
Mandatory Scheme for
the Sharing of Motor
Vehicle Service and
Repair Information
FCAI response to
Treasury Consultation
Paper



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1. EXECUTIVE SUMMARY

The Federal Chamber of Automotive Industries (FCAI) welcomes the opportunity to respond to the Commonwealth Treasury's *Consultation Paper Mandatory Scheme for the Sharing of Motor Vehicle Service and Repair Information*. The FCAI is the peak industry organisation representing the manufacturers and importers of passenger vehicles, light commercial vehicles and motorcycles in Australia.

The FCAI strongly supports a viable service and repair sector, which creates choice and competition for consumers. However, the industry places a high premium on security, environmental standards and the safety of motorists. Ultimately, the industry's number one concern is the safety of consumers and the occupational health and safety of practitioners who work on increasingly sophisticated vehicle technology supporting reduced emissions and improved road safety for users and pedestrians.

Protecting the safety of the consumer:

Motor vehicles are increasingly complex, particularly through the further development of advanced safety systems, electrified power trains and higher levels of autonomy from the driver. These technologies, such as battery electric vehicles, hydrogen fuel cell electric vehicles and level 3, 4 or 5 autonomous vehicles rely on cutting-edge systems that, if not administered correctly, pose risks to motorists/passengers, pedestrians and technicians. These systems require the necessary training and the tooling to ensure adequate safety for consumers, as well as the occupational health and safety of automotive technicians.

It is incumbent upon policy makers to ensure that safety of all stakeholders is an absolute prerequisite of any scheme. We understand that Government is considering a secure data release model for safety, security and environmental (SSE) service, diagnostic and repair information to ensure that the security and safety of vehicles is not compromised. This process requires serious consideration of the risks associated with such data being provided through this channel. This includes the safety of both consumers and those working in the automotive repair sector.

Network-wide notification:

Any mandatory service, diagnostic and repair information sharing regime needs to enable necessary problem investigative support practices to continue. Under existing and established processes, a vehicle's original equipment manufacturer (OEM) shares information with its authorised dealer network under the terms of an agreed franchise arrangement. Such arrangements enable OEMs to share information, which in numerous circumstances are not yet cleared for general distribution to the public domain. This information can be used to inform an investigation on particular models to help target and identify problems – prior to notifying the broader network of corrective actions through a technical service bulletin (TSB).

Mandatory service, diagnostic and repair data-sharing provisions should commence from the point that corrective services are communicated to the broad network of an OEM's authorised dealer network through a TSB. Any data shared between an OEM and select authorised dealers during the diagnostic process prior to issuance of the TSB is generally not for general distribution and broader issuance raises concerns regarding the legality/liability and veracity of advice. Furthermore, many repair techniques and changes are developed in offshore countries and Australian-based OEM representatives have limited control of the process or timing at a local level.

Adequately identifying and addressing market failure:

In developing any measure to address a market failure, it is essential that policymakers ensure that the benefits of the regulatory intervention outweigh the costs born as a result the measure.

Australia has a small, yet highly competitive and fragmented new car market by international standards. In 2018, 31 of the 55 active brands in the light vehicle market sold less than 4,000 vehicles nationwide for the year. As such, it is critical that any measure imposed on the industry is realistic and practical in light of the realities of Australia's new vehicle market. The Australian market is much smaller than the United States (US) and European Union (EU) markets, which are often used as benchmarks in these debates.

Magnitude of the issue internationally:

International examples of mandatory service, diagnostic and repair information sharing (such as in the EU and the US) demonstrate that the take-up rate by independent repairers is very low. This is also reflected in Australia where the market leader Toyota has developed and operated an information sharing platform since 2013. Despite its vehicles accounting for approximately 20 per cent of the Australian vehicle fleet (approximately three million vehicles), only 175 independent repairers' subscriptions to access this vehicle data in 2018. This represents a take-up rate of approximately 0.6 per cent of an estimated 30,000 independent repairers across Australia¹. In fact, only 719 subscriptions have been received since the platform's inception. Given the \$4.5 million start-up cost for Toyota's platform, this represents an enormous regulatory burden to address a **perceived** market failure. This raises the question over how regulation can be designed to efficiently and effectively address these issues.

