdoor". Examples:

- the RMI could not be electronically processed, i.e. it was given in a manner that was unusable;
- no adapted licensing contracts were offered;
- RMI is more and more embedded in OEM-proprietary diagnostic tools and thus taken out of the public domain.

Therefore, an adaptation is needed to reinstate the initial intention of the legislation.

Recommendation: It must be clarified that it is the *vehicle manufacturer*, including his authorised partners, dealers, repairers and network, who is the benchmark for the RMI (see also Recital (12) of Regulation 566/2011). This is why amendments should be introduced into the Definition of Article 3 (46) and into the Vehicle Manufacturers' Obligations Article 65 (2) para. 2. Moreover it needs to be clarified that for independent operators other than repairers, the RMI must be given in an electronic format that can be efficiently and effectively processed with commonly available IT tools and software.

Recitals

The following Recitals from Reg. 566/2011 (Recitals (12) and (18)) have been omitted from the Framework Regulation and shall be re-introduced:

(current Recital 12 from Reg. 566/2011 to be reintroduced and amended as follows) In order to ensure effective competition on the market for vehicle repair and maintenance information services, it is to be emphasised, and in order to clarify that the information concerned also covers information which needs to be provided to independent operators other than repairers, and in a format which allows further electronic processing so as to ensure that the independent vehicle repair and maintenance market as a whole can compete with authorised dealers, regardless of whether the vehicle manufacturer gives such information to authorised dealers and repairers directly, ~~further clarifications with regard to the details of the information to be provided under Regulation (EC) No 715/2007 are necessary.~~

(current Recital 18 from Reg. 566/2011 to be reintroduced) Since there is currently no common structured process for the exchange of vehicle component data between vehicle manufacturers and independent operators, it is appropriate to develop principles for such an exchange of data. A future common structured process on the standardised format of the data exchanged should be developed by the European Committee for Standardization (CEN) formally, where upon the mandate given to CEN does not predetermine the level of detail this standard will provide. The CEN's work should, in particular, reflect the interests and needs of vehicle manufacturers and independent operators alike and should also investigate solutions such as open data formats described by well defined meta-data to accommodate existing IT infrastructures.

Article 65 - Manufacturers' obligations to provide vehicle repair and maintenance information

2. Until the Commission has adopted (...)

The vehicle OBD and the vehicle repair and maintenance information shall be made available on the websites of manufacturers using a standardised format or, if this is not feasible due to the nature of the information, in another appropriate format. ~~In particular, this access shall be granted in a manner which is non-discriminatory compared to the provision given or access granted to authorised dealers and repairers.~~ For independent operators other than repairers, the information shall also be given in a machine-readable format that can be electronically processed with commonly available IT tools and software, which allows independent operators to execute their business functions in the aftermarket supply chain.

Article 3 (46) – Definitions

Please see next page

1.2. Coherence between road-worthiness and type-approval legislation

Information related to ‘roadworthiness testing’ is a crucial part of RMI, but it has been imprecisely described as ‘periodic monitoring’ in the current legislation, which has created loopholes and incoherences between type-approval and road worthiness legislation. This shall be changed in the definition of Article 3 (46).

1.3. “Remote Diagnostic Support”: Correct omission

"Remote diagnostic support" is enshrined in Reg. 595/2009 for heavy duty vehicles, but its transposition has been omitted. It shall be re-included into the RMI Regulation, but for the sake of coherence of requirements for all the vehicle types in the scope of the Commission’s proposal. This requirement should be extended to cover both, light duty and heavy duty vehicles.

