



February 2, 2024

Joel Christie
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

RE: Petition for Rulemaking of PIRG and iFixit Docket ID: FTC-2023-0077-001

Dear Mr. Christie:

The Specialty Equipment Market Association (SEMA) welcomes the opportunity to comment in response to the U.S. Public Interest Research Group (PIRG) and iFixit's Petition for Rulemaking to formalize the right to repair protections. SEMA firmly believes that the federal government must protect consumers' rights to decide where and with what parts they can use to repair, maintain, and modify their vehicles. In order for American consumers to truly have the right to repair their vehicle(s), it is critical that independent automotive businesses, including tool and parts manufacturers along with independent repair shops, have access to the information and data necessary to produce and install aftermarket parts, which is why the association has been a strong proponent of H.R. 906, the "Right to Equitable and Professional Auto Industry Repair Act" (REPAIR Act). We believe that the best way for the federal government to ensure the right to repair motor vehicles exists in the U.S. is for Congress to pass the REPAIR Act, which instructs the Federal Trade Commission (FTC) and the National Highway Traffic Safety Administration (NHTSA) to write regulations to implement the law. However, SEMA supports PIRG and iFixit's request for rulemaking and defers to the FTC on whether the agency has the authority to formally issue a proposed rule.

Background on SEMA

SEMA is a non-profit trade association that represents over 7,000 mostly small businesses around the country that manufacture, distribute, and retail specialty parts and accessories for motor vehicles. The specialty automotive aftermarket industry supports over 1.3 million jobs across the U.S. and contributes over \$336 billion to the American economy each year through the production and sale of performance, functional, restoration and styling-enhancement products for use on passenger cars, trucks, SUVs, and special interest collector vehicles.

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SEMA members market products that enable automotive enthusiasts to personalize the style and upgrade the performance of their motor vehicles, including everything from classic cars to four-wheel drive vehicles to dedicated race cars. Consumers spent over \$52 billion on specialty aftermarket products last year alone.

SEMA helps our members and industry businesses produce, sell, and install parts and accessories that enable automotive enthusiasts to modify and repair their vehicles safely. Underscoring this commitment, the association has invested in SEMA Garages in California and Michigan that help our member companies produce specialty parts and products that improve performance while ensuring vehicles remain in compliance with emissions standards and safety laws. The SEMA Garage in Plymouth, Michigan, includes a 5,000-plus-square-foot ADAS Technology Center and provides engineering support to members through calibration tools, scanning, and training sessions. The SEMA Garage collects critical ADAS information from vehicles to aid our members in manufacturing safe and compliant aftermarket parts since most OE manufacturers will not provide this information to the industry. The cost of ADAS testing is significant, as one vehicle make, model, and trim with a single modification can range from \$25,000 to over \$100,000.

Importance of the Automotive Right to Repair

While advancements in motor vehicle technology are exciting and offer many benefits to consumers, we are deeply concerned that some automakers are obstructing the ability of aftermarket businesses to produce and install products that the American people want ranging from enhanced styling and safety features to products that increase the performance and comfort of a vehicle and even infotainment options. Accordingly, it is critical that aftermarket parts manufacturers, independent repair shops, and vehicle owners are able to access the information and tools needed to maintain, repair, and modify vehicles as automotive technology evolves on terms that are fair and reasonable.

Given the growing number of parts and products that interact with a vehicle's computer system, access to vehicle systems and telematics data, which is wirelessly transmitted exclusively to the vehicle manufacturer currently, is critical to ensuring vehicle owners can choose where they go to have their vehicles serviced, repaired, and customized. As motor vehicle technology continues to evolve, automotive enthusiasts, aftermarket performance and replacement part manufacturers, installers, and repair businesses must have access to the tools, information, and vehicle systems needed to work on and recalibrate vehicles, including those with advanced driver assistance features.

Direct access to vehicle data is under threat, given that over 50% of new vehicles transmit data wirelessly to the vehicle manufacturer. Vehicle owners and their repairers of choice are not currently able to access this data and information for their vehicles, which is critical to servicing modern vehicles. This problem will be exacerbated in the coming years, as McKinsey estimates that about 95% of new vehicles sold globally will have telematics by 2030.