Conclusion:

No regulation is without cost and the FCAI submits that this disproportionate regulatory burden would be far greater on low-volume brands across the highly-competitive Australian market. Ultimately, additional costs are born by the consumer and policymakers need to ensure that any mandatory information sharing regime can enable consumers to enjoy the benefits of competition – especially in the current tighter economic climate.

To summarise, the FCAI recommends that:

- 1.** Service, diagnostic and repair information included within a mandatory information sharing regime should only apply to vehicles sold in the market by OEM's and only that information that is presently cleared and issued to dealers in a network-wide arrangement.
- 2.** The primary objective of any mandatory service, diagnostic and repair information sharing regime should be to protect the safety of consumers and automotive technicians. As such,
 - Sensitive information associated with safety, security and environmental (SSE) features of a vehicle should be restricted to adequately qualified automotive technicians who utilise the correct tools and in the case of security, requires a secure data release model to be utilised;
 - SSE information should include modern automotive technologies that require specific training to ensure the safety of consumers and technicians. These technologies include, but are not limited to, high-voltage power systems for electrified power-trains, high-pressure systems associated with hydrogen fuel cells and advanced autonomous and connectivity technology; and
 - Other non-SSE information (general service, diagnostic and repair information) shared through a mandatory regime should only be required to be provided on commercial terms to entities with a commercial need for this information, including independent repair businesses, registered training organisations and third party data aggregators, should an OEM opt to utilise this route to market.
- 3.** Service, diagnostic and repair information shared through a mandatory regime should be for genuine service and repair or training activities only, and should not be open for further

¹ Figure provided by the Australian Automotive Aftermarket Association during the Treasury consultation process – February 2018

commercial purposes that risk violating a manufacturer's intellectual property, such as the manufacture of generic aftermarket parts and accessories.

- 4.** To limit regulatory burden on industry and consumers, the mandatory information sharing model should not be excessively prescriptive as information sharing channels need to be flexible and enable existing platforms outside of Australia to be leveraged. This is particularly important for low-volume brands.
 - Policy makers should consider a minimum annual sales threshold of 1,000 vehicles, unless adequate existing overseas systems can be effectively and efficiently utilised.
- 5.** The mandatory service, diagnostic and repair information sharing scheme should apply to vehicles available in Australia from up to ten years prior to the commencement of the code – which reflects the median fleet age.
- 6.** Nothing in this mandatory code should be read, interpreted or construed to abrogate, interfere with, contradict or alter the terms of any franchise agreement executed and in force between a dealer and a manufacturer.

2. BACKGROUND

The FCAI welcomes engagement on the sharing of automotive service, diagnostic and repair information. An effectively-trained and adequately tooled automotive repair sector is vital towards meeting the challenges associated with modern automotive technologies. Automotive manufacturers place a high premium on security, environmental standards and the safety of motorists. The safety of consumers and the occupational health and safety of practitioners who work on increasingly sophisticated vehicle technology should be fundamental to any government intervention in the automotive market.

From a broad perspective, the FCAI challenges the notion contained within in the Australian Competition and Consumer Commission's (ACCC) December 2017 *New Car Retailing Industry Market Study* ("the ACCC Market Study") that the existing voluntary Heads of Agreement is ineffective. The current voluntary arrangement provides a comprehensive platform for repairers to access to service, diagnostic and repair information and is a strong starting point for this consultation process.

This submission responds to definitions provided in the Consultation paper, which are referenced and numbered in accordance with the Consultation Paper document.

Proposed definition for discussion:

2.6 The Government has committed to supporting appropriate commercial dealing and competition in the new car retail supply chain for the benefit of both small businesses and consumers. This includes considering the design of a mandatory scheme for access to motor vehicle service and repair information. This scheme would provide a level playing field in the sector and ensure consumers can have their vehicles safely repaired by the repairer of their choice. In developing this scheme, the Government will also carefully consider data access eligibility requirements, such as appropriate skills, training and equipment, to ensure that repairers are able to repair cars safely and securely using this information.

