

# BULLETIN

## Industry Divisions



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The VACC congratulates the Federal Government on the release of the draft legislation to mandate access to motor vehicle service and repair information. It's a fantastic result for the automotive service and repair industry after many years of lobbying by VACC, the Motor Trades Association of Australia (MTAA) and other industry stakeholders.

In what has been an exhaustive campaign since the recommendation by the ACCC in its 2017 New Car Retailing Industry Market Study final report that a mandatory scheme be introduced for car manufacturers to share technical with independent repairers, on commercially fair and reasonable terms. The Government has now taken affirmative action on its commitment to ensure a level playing field for all participants including providing independent repairers with fair access to information you need to do your job.

The Department of Treasury is seeking feedback from interested parties on the draft exposure Motor Vehicle Service and Repair Information Sharing Scheme. The consultation period closes on 31 January 2021 after which it will be submitted to the Australian Parliament for Royal Assent.

To make a submission go to: <https://treasury.gov.au/consultation/c2020-128289>

### What does this mean?

The Government has proposed, this legislation will be added as an amendment to the Competition and Consumer Act 2010.

The objects of the draft legislation are to:

- promote competition between Australian repairers of passenger and light goods motor vehicles and establish a fair playing field by mandating access to diagnostic, repair and servicing information on fair and reasonable commercial terms;
- enable consumers to have those vehicles repaired by an Australian repairer of their choice who can provide effective and safe services;
- encourage the provision of accessible and affordable diagnostic, repair and servicing information to Australian repairers, and to registered training organisations (for training purposes);
- protect safety and security information about those vehicles to ensure the safety and security of consumers, information users and the general public; and
- provide for the resolution of disputes about the terms and conditions of supply or proposed supply of diagnostic, repair and servicing information for those vehicles and other relevant matters.

### What repair information are automakers obligated to make available?

Automakers will be required to make all service and repair information provided to their car dealership networks and preferred repairers to independent repairers and registered training organisations for purchase on fair and reasonable terms. This relates to passenger and light commercial vehicles manufactured from 2002 as defined in the Vehicle Standards Act 1989, including four-wheel drive passenger vehicles, vans and utility vehicles.

Access to security and safety related repair information will require certain repairers to meet certain criteria. This is currently under development.

The following are examples of what is considered repair information under this draft legislation:

- manuals and procedures, including repair manuals, technical service bulletins, wiring diagrams, technical specifications for components and lubricants and testing procedures (including in relation to environmental performance);
- information and codes for computerised systems (such as information that may appear on board a vehicle after being plugged into a computer system, for example, an error code);
- the electronic logbook or specific service and repair information about a particular scheme vehicle.

Exclusions include:

- a trade secret;
- any intellectual property other than intellectual property protected by the Copyright Act;
- a source code version of a program (code used to develop a computer program that is readable by natural persons);
- telemetry (an automatic transmission of data from a remote source to a control centre, for example, a vehicle automatically sending engine performance information to the vehicle's manufacturer);
- information only provided to a restricted number of selected repairers for the purposes of developing solutions to emerging or unexpected faults;
- commercially sensitive information about an agreement between the data provider and another person (for example, information in an agreement between a manufacturer and dealer about dealership obligations when conducting diagnostic, servicing or repair activities); or
- information relating to the automated driving system in an automated vehicle (that is, SAE level of 3 or greater under the Surface Vehicle Information Report J3016 as updated from time to time).

The draft legislation does not cover two or three wheeled vehicles, farm, construction or heavy vehicles, motor homes or buses although there are provisions within to enable other vehicles types to be included at a later date.

### Why the need for legislation?

The ACCC published in its New Car Retailing Market Study final report in December 2017 that the Heads of Agreement on Access to Service and Repair Information for Motor Vehicles signed in 2014 was ineffective resulting in competition barriers and impacting consumers choice of repairer. It also found that limited access to the provision of service and repair information causes detriment to consumers through increased costs, inconvenience and delays when having their vehicle repaired or serviced by an independent repairer.

Following extensive consultations, the Government announced in October 2019 that it would progress the scheme through primary legislation.

Read, The Hon Michael Sukkar MP Media Release [here](#).

Read, MTAA Media Release [here](#).

Read VACC Media Release [here](#).

VACC will keep members updated on any further developments regarding this draft legislation however feel free to contact me directly if you wish to discuss the matter or if you have any questions.

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