The American people have traditionally embraced the choices they have when it comes to deciding where to have their vehicle(s) serviced or doing maintenance and repairs themselves, although it is undeniably getting more difficult for anyone other than OEM-authorized dealers to work on modern vehicles. Obstacles to repairing vehicles include:

- Access to scan tools. OEMs often charge unreasonable prices to small businesses that produce scan tools, simply because they know that these independent companies need and are willing to pay inflated prices for access to OEM information.
- Embedded electronics that are controlled by an OEM after purchase, which enable manufacturers to implement repair restrictions, including software locking tools that prevent repairs from being performed outside authorized channels.
- Service bulletins that disparage aftermarket parts.
- Turning off diagnostic lights after a repair is performed.

In addition to the increasing impediments to repairing vehicles, specialty aftermarket businesses that manufacture parts that upgrade the performance, reliability, and appearance by installing parts and products that interact with the electronic control unit (ECU), On-Board Diagnostics Systems (OBD), and ADAS of a vehicle face increasing hurdles designed to reduce competition. Specialty aftermarket companies need the information and vehicle access necessary to manufacture and safely install parts and equipment that accessorize and customize vehicles with ADAS. Accordingly, it is imperative that original equipment manufacturer (OEM) data from testing and system calibration is available and able to accommodate vehicle modifications to maintain the integrity and performance of safety systems after a vehicle has been modified.

While ADAS features such as lane departure warning, lane keep assist, forward collision warning, and automatic emergency braking are important safety features that are offered for most new vehicles, they are not currently standardized. Accordingly, automakers are not required to provide information to the aftermarket on the tolerance of this technology. SEMA has committed to helping our members understand how ADAS technology responds after a vehicle has been modified. Automakers should be required to provide access to this safety-critical information to ensure that ADAS features operate as designed throughout a vehicle's lifetime. For example, when a vehicle is modified in a way that impacts where a vehicle's sensors are pointing (i.e., roll, pitch, and yaw), automakers recommend that a recalibration is performed. However, vehicle manufacturers are not currently required to provide aftermarket businesses with instructions, application guides, proper mounting or functionality windows, or access to make changes outside of the original sensor location/configuration. This presents a challenge to correctly calibrate ADAS and ensure optimal performance after basic modifications, such as installing larger tires and wheels, lift kits, lowering kits, bumpers, grills, push bars, light bars, bike racks, and winches.

It is important that any federal actions, legislative or regulatory, compel automakers to provide information and a workable strategy to vehicle owners and their chosen aftermarket providers for accessing the systems (i.e. the code and calibrations in the electronic control modules) so that aftermarket businesses can make the modifications that are necessary to keep vehicles in compliance with safety regulations.

History of Automotive Right to Repair

Automotive right to repair has been debated by state and federal lawmakers since the early 2000s. The Motor Vehicles Right to Repair Act made significant progress in Congress in the

early 2000s and put the issue at the forefront of consumers, automakers, and independent repair companies, although it did not become law. The energy behind the Right to Automotive Repair then shifted to Massachusetts when over 86% of voters in the Commonwealth passed a ballot initiative in 2012. The Massachusetts ballot initiative was reconciled with a bill enacted by the Governor in 2013 to require automakers to use a nonproprietary standard for their onboard diagnostics port — that physical port used by dealerships to retrieve data. The result meant that car owners no longer had to go to a dealership if their check engine light went on and instead could have their local mechanic diagnose and service their vehicles. While it was a major step in the right to repair movement, the ballot initiative exempted wirelessly transmitted data.

In an effort to standardize requirements from that initiative, the Alliance of Automobile Manufacturers, the Association of Global Automakers, the Automotive Aftermarket Industry Association (AAIA), and the Coalition for Auto Repair Equality (CARE) signed a Memorandum of Understanding (MOU) in 2014 whereby the automakers agreed to follow the requirements of the Massachusetts right to repair law on a nationwide basis. The agreement ensured access to service information, tools, and software needed to work on late-model computer-controlled vehicles. However, the MOU did not include the right to access any vehicle data generated and transmitted through the telematics system, which is the information that is first detected by a car and then transmitted wirelessly elsewhere. The shortcomings of the 2014 MOU led Massachusetts to pass a new ballot initiative in 2020, with 75% supporting the need to expand the right-to-repair protections to include access to the telematics system.