FCAI Comment:

The FCAI supports a viable service and repair sector, which creates choice and competition for consumers. As previously stated, the industry places a high premium on security, environmental standards and the safety of motorists. Ultimately, the industry's number one concern is the safety of consumers and the occupational health and safety of practitioners who work on increasingly sophisticated vehicle technology.

Throughout Australia there are various different state-based requirements for those practitioners undertaking vehicle servicing and repairs, this poses a number of challenges especially when considering emerging technologies such as hybrid vehicles, battery-electric vehicles (BEV) and hydrogen fuel cell electric vehicle (HFCEV) technologies that require specific training and, in some cases, require repair facility upgrades to safely manage these advanced powertrains.

The primary obligation and role of any service or repair agent is to ensure that the safety of the consumer is paramount, identifying unsafe issues and safely repairing them. Considering these issues, the FCAI argues that it is incumbent on policy makers to ensure that safety of all stakeholders is not compromised in any way and therefore we fully support developing appropriate data access requirements based on skills, training, facilities and equipment.

As a general principle, the FCAI submits that a mandatory information sharing regime should only capture service, diagnostic and repair information that is already shared between a vehicle's original equipment manufacturer (OEM) and its authorised dealers. Service, diagnostic and repair

information that is not available to authorised dealers for the purpose of servicing and repairing vehicles should not be captured by a mandatory regime.

Furthermore, OEMs and prospective participants in a mandatory information sharing regime will require sufficient time to implement electronic mandatory service, diagnostic and repair information sharing platforms that can leverage existing infrastructure within Australia and internationally.

3. PRINCIPLES AND FEATURES OF A MANDATORY CODE?

Proposed definition for discussion:

- 3.1. The objectives of the Code would be to:
- a. enable consumers to have their vehicle repaired by the repairer of their choice who can provide professional and safe service and repair services;
 - b. mandate access to service and repair information on fair and reasonable commercial terms to allow all repairers to compete on a fair playing field;
 - c. protect vehicle security, environmental and safety information and ensure the safety of consumers and the general public;
 - d. ensure fair and reasonable dealings between all parties in the motor vehicle service and repair industry including facilitating adequate dispute resolution and protecting intellectual property; and
 - e. provide a fair and transparent mechanism for industry to contribute to the development and implementation of service and repair information sharing rules and mechanisms.

FCAI response:

The objectives of the code are a vital first step to ensure that a Code enshrines all of the elements necessary to provide a level playing field for independent repairers and franchised automotive repairers and therefore we propose the following objectives;

Proposed revised wording for 3.1:

- a) "Enable consumers to have their vehicle repaired by the repairer of their choice who can provide professional and safe service, diagnostic and repair services *utilising manufacturer-provided technical and service information;*"

FCAI comment: it is important that a mandatory code captures the correct service, diagnostic and repair information that is suitable to the Australian market and consistent with information provided to authorised dealers. The separate objectives should be clearly captured in the following revised wording.

- c) "Protect vehicle security, environmental and safety information and ensure the safety of consumers, the general public *and those parties providing service and repair services and;*
c1). Protect vehicle security information to ensure that OEM theft prevention measures are not compromised by the sharing of technical service, diagnostic and repair information; and
c-2) Protect vehicle environmental and safety information that ensures the safety of consumers, the general public and those parties providing service and repair services."

Scope

Proposed definition for discussion:

- 3.4. The Code would apply to new passenger and light goods vehicles, as defined in the *Vehicle Standard (Australian Design Rule - Definitions and Vehicle Categories) 2005*.² This definition captures passenger cars and off-road passenger vehicles (such as four-wheel drive vehicles), as well as vehicles designed for transport of goods with a gross vehicle

² <https://www.legislation.gov.au/Details/F2016C00487>; the Code would cover vehicles in categories described by clauses 4.3 or 4.5.5 only.

mass of up to 3.5 tonnes. It would cover most vehicles manufactured primarily for use on public roads including four-wheel drive passenger vehicles, vans and utility vehicles.