Consolidated version of all proposed amendments (points 1.1 – 1.3) related to the definition of Art. 3 (46)

Article 3 (46) – Definitions (consolidated version)

‘vehicle repair and maintenance information’ means all information required for diagnosing, servicing, inspecting, road worthiness testing ~~periodic monitoring~~, repairing, re-programming or re-initialising or for the remote diagnostic support of a vehicle as well as for the fitting on vehicles of components, separate technical units, parts and equipment, and that is used or provided by the manufacturer, including his authorised partners, dealers, repairers and network, to offer products or services for vehicle repair and maintenance purposes, to his authorised dealers and repairers, including all subsequent amendments and supplements to that information;

2. The standardised OBD connector: Vital data communication channel with the vehicle!

The communication of any authorised or independent market operator to and from the vehicle to enquire about its ‘health status’ and to perform subsequent diagnostic, repair and maintenance services, is currently ensured by the physical standardised OBD connector. This standardised data link connector (on-board-diagnostic (OBD) connector) is **THE** lifeline for communication with the vehicle and it thus ensures fair competition, innovation and independent entrepreneurship in the automotive aftermarket, and should not be reduced to emissions only.

2.1. Correct omissions: maintain a clear reference to the standardised OBD connector

The standardised data link connector is currently enshrined in the Euro 5/6 and Euro VI Regulations through a reference to the ISO 15031-3 standard, as specified in UN Regulation No 83 (Annex 11, Appendix 1, para 6.5.1.4) and UN Regulation No 49 (Annex 9B, Section 4.7.3).

However, this explicit reference is missing in the draft Vehicle Type-Approval Regulation, but it is absolutely essential that this physical data link connector will be maintained to ensure diagnostics, servicing, repair, maintenance and software updating functions. Therefore, an explicit reference shall be re-introduced.

AFCAR urges the EU legislators that the reference to this standardised physical link connector is transposed into the Commission's proposal 2016-31 as part of the update/transfer of EC 692/2008 and EC 595/2009 and the corresponding references to UN Regulations Nos 83 and 49 within this Regulation. However, to be safe (and in the event that this transfer should not occur), the vital reference to UN Regulations No 83 and 49 must be directly introduced.

Annex XVIII, para 2.9 (new)

For the purpose of vehicle OBD, diagnostics, repair and maintenance, the vehicle generated data stream and information shall continue to be made available through the standardised, physical data link connector as specified in UN Regulation No 83, Annex 11, Appendix 1, para 6.5.1.4 and UN Regulation No 49, Annex 9B, Section 4.7.3.

Recital (new)

Whereas access to the data stream and information is ensured by a standardised data link connector (as defined in ISO 15031-3 and ISO 13400-4).

...and extend it to cover all categories of vehicles, including those that use DoIP

Furthermore, the explicit reference to this standardised physical data link connector must ensure that it is fitted to all categories of vehicle (including hybrid, alternative fuel and electrically propelled vehicles) which are type approved according to the requirements of UNECE Regulations 49 and 83.

Additionally, if diagnostics over internet protocol (DoIP), or high speed software updating is conducted through this connector, or any other connection types, then it shall also conform to the requirements of ISO 13400-4.

Annex XVIII, para 2.9 (new)

For the purpose of vehicle OBD, diagnostics, repair and maintenance, the vehicle generated data stream and information shall continue to be made available through the standardised, physical data link connector as specified in UN Regulation No 83, Annex 11, Appendix 1, para 6.5.1.4 and UN Regulation No 49, Annex 9B, Section 4.7.3. **This connector shall also comply with the requirements of ISO 13400-4 if it is used for diagnostics over internet protocol (DoIP) or high speed software updating.**

Recital (new)

Whereas access to the data stream and information is ensured by a standardised data link connector (as defined in ISO 15031-3 **or ISO 13400-4) for diagnostics, servicing, repair, maintenance and software updating functions.**

2.2. Maintain direct access to in-vehicle data - and make it explicit!

The RMI legislation is 10 years old, and it has been written in the 'analogue era'. However, in the meantime, developments have taken place, which put the legislation under a new interpretation.

Due to the increasing connectivity of vehicles, the RMI legislation could be misinterpreted and compromise the current direct communication mechanisms between the vehicle and an independent market operator. These direct communication mechanisms (e.g. to enquire the health status of a

vehicle) ensure today fair competition, innovation and independent entrepreneurship in the automotive aftermarket.