President Biden issued a sweeping Executive Order in 2021 directing the federal government to increase antitrust enforcement and regulation. The order included a directive encouraging the FTC to “limit powerful equipment manufacturers from restricting people’s ability to use independent repair shops or do DIY repairs.” SEMA commends the FTC for issuing the [“Nixing the Fix”](#) report to Congress, which identified anti-competitive repair restrictions employed by manufacturers for a wide-range of products from automobiles and mobile phones to printers and computers.

After years of delay in court, the 2020 Massachusetts Right to Repair law was finally implemented in 2023 when the Attorney General of Massachusetts directed the Data Access Law to go into effect on June 1, 2023. In November 2023, Maine became the second state to pass the Right to Repair ballot measure, with 84% of voters supporting a similar measure that Massachusetts passed into law.

2023 was also significant on the automotive right to repair front, with the U.S. House Energy & Commerce Committee’s Innovation, Data, and Commerce Subcommittee holding a hearing on H.R. 906, the REPAIR Act, in September and passing the bill in November. Additionally, the Automotive Service Association, the Society of Collision Repair Specialists, and the Alliance for Automotive Innovation signed an MOU on the right to repair in July 2023 that updated the 2014 national MOU between automakers and the independent repair industry. However, the 2023 MOU has not been embraced by a majority of the aftermarket industry because it is not enforceable, does not require all motor vehicle manufacturers sold in the U.S. to comply, provides access only to telematics data that is available through the OBDII port, does not provide vehicle owners and the aftermarket

with direct access to telematic and repair data, and it excludes motorcycles, medium- and heavy-duty vehicles from any such agreement. While the MOU is a step in the right direction, it does not provide the full protections needed to maintain a competitive repair and modification market in the future.

Legislative Efforts to Codify Automotive Right to Repair

SEMA strongly supports H.R. 906, the REPAIR Act, which is designed to ensure that enthusiasts, repair shops, and aftermarket manufacturers of replacement parts have access to the information and tools that are needed to maintain motor vehicles as technology evolves. The bipartisan bill protects consumers' rights to decide where and with what parts to repair and maintain their vehicles. The REPAIR Act was reintroduced in early 2023 by U.S. Representative Neal Dunn (R-FL) and currently has 48 bipartisan cosponsors, which are evenly split between Republican and Democratic supporters. The legislation now awaits a vote by the House Energy and Commerce Committee.

Key REPAIR Act Provisions

- Prohibits vehicle manufacturers from imposing technological or legal barriers that block aftermarket replacement part manufacturers from accessing critical information and tools necessary to develop interoperable products with emerging vehicle technology.
- Establishes the right for replacement part manufacturers and independent repair shops to access critical information, tools, and equipment needed to maintain vehicles.
- Requires companies producing vehicles equipped with telematics to make any critical repair information tools available to replacement part manufacturers and repair facilities at a fair and reasonable cost.
- Provides vehicle owners with data and information wirelessly generated by their vehicles.
- Establishes a right for vehicle owners to securely share their vehicle's repair and maintenance data with their repairer of choice.
- Requires the National Highway Traffic Safety Administration to issue standards for access to vehicle data through a standardized access platform.
- Requires the FTC to establish an advisory committee to recommend implementing this bill and assess and report on existing and emerging barriers to vehicle repair and vehicle owners' control over their vehicle-generated data. The bill provides authority for the commission to enforce these requirements.

Importance of Automotive Repair and Modification Protections

SEMA is committed to ensuring that our member companies have the information and vehicle access necessary to manufacture and safely install parts and equipment that accessorizes and customizes vehicles. Our member companies are bound by the "make inoperative" provision (49 U.S.C. 30112) of the Motor Vehicle Safety Act, which prohibits a

manufacturer, distributor, dealer, or motor vehicle repair business from knowingly making inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard. Accordingly, it is imperative that OEM data from testing and system calibration is available and able to accommodate vehicle modifications to maintain the integrity and performance of safety systems after a vehicle has been modified.

Conclusion

SEMA appreciates the opportunity to comment on the petition for rulemaking and welcomes the Commission's consideration as it decides how it can work to protect consumers' right to decide where and with what parts are used to repair, maintain, and modify their vehicles. If you have any questions about the comments, please feel free to contact me at MikeS@sema.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Spagnola", with a long horizontal flourish underneath.

Mike Spagnola
President & CEO
Specialty Equipment Market Association (SEMA)