- 3.5. The Government is considering whether the Code could apply only to new vehicles made available for sale after the Code has come into effect, or could apply a different criterion including vehicles sold before that date. The Government would engage closely with industry on this issue prior to implementing a Code.

FCAI response:

The FCAI recommends the revised wording to the definition as follows – with changes in italics;

- 3.4: “The Code would apply to new passenger and light goods vehicles *originally sold in Australia as a new vehicle*, as defined in the *Vehicle Standard (Australian Design Rule - Definitions and Vehicle Categories)* 2005 where the total volume of vehicles sold by a brand exceeds 1000 vehicles per year”

It is important that the definition does not include vehicles that were originally a private import that was not originally sold as a new vehicle in Australia within OEM obligations. Australian OEMs can only be responsible for information that is designed for Australian market specifications. Additionally, considering the regulatory cost burden, OEMs with extremely low sales volumes in Australia (1,000 vehicles or less per annum) should be exempted from this regime.

Any extension of the scope of coverage to other vehicle categories such as heavy commercial vehicles (trucks), motorcycles and all-terrain/side-by-side vehicles and farm machinery should be considered on the individual merits of these vehicles at a later date in future. The FCAI, who represent the importers and distributors of motorcycles and all-terrain/side-by-side vehicles, notes that these vehicle categories are subject to considerably different market dynamics and separate analysis would be required to determine and quantify whether a market failure exists to warrant government regulatory intervention.

- 3.5 The FCAI proposes that the sharing of service, diagnostic and repair information should only apply to vehicles sold after the code has come in to effect. For vehicles sold prior to the commencement of the code, the scope should be limited to the provisions of service and repair manuals only. The retrospective period should extend back one model change prior to commencement – to a maximum of ten years. This period captures the full life-cycle of most vehicles in the market, and extends to the approximate median age of the Australian vehicle fleet (10.1 years in 2018³).

Additionally, the FCAI proposes that there should be a sunset clause on the requirement for manufacturers to maintain service and repair information for specific vehicle models. Maintaining this information over the longer term requires information technology (IT) and labour resources. As technology changes over time, the ability of newer systems to operate with archaic software programs may be problematic in the future. As vehicles age beyond their design life, diminishing requirements exist for service and repair information. Therefore, the FCAI recommends that when a model exceeds 20 years from the last date of sale, the requirement for OEM manufacturers to maintain the service and repair information should cease to be required by this code.

³ Australian Bureau of Statistics, Motor Vehicle Census, Australia, 31 January 2018, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/9309.0/>

Sharing of Diagnostic, repair and Servicing Information

Proposed definition for discussion:

- 3.7. The Code would require manufacturers to make the diagnostic, repair and servicing information and tools that it makes available to its dealers available for purchase by suitable purchasers, who may include businesses (e.g. repairers or data aggregators), individuals and vehicle owners.

FCAI response:

FCAI urges that in many instances only qualified personnel who have necessary trade qualifications should be entitled to access the service, diagnostic and repair information required to “service or repair motor vehicles”. This is critical to ensure consumer safety as well as the occupational health and safety requirements for automotive technicians working on vehicles as well as staff of businesses that may be affected.

Suitable participants within a mandatory code:

Motor vehicles are complex and increasingly sophisticated machines, and safety is a key priority irrespective of the service, diagnostic and repair information provided. Unlike information designed for untrained consumers (such as an owner’s manual or warning stickers affixed to the vehicle), information provided to repairers through service manuals and TSBs are designed for an educated recipient. As such, these materials assume a degree of qualification to be interpreted correctly – such as cooling engines, properly disconnecting electrics and ensuring that a vehicle is in a safe position before undertaking service or repair activities.