There are 3 main phases for the repair of a vehicle:

- A) Diagnosis to detect a problem (with on-board and off board data via a generic scan tool). The **independent communication with the vehicle and direct access to the in-vehicle data** is today ensured by the standardised OBD connector.
- B) Repair and Maintenance Information (i.e. “How to repair it”). The RMI Information enshrined in the current Euro 5/6 and Euro VI RMI legislation is **‘static Information’ made available over the manufacturer’s website.**
- C) Validation of both the repair and additionally for servicing are absolutely necessary during various service and repair processes (e.g. resetting service functions, changing brake pads, bleeding brakes, replacing injectors and so on....).

However, current practice is that vehicle manufacturers are increasingly restricting the access to in-vehicle data under point A and are re-channelling the data via their proprietary websites.

The RMI legislation and the re-channelling of the RMI-Repair Information over the vehicle manufacturer’s website shall not be misinterpreted as a new obligation that vehicle manufacturers would now have a (new) right of controlling access of Independent Operators to the communication with the vehicle and its data!

The current direct communication of an independent operator with the vehicle, providing standardised and direct access to the in-vehicle data has for decades been the established principle and shall be fixed in an explicit manner in the current RMI legislation. This can either be done through the standardised physical data link connector (e.g. OBD or Ethernet), or in the future by technologies using a standardised wireless connection, which would also require access to in-vehicle resources. Such a clarification is needed to avoid that this communication being re-channelled and subsequently restricting access to the standardised in-vehicle connector and the in-vehicle data stream which would become closed to independent market participants.

Recital (new)

Without prejudice to vehicle manufacturers’ obligation to provide Repair and Maintenance *Information* via their Website, the access to *in-vehicle data*, shall remain directly and independently accessible to Independent Operators.

Article XX (new)

The standardised access to in-vehicle data shall remain directly accessible to Independent Operators by means of the vehicle’s standardised physical data link connector or technologies using a standardised wireless connection and shall not be restricted or controlled by the vehicle manufacturer.

2.3. “Re-programming” - Ensure a speedy communication with the vehicle and the possibility of software updates

Software adaptations (re-programming) are an integral part of the servicing and maintenance of today's vehicles and are regularly needed. After the installation of e.g. a fuel injector or even something as basic as a new battery, a re-initialisation, re-setting or a software update ('re-programming') is increasingly required. These software updates are transferred to the vehicle via a standardised communication protocol, which enables the availability of independent competitive test equipment in the market, such as a generic scan tool and a standardised vehicle communication interface (VCI).

2.4. Correct omissions: Reinstate the re-programming standards for passenger cars

The current RMI legislation covers re-programming standards for both, passenger cars/ light duty vehicles (Euro 5/6 Reg. 715/2007) and heavy duty vehicles (Euro VI Reg. 595/2009). However, the re-programming standards for passenger cars/light duty vehicles have erroneously been omitted in the consolidation exercise (because the current wording is restricted to only Reg. 595/2009, which is the Heavy Duty Vehicles Regulation) and need to be reinstated to ensure that the original intent is maintained.

Remedy: The restrictive reference to only the Euro VI Regulation 595/2009 shall therefore be deleted to ensure that all vehicle categories are included.

Furthermore, the reference to the TMC RP1210 **B** should also be deleted to allow the use of later versions of this interface standard (see justification under point 2.5.2 below)

Annex XVIII, point 6.4

~~With regard to vehicles falling in the scope of Regulation (EC) No 595/2009, Re-programming of control units shall be conducted in accordance with either ISO 22900-2 or SAE J2534 or TMC RP1210**B** using non-proprietary hardware. (...)~~

2.5 Ensure the availability of multi-brand test equipment through interoperable Vehicle Communication Interfaces (VCIs) ^v

The availability of independent multi-brand diagnostic tools and test equipment is one of the most important elements supporting the daily work and competitiveness of independent and authorised repairers.

