

**“RIGHT TO REPAIR:**

**INDUSTRY**

Mr. Chairman and members of the Subcommittee, I am James A. Kohm, Associate  
Director of the Division of Enforcement in the Federal Trade Commission's Bureau of Consumer  
Protection.<sup>1</sup>

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markets in the United States and, increasingly, the world. Among the Commission's accomplishments are the implementation and enforcement of the National Do-Not-Call Registry, the protection of the availability of lower-cost prescription drugs, stopping deceptive or abusive lending practices, attacking unfair or deceptive practices in e-commerce, and the review of corporate mergers reported to the antitrust agencies under the Hart-Scott-Rodino premerger notification process.

Auto repair is undoubtedly an important issue for U.S. consumers. U.S. consumers spend more than \$80 billion annually to repair and maintain the two hundred trillion anca spcurrent

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however, independent repair shops have been concerned about continued access to high tech information and tools.

To address these issues, market participants have taken some initial steps that provide a foundation upon which to build an effective self-regulatory mechanism. For example, a group of automotive trade associations has created an information-sharing structure, the National Automotive Service Task Force (“NASTF”), to aid in the provision of timely service information needed by independent repair facilities. In addition, third-party information providers, such as ALLDATA and Mitchell, can provide useful services to automobile repair facilities. The amount of auto repair data available is voluminous and not always easily accessible. By packaging data for sale, third-party information providers can allow repair facilities to access necessary technical information with the speed the marketplace demands.

More recently, legislation has been proposed to address the provision of information to the aftermarket, that involves relations among automobile manufacturers, franchised dealers, independent repair shops, tool manufacturers and sellers, and – most importantly – consumers.

### **A Voluntary Industry Solution**

Chairman Barton and Senator Graham urged representatives of the independent auto repair facilities and automotive manufacturers to try to reach a voluntary agreement for the provision of service information. In response, the parties, with the Commission staff’s assistance, chose Steven J. Cole of the Council of Better Business Bureaus (“CBBB”) as the facilitator. Participants included the Coalition of Auto Repair Equality (“CARE”) and the Automotive Aftermarket Industry Association (“AAIA”), the Alliance of Automobile Manufacturers (“AAM”), the Association of International Automobile Manufacturers (“AIAM”),

the National Automobile Dealers Association (“NADA”) and the Automotive Service Association (“ASA”). FTC staff attended all the meetings. The parties began discussions on July 26, 2005 with an expectation that the facilitation would conclude September 1, 2005. Because of the progress the parties made, that deadline subsequently was extended to September 30, 2005.

Throughout August and September, the parties, the CBBB, and Commission staff met for more than sixty hours to try to reach an agreement on what information the auto manufacturers would provide to independent auto repair facilities and how they could provide that information in an efficient and affordable manner. In addition, the parties spent considerable time discussing an appropriate mechanism to address those instances where the system failed. In formulating a plan, the parties looked to the information-sharing structure created by NASTF to provide information, training, and tools to automotive service professionals. In the course of their discussions at the CBBB, both sides looked to improve the NASTF structure to streamline the process and provide the necessary support to technicians who face problems obtaining information.

Despite hard work by both sides, the parties were unable to come to an agreement and, on September 30, 2005, concluded negotiations without a solution.

The parties continued to have difficulties in reaching agreement regarding such issues as the precise scope of information to be shared, access to diagnostic tools, and the breadth of industry interests that should be represented in the conflict-resolution organization. The Commission is disappointed that the facilitation process was unsuccessful. Nonetheless, the parties’ efforts to reach agreement were significant and should receive consideration throughout the ongoing legislative process in which this Committee is engaged.

Although the parties have failed to reach agreement, the parties' work thus far could provide the basis for a solution to this issue. The Commission continues to believe that, in the long run, a voluntary, self-regulatory approach is the best solution to the concerns that have been raised. If the Congress determines, however, that legislation is appropriate, the Commission believes it is important that the resolution of particular disputes be decided and implemented by industry participants rather than the government. Further, any governmental intervention in this area requires great care to avoid unnecessary impact on existing markets. The Commission is concerned that a mandatory, uniform approach could result in higher costs for consumers and leave the industry less flexible to address a rapidly changing marketplace.

Mr. Chairman, members of the Subcommittee, thank you for providing the Federal Trade Commission the opportunity to appear before this Subcommittee. We look forward to working with you.