As a starting point, signatories to any mandatory code must be able to demonstrate need to access the information. Potential legitimate participants in a mandatory regime include the following:

1. Technicians generally in automotive trades such as;
 - a. Automotive Technicians
 - b. Automotive Electricians
 - c. Panel Beaters
 - d. Spray Painters
 - e. Accessory Fitters
 - f. Body Builders
2. Education institutions, such as TAFE or registered training organisations, involved in the training of automotive trades.
3. Emergency services personnel involved in providing First Responder assistance involving vehicle accidents.
4. Road Safety organisations

Participants in the code should ensure that they possess the suitable and current skills (such as a Certificate III in the necessary discipline or recognised trade qualification) to maintain vehicle safety. Where SSE service, diagnostic and repair information is involved, participants must be able to demonstrate/verify necessary qualifications as well as meeting security-style background and character checks to ensure integrity. Where the service, diagnostic and repair information is not of an SSE nature, participants should demonstrate that they are a suitable entity to gain access to this general information.

Non-suitable participants within a mandatory code:

The FCAI submits that the following should not be included within the scope of a mandatory code:

1. Individuals, such as car enthusiasts;

Whilst many individuals may have considerable interest in maintaining and ‘tinkering’ with vehicles, the FCAI submits that the risks associated with OEMs providing service, diagnostic and repair information to unverified individuals poses an unnecessary risk to the safety of consumers, road users and the ‘do it yourself (DIY) technician’. If policy makers choose to extend the scope to individuals, this participant category should be required to provide documentary evidence of suitable qualification.

2. Other individuals or entities who seek to utilise service, diagnostic and repair information for commercial purposes other than to carry out genuine service and repair activities.

A mandatory code designed with the purpose of enabling access to automotive service and repair information should only be utilised for this core purpose. The code should not facilitate the use of service, diagnostic and repair information for other commercial purposes. The FCAI is concerned that access to this information by entities such as generic manufacturers of aftermarket scan tools, for the sole purpose of manufacturing generic aftermarket scan tools, risks violating and OEM’s intellectual property.

The need for adequate qualification and tooling:

The Consultation Paper lacks sufficient references to up-to-date training and the central importance of consumer and technician safety. There is presently no demonstrated need identified within the ACCC Market Study for individuals or owners to require this information. In Australia the safety of consumers is paramount and, in this case, should be the overarching objective of policy makers in developing a mandatory regime.

The complexity of vehicles particularly with the latest technologies such as hybrid and highly-electrified vehicles carry heightened level of risk. If adequate safeguards are not established now, the dangers to consumers and technicians are potentially catastrophic. This danger will grow further in the future given the direction and enhancement of automotive technologies.

Road safety organisations are targeting a “zero” road toll. As such, ensuring safe cars through qualified repair personnel should be an absolute priority. Therefore, we recommend that only appropriately licensed and/or trained personnel should have access to information available through a mandatory regime.

Finally, ‘information aggregators’ are individual businesses that compete directly with manufacturer information provision systems in the small Australian market (by comparison with US/EU markets).

Manufacturers should be free in an open market to make service and repair information available on fair and reasonable commercial terms. This could take place through either investment in their own information provision systems; or via third party information providers as they choose.

Requiring information to be provided through both methods is unnecessary duplication and potentially creates an unbalanced playing field. This may result in significant commercial loss when the information is already available on “fair and reasonable commercial terms”. The code should not be prescriptive, it should be based on the principle of fair and reasonable.

Proposed definition for discussion:

- 3.8. The Code would provide a principled definition of the information manufacturers must make available. This would require sharing of information:
 - a. necessary or useful for the safe and efficient conduct of service and repair activities;
or

- b. reasonably available to the owner of a vehicle being serviced or repaired by the person seeking the information and that is not:
 - c. a trade secret;
 - d. intellectual property of the manufacturer;
 - e. commercially sensitive; or
 - f. prohibited from being shared by any relevant privacy legislation.

FCAI response:

The FCAI considers that the following adjustments be made to this definition as follows:

3.8 a. “necessary for the safe and efficient conduct of service and repair activities”

FCAI comment: the word ‘useful’ is an arbitrary term and increases the likelihood of future conflict. It should be removed from the definition”

3.8 b. “reasonably available to the owner of a vehicle being serviced or repaired by the *suitably qualified agent* seeking the information”

FCAI comment: the definition must specify effective qualifications and standards by the recipient of the information.

3.8 f. “Information that a manufacturer is prohibited from disclosing under any law including privacy laws or under the terms of any agreement or contract (such as franchise or dealer agreements)”

FCAI comment: this is consistent with the approach in the United States.