2.5.1. Clarify timely availability of the information and the obligation to offer a 'test environment'

According to the Ricardo-AEA Report, the availability of alternative tools/test equipment is hampered by various obstructions by vehicle manufactures relating to the validation of Vehicle Communication Interfaces (**VCIs**). Such a validation is needed to make sure that the independent test tool is able to accurately communicate with the vehicle's standardised communication protocols, as these are subject to OEM-specific interpretations (dialects) today. Vehicle manufacturers often simply do not respond to validation requests, impose dissuasive fees, or do not make test procedures available. As a result, independent test tools that can communicate correctly with vehicles cannot be offered in the marketplace! It is therefore necessary to have a more robust testing environment that includes conformity compliance to ensure that the VCI communication standards are implemented correctly.

Recommendations: A clarification is needed to make sure that vehicle manufactures have to respond within the (generally required) 6month period after type-approval in accordance with the RMI legislation to provide a workable validation test procedure/ environment.

2.5.2 Verify that VCI communication standards are implemented correctly and keep the reference to standards more general to allow for technical progress/updated versions

The existing provision concerning the validation of vehicle communication interfaces (VCI's) in the current legislation should be made more robust by introducing standardised conformity compliance testing, for both the vehicle manufacturer and VCI manufacturers. Some conformity standards already exist (e.g. SAE J2534-3), but where no corresponding conformity compliance standard exists, the Commission shall mandate CEN to create the necessary standards.

Furthermore, the existing standards contained in the legislation are still used by various vehicle manufacturers, but updated versions are being introduced and are likely to be adopted by vehicle manufacturers (e.g. TMC RP1210C), so the reference to the TMC RP1210B should be deleted to allow the use of later versions of this interface standard.

Consolidated amendment proposal for point 2.5.1 and 2.5.2:

Annex XVIII, point 6.4

(...)

For the validation of the compatibility of the manufacturer-specific application and the vehicle communication interfaces (VCI) complying to ISO 22900-2 or SAE J2534 or TMC RP1210B, the manufacturer shall offer, within six months of the granting of type approval, either a validation of independently developed VCIs or and the test environment, including information on the requirements specifications of the communication protocol and the loan of any special hardware, required for a VCI manufacturer to conduct such validation himself.

Corresponding conformity compliance must be ensured either by mandating CEN to develop appropriate conformity standards or by using existing ones such as SAE J2534-3.

The conditions of Article 67(1) shall apply to fees for such validation or information and hardware.

2.6. Simple adaptations to technical progress: Ensure a fair and level playing field for IOs: faster updates compatible with existing standards and include the latest protocols that are being used for diagnostics and re-programming

A simple re-instatement of the existing standards is not enough to maintain today a level playing field in the vehicle repair market! Vehicle manufacturers are now conducting software updating procedures using high speed communication protocols, *which are not currently available to independent operators*. Therefore, legislative text is needed to address this technical progress: fast reprogramming on Diagnostics over Internet Protocol (DoIP) shall be implemented in compliance with ISO 22900-2. The proposed update to the legislation does not change the existing communication standards, but simply states that the higher speed Ethernet protocols should be based on these existing standards (e.g. ISO 22900-2 which already includes the reference to ISO 13400 Ethernet standard). These new Ethernet protocols are already being used for both re-programming and diagnostics by the vehicle

manufacturers to conduct faster diagnostics or updating of the larger software programs used in today's vehicles. These latest protocols should be made available to independent operators to avoid a major disadvantage in updating times (3 hours to reprogram a control unit with the latest protocols versus 3 days with the protocols specified in today's legislation).

Moreover, these re-programming standards are also being used for diagnostic purposes and therefore should also be made available to independent operators to ensure that they are still able to develop their own innovative and competitive diagnostic test procedures without being constrained by the vehicle manufacturer's dedicated diagnostic routines.

Annex XVIII, point 6.4

~~With regard to vehicles falling in the scope of Regulation (EC) No 595/2009, Re-programming and diagnostics of control units shall be conducted in accordance with either ISO 22900-2 or SAE J2534 or TMC RP1210B- using non-proprietary hardware. If reprogramming or diagnostics is conducted using ISO 13400 DoIP, it shall comply with the requirements of the before-mentioned standards.~~

~~Ethernet, serial cable or local area network (LAN) interface and alternative media like compact disc (CD), digital versatile disc (DVD) or solid state memory device for infotainment systems (e.g. navigation systems, telephone) may also be used, but on the condition that no proprietary communication software (e.g. drivers or plug-ins) or hardware is required.~~

If vehicle manufacturers use additional proprietary communication protocols, then these protocol specifications shall be made available to independent operators.

3. Ensure the efficient availability of competitive multi-brand replacement parts

As the Ricardo-AEA Report points out, independent parts suppliers and parts distributors provide competitive alternatives of replacement parts to both independent and authorised repairers. The major problem for these operators is to get access to unequivocal parts identification information needed for the provision of multi-brand parts catalogues, because the information is not provided in a useable manner today. This is why the current legislation on spare parts identification needs further clarification to ensure that the parts identification information shall be made available as electronically processable datasets.

Annex XVIII, point 6.1, para. 3 to 5

Information on all parts of the vehicle, with which the vehicle, as identified by the VIN and any additional criteria such as wheelbase, engine output, trim level or options, is equipped by the vehicle manufacturer and that can be replaced by spare parts offered by the vehicle manufacturer to its authorised repairers or dealers or third parties by means of reference to original equipment (OE) parts number, shall be made available in a database as machine readable and as electronically processable datasets ~~that is easily accessible~~ to independent operators.

4. Real unequivocal vehicle identification as a basis for RMI

Due to the increasing variety in models and variants and given the growing technical complexity of modern vehicles, the ability to identify the exact specification and configuration of a vehicle, as manufactured on the production line, is of major importance. Indeed, any independent operator needs

to know what was originally built into each vehicle, i.e. the specific equipment/configuration behind the serial number of the VIN. As an example, it is of major relevance whether a vehicle model is equipped with an automatic gear box, air conditioning, or has a tow bar.

Many independent operators in the downstream product and servicing supply chain are however reporting massive problems with unequivocal vehicle identification, which is not made available by vehicle manufacturers. However, this unequivocal vehicle identification is crucially needed to allow independent automotive data publishers to conceive complete multibrand data bases which will enable independent operators to match the pertinent diagnostic, repair, maintenance or ePTI (electronic Periodic Testing Inspection) information in question to the respective vehicle.

This is why one of the legislative adaptations must be the clarification that vehicle manufacturers shall make available for the RMI information the complete vehicle identification number together with a description (plaintext) of all the corresponding specification and configuration features (as well as equipment options) which were originally built into the vehicle. This information shall be made available in electronically processable form as datasets.

Annex XVIII, point X (new)

Vehicle manufacturers shall make available via a web service or as a download an electronic data set comprising all VIN numbers (or a requested sub-set) and the correlated individual specification and configuration features which were originally built into the vehicle.

5. Roadworthiness testing ^{vi}

- **Robustness of the access to Roadworthiness test data & information**
- **Coherence between roadworthiness and type-approval legislation**



This Roadworthiness technical information is crucial for several market players, such as manufacturers of test equipment and diagnostic tools or for privately owned test stations that are empowered to perform periodical technical inspection on behalf of a Member State's authority. Manufacturers of test equipment and diagnostic tools can design, manufacture and deliver equipment to the periodic technical inspection (PTI) test centres to support the appropriate test method and accurate assessment of the vehicle under test. This equipment with embedded roadworthiness test information is likewise important for the workshops who prepare motoring consumers' vehicles prior to a PTI test, or repair the vehicle if it has failed. This information becomes even more important with the efficiency testing of electronically controlled safety systems (ECSS). This information shall be explicit and introduced into the list of Annex XVIII, Appendix 2, Point 3:

Annex XVIII, Appendix 2, Point 3 – Information required for the manufacturing of diagnostic tools

New point 3.X. Data required to perform the vehicle inspection

The following information shall be required:

3.x.x. technical information to enable complete roadworthiness test methods to be fulfilled