Proposed definition for discussion:

- 3.9. Upon commencement, the core provisions of the Code would at a minimum specify that this definition of diagnostic, repair and servicing information includes:
- a. manuals and procedures such as repair manuals/updates, wiring diagrams, technical specifications for components and lubricants and testing procedures;
 - b. on-board information and telemetry, and codes for computerised systems (where necessary and appropriate for safe repair or service of the vehicle);
 - c. access to electronic log books/data for a particular vehicle where this information is needed to repair the vehicle or there is a need to update them; and
 - d. diagnostic, service and repair tools made available to dealerships.

FCAI response:

The FCAI considers that the following adjustments be made to this definition as follows:

Upon commencement, the core provisions of the Code would at a minimum specify that this definition of diagnostic, repair and servicing information “information” includes:

- a. “manuals and procedures such as repair manuals/technical updates, wiring diagrams, technical specifications for components, where required for conducting service and repair, and lubricants and testing procedures” and
- b. “On-board information and codes for computerised systems (where necessary for safe repair or service of the vehicles)”

As outlined in response to 3.7, it is important that the definition is targeted towards genuine service and repair activities, as opposed to broader commercial applications that seek to leverage the intellectual property of manufacturers for commercial gain.

Telemetry refers to Telematics and is usually involving significant personal data.

Additionally most modern vehicles are fitted with Event Data Recorders (EDR) that record the circumstances of a collision – this is personal data, not data required for service and repair and should not be included in this scheme.

- d. “diagnostic, service and repair tools made available to dealerships, except as follows;
- i. No manufacturer shall be prohibited from making proprietary tools available to franchised dealers if such tools are for a specific specialised diagnostic or repair procedure developed for the sole purpose of a customer service campaign, or performance of a specific technical service bulletin or recall after the vehicle was produced, and where original vehicle design was not originally intended for the requirement of this tool.
 - ii. OEM manufacturers provide franchised dealer help desk systems to assist with diagnosis/repair and warranty claim submissions, these systems would be excluded from the definition of “repair tools” or “information”

Proposed definition for discussion:

- 3.13. The Code would mandate fair and equal real time access to information for all repairers. It would adopt the principle that information should be available to all those who purchase it or are provided with it in the same form and manner, to the same extent and at the same time. This would mean that information covered by the Code and provided to dealerships would have to be concurrently made generally available.
- 3.14. Manufacturers may need to work closely with authorised repairers and dealers to resolve an emerging technical issue prior to updating formal repair information such as service manuals. Delaying access to this information while a solution is being developed allows the manufacturer to ensure the effectiveness of information provided. However, it also creates an uneven playing field as independent repairs are not able to attempt repairs during this period until service manual updates are available.
- 3.15. The Government is considering requiring access to this information in real time but would seek advice on the timing of access to information from industry. For example, where delaying broader access to certain information is necessary to protect the safety of users, repairers or the general public. Where appropriate, a manufacturer may advise that the information that they are providing is not final and is still under development, noting that further updates may be available in the future (for example, finalised guidance on a known repair issue).

FCAI response:

The FCAI considers that the following adjustments be made to this definition as follows:

- 3.13 “The Code would mandate fair and equal real time access to “information” for all repairers”
Providing information to the aftermarket at exactly the same time as it provides to the Dealer network may be impractical especially where new model releases or other high-volume workload situations, this should be reworded to “as close as practicable” or similar as follows.
- 3.14 “Information exchanged between manufacturers, their distributors and agent, and an authorised dealer or any other party for the purpose of resolving a technical issue (whether

in general or related to a specific vehicle) for which there is no update of a service manual or Technical Bulletin published should be excluded.

In general, it is extremely unlikely to result in any consumer detriment as the vast majority of these issues usually occur within the new vehicle warranty or within the obligations of the Australian Consumer Law and therefore franchised dealers undertake repairs at no charge under these obligations.