6. Security Forum (SERMI): Correct misleading wording



Today's repair and maintenance of modern vehicles may involve the need to access the functions of the vehicle, normally protected by security features such as theft prevention or anti-tampering measures. This is why a special mechanism for the approval/authorisation of IOs has been established under the Security Forum (the so-called "SERMI scheme") so as to define and ensure the accreditation of IOs and their employees. In the transposition the outdated term "Forum for the prevention of misuse of RMI" has been used. This is however discriminating for IOs, as it insinuates that a Forum is needed to monitor the "misuse of RMI". Therefore, the appropriate term "Forum for the Approval and Authorisation of IOs for access to security-related areas of the vehicle" carried over from Art 13(9) of Regulation 692/2008 should be reinstated.

Article 70 (2) – Forum on Access to Vehicle Information (“SERMI”)

(2) The Forum referred to in paragraph 1 shall advise the Commission on measures ~~to prevent misuse of~~ for the approval and authorisation of IOs when accessing security-related vehicle OBD and vehicle repair and maintenance information.

Moreover, the provisions from the Euro 5/6 passenger cars shall be used, referring to the proof of a relevant criminal record. It would be inappropriate to ban a person from his profession of repairing cars because of a possible other non-related offence.

Annex XVIII, point 6.3.

The Forum on Access to Vehicle Information referred to in Article 70 shall specify the parameters for fulfilling these requirements in accordance with the state of the art. The independent operator shall be approved and authorised for this purpose on the basis of documents demonstrating that he pursues a legitimate business activity and has not been convicted of any relevant criminal activity.

7. Introduce flexibility to make the RMI legislation future-proof to be adapted to wider technical progress

Flexibility should be built into the Regulation to allow current and near future technological developments to be addressed, e.g. in the field of digital data exchange using a wide area wireless network (“telematics”). As such, the Commission should be empowered to adapt legislation to technical progress. This should also cover the possibility to amend the definition of Article 3(46), as it still contains an outdated definition of the analogue era.

Article 65 (11) new

To ensure a level playing field, competitiveness and innovation in the automotive sector, the Commission shall be empowered to adopt delegated acts in accordance with Article 88 and create Annex XVIII A to address technological developments in the field of digital data exchange using a wireless wide area network, ensuring the continued direct access to in-vehicle data and resources for Independent Operators and competition-neutrality by technical design.

Article 88 (2) Exercise of delegation

2. The power to adopt delegated acts referred to in Article 4(2), [...] Article 65(10) **and Article 65 (11)**, Article 76(4) and Article 90(2) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.

8. Making the RMI verification and enforcement mechanisms more robust and SME friendly

8.1 Improving the procedure for verification and filing complaints

The current complaints and (ex-post) enforcement procedures are very burdensome to handle for independent SME operators. As an example, for a Dutch or Italian operator, handling a complaint procedure in e.g. Romania or Bulgaria (where the type-approval could have been granted), is so burdensome in practice as to the point of being dissuasive. These system-immanent difficulties lead to inefficiencies on the verification/enforcement, and ultimately on the overall functioning of the system of access to RMI.

Recommendation: It should be possible for each independent operator to also address “his” national type-approval authority. In other words: each type-approval authority shall become “approachable” and co-responsible for the handling of complaints. The respective national authority shall then contact the authority who granted the approval (i.e. under the current regime the ‘Euro 5/6’ or ‘Euro VI’ approval authority and in the future the authority who granted the whole vehicle approval) and request an investigation (collective responsibility).

Moreover, the Commission should also be empowered to organise and carry out, or require to be carried out, audits so as to ensure compliance with the requirements set out in Chapter XIV.

Article 69

Compliance with the obligations regarding access to vehicle OBD and vehicle repair and maintenance information

1. An approval authority or the Commission may at any time, whether on its own initiative, on the basis of a complaint, or on the basis of an assessment by a technical service, check the compliance of a manufacturer with Articles 65 to 70, and with the terms of the Certificate on Access to Vehicle OBD and Vehicle Repair and Maintenance Information laid down in Appendix 1 of Annex XVIII.

2. Where an approval authority or the Commission finds that the manufacturer has failed to comply with his obligations regarding access to vehicle OBD and vehicle repair and maintenance information, the approval authority that granted the relevant type-approval shall take appropriate measures to remedy the situation.

Those measures may include withdrawal or suspension of the type-approval, fines, or other measures adopted pursuant to Article 89.

3. Where an independent operator or a trade association representing independent operators files a complaint to the approval authority on the failure of the manufacturer to comply with Articles 65 to 70, the approval authority shall carry out an audit in order to verify compliance by the manufacturer.

3 bis (new) An independent operator or a trade association may submit a complaint to its national type approval authority or directly to the authority who granted the whole vehicle type-approval.

If the complaint is submitted to the national approval authority, the latter shall request the approval authority who granted the whole vehicle type-approval to investigate the complaint and request evidence from the vehicle manufacturer to prove that its system is in compliance with the Regulation. The results of this investigation shall be communicated within a period of three months to the national approval authority and the independent operator or trade association.

4. When carrying out the audit, the approval authority may ask a technical service or any other independent expert to carry out an assessment on its behalf to verify whether the obligations concerning access to vehicle OBD and vehicle repair and maintenance information have been met.

5 (new) Similar to Article 9, the Commission may organise and carry out, or require to be carried out, audits so as to ensure compliance with the requirements set out in Chapter XIV.

8.2 Stakeholders and compliance verification testers should be part of the new “Forum for Exchange of Information on Enforcement”

The newly created “Forum for Exchange of Information on Enforcement” in Article 10 should include stakeholders or third-party compliance verification tester to provide direct input.

Article 10 - Forum for Exchange of Information on Enforcement

2 bis (new)

The Forum shall be composed of members appointed by the Member States.

The Commission may, on an ad hoc basis, invite stakeholders or third-party compliance verification testers to present concerns experienced or complaints and be informed on the result.

9. For an ‘SME friendly’ design of EU legislation –

No automatic obligation for the transfer of International Standards into EU

Independent SMEs have experienced that ISO/CEN standards/standardisation procedures (in particular when not operating under a Commission mandate) are often created in ISO standardisation and subsequently dominated by industry corporation players without the possibility of an equal and fair participation by independent SMEs in the EU. ISO meetings are often held worldwide and voting is made by many countries outside the EU. As such, there is the threat that international standards are referenced, which are designed by players outside the EU and which could undermine EU legislation.

Therefore, there should be no automatism to reference ISO standards into EU law.

Article 65 (3)

The Commission shall establish and update the appropriate technical specifications on how vehicle OBD and vehicle repair and maintenance information shall be provided. If deemed appropriate, the Commission shall take into account current information technology, foreseeable vehicle technology developments, existing CEN or ISO standards and the possibility of a worldwide ISO standard.

Notes:

i Regulation on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (COM 2016(31) COD (2016)14)

ii Based on a verification of Eurostat figures 2012 and 'Car Aftermarket Europe Report 2012', by Wolk Aftersales Experts.

iii Ricardo-AEA Study on the functioning of the system of Access to Repair and Maintenance Information (RMI). It contains a comprehensive description of the merits, but also of the deficiencies and shortcomings, of the current 'Euro 5' RMI system. In this perspective, the Study outlines a series of recommendations to improve the current regime of access to RMI, highlighting the need of enhancing the competitiveness of the automotive service supply chain and of ensuring a better level-playing field for all market operators.

The Commission's Ricardo-AEA Report highlights the importance of access to timely, and accurate and useable technical information, adapted to specific user needs, as a prerequisite for the ability to diagnose, service, repair and maintain today's vehicles and subsequently support the functioning of the EU Internal Market and ensure the competitiveness of the whole aftermarket supply chain to the benefit of the European consumers and EU economic growth.

AFCAR welcome the Report as a comprehensive 'big picture analysis' describing the importance of the multi-brand aftermarket supply chain ('eco-system') which provides alternative competitive products and services to repairers and consumers. The Report highlights the importance of so-called third-party providers, (included under the definition of "independent operators" in the EU's RMI legislation, e.g. producers and distributors of spare parts, diagnostic tools, test equipment, publishers of technical information, or third-party training providers) for the effective functioning of this entire supply chain that provides competitive offers and prices for repairers and ultimately the choice for consumers.

The Report describes the current difficulties faced by independent aftermarket operators (IOs) concerning the system of access to Repair and Maintenance Information (RMI) and demonstrates the necessity of making it more effective and compliant, as workshops rely on these operators for economically competitive solutions for spare parts, lubricants, tools, training and technical information.

The Report outlines a substantial number of recommendations aimed at improving the current regime of access to RMI, most of which AFCAR fully support.

An explicit reference to the need of ensuring an improved level-playing field for all independent market operators is a positive note in this respect.

iv The 'Euro 5' Regulation (Article 9 of Regulation 715/2007 explicitly) mandates the Commission to evaluate the functioning of RMI provision in a report originally scheduled for 2011. The Ricardo-AEA Study was published at the end of 2014. It contains a comprehensive description of the merits, but also of the deficiencies and shortcomings, of the current 'Euro 5' RMI system. In this perspective, the Study outlines a series of recommendations to improve the current regime of access to RMI, highlighting the need of enhancing the competitiveness of the automotive service supply chain and of ensuring a better level-playing field for all market operators. The Commission Report to the Council and the Parliament has suffered delays since 2014.

v An interface is a connector, either physically through a hardware connector equipped with pins and/or remotely through software message exchanges

vi Roadworthiness legislation is harmonized through Directive 2014/45/EU and regulates periodical technical inspection and road-side inspection.

	<p>ADPA – the European Independent Data Publishers Association aims to ensure fair access to automotive data and information and to provide competitive framework conditions for independent data publishers. This will allow the publishers to be able to design and provide competitive, innovative and multibrand products and services to operators of the automotive aftermarket.</p>
	<p>AIRC - the Association Internationale des Réparateurs en Carrosserie - is the global federation of leading national trade organisations in the area of vehicle repairs. Its main aims are to promote vehicle repairs and the vehicle repair industry and to ensure the future of this industry.</p>
	<p>CECRA - the European Council for Motor Trades and Repairs- is the European Federation representing the interests of the motor trade and repair businesses and European Dealer Councils on behalf of vehicle dealers for specific makes. Its main aim is to maintain a favourable European regulatory framework for the enterprises of motor trade and repair businesses it represents.</p>
	<p>EGEA - the European Garage and test Equipment Association, is the European association and political representative in Brussels of the manufacturers of tools and equipment for the repair, servicing and technical inspection of vehicles, as an integral part of supporting the automotive industrial value chain. Together with its national professional associations throughout Europe and one company member, EGEA represents thousands of employees in the garage equipment sector working with the OE and the automotive aftermarket.</p>
	<p>The FIA is a worldwide federation of Motoring and Touring Clubs. The FIA represents the interest of these members as motorists, public transport users, pedestrians and tourists. Its primary goal is to secure a mobility that is safe, affordable, sustainable and efficient.</p>
	<p>FIGIEFA is the European federation and political representative in Brussels of the independent wholesalers and retailers of automotive replacement parts and their associated repair chains. Together with its 20 national European members it represents the interests of more than 30.000 companies trading with vehicle parts, components and accessories. With a European supply network of more than 50.000 outlets and their 355.000 employees, FIGIEFA's members provide an efficient regional delivery of replacement parts to ensure that the consumer can get rapidly back on the road.</p>
	<p>AFCAR - Alliance for the Freedom of Car Repair in the EU. Created in 1997, AFCAR is an alliance of the independent European associations with the aim is to promote fair competition in the market for vehicle servicing and repair. Members of AFCAR are: ADPA (European Independent Data Publishers Association), AIRC (Association Internationale Réparateurs en Carrosserie), CECRA (European Council for Motor Trades and Repair), EGEA (European Garage Equipment Association), FIA (Fédération Internationale de l'Automobile) and FIGIEFA (International Federation of Automotive Aftermarket Distributors).</p>