In many instances the development of, and changes to, OEM repair techniques occurs offshore and Australia-based OEM representatives have limited control over the process or timing. It should also be noted that the service bulletin is the first document to be issued as soon as a rectification is determined which is generally followed up with a repair manual updates – these documents should all be shared in the same form and manner and at the same time.

- 3.15 “Service, diagnostic and repair information to be issued under the terms of a mandatory code should occur from, the point that information is cleared and issued to dealers in a network-wide arrangement. Mandatory sharing requirements will not apply to investigative service, diagnostic and repair activities prior to the technical resolution or diagnosis of an issue by an OEM.”

Issuing any investigative service, diagnostic and repair information through a mandatory regime prior to a technical resolution or diagnosis of an issue, problem or development is not practical. Furthermore, unless a manufacturer can vouch or verify this information, it is not appropriate for this information to be distributed and relied upon – especially when safety considerations are taken into account.

Restrictions for Safety, Security or Environmental (SSE) Information

Proposed definition for discussion:

- 3.16. The safety of repairers, users and the general public is of the utmost importance to Government. The Code would allow manufacturers to restrict access to SSE information. Restricting access to this information is essential in order to mitigate any public or personal safety or security risks and ensure repairs maintain environmental standards.
- 3.17. The Code would provide a principled definition of SSE information to which manufacturers would be able to restrict access. This would allow restriction of access to information where unrestricted access would have negative implications for the safety, security or environmental performance of a vehicle disproportionate to the usefulness of the information in the safe and responsible service or repair of the vehicle. This requirement would mean that manufacturers would not be required to provide access to SSE information to individuals or businesses lacking the appropriate skills to use it safely.
- 3.18. Upon commencement, the core provisions of the Code would, at a minimum, specify that this definition of SSE information includes:
- a. diagnostic service and repair information necessary to reset an immobiliser system or security related electronic modules, where it was made available through a secure information sharing system/requirements agreed to by the Minister; and
 - b. information that may result in non-compliance with relevant safety or environmental regulations or legislation.
- 3.19. The Code would also include a more detailed list of information covered by the definition, which would be reviewed regularly to ensure it remains fit-for-purpose and takes into account changes in technology and other industry developments.
- 3.20. Similar to changes to the list of diagnostic, repair and servicing information, the Minister will consult with stakeholders on whether the list of SSE information should be amended

to reflect any necessary changes, and consult publicly prior to making any changes to the Code.

FCAI response:

- 3.16 The FCAI strongly agrees with this concept and that in line with occupational health and safety regulations, safety must be of paramount importance.
- 3.17 The FCAI looks forward to working with stakeholders to develop this principled definition which would at a minimum restrict access to the following:
- a. Immobiliser reset systems;
 - b. Security related electronic control modules;
 - c. Any source code for software or full copies of any software programs;
 - d. Any information (including vehicle computer updates) that may result in non-compliance with any relevant safety, emission, Australian Design Rule (ADR) or any other legislation affecting motor vehicles or manufacturers compliance with applicable Federal, State, or Territory laws, or compliance with any relevant Code of Conduct;
 - e. Intellectual property of a manufacturer (other than information that is produced specifically for service, repair and maintenance purposes) or any information that might disclose intellectual property, trade secrets or confidential information of a manufacturer;
 - f. Information required to diagnose and repair advanced technologies where significant consumer and/or repairer risk exists;
 - g. Information regarding the structural components of a vehicle; and
 - h. Modern automotive technologies requiring mandatory training to ensure safety, including but not limited to, high-voltage power systems for electrified power trains, high-pressure systems associated with hydrogen fuel cells and advanced autonomous and connectivity technology.
- 3.18 This provision for providing security information requires the government to oversee the set up a secure data sharing system that would involve the following:
- a. System to be set up and administered appropriately with a feedback system to monitor non-compliance;
 - b. Registration system for appropriately qualified businesses;
 - c. Registration system for eligible “technicians” at least involving minimum credentials and police background checks at routine intervals similar to other approvals provided by governments (i.e. Working with children test)

Eligibility to access SSE information

Proposed definition for discussion:

- 3.24. The Government is considering criteria for accessing this information including having a genuine reason for accessing the information and:
- a. being a person, licensed workshop or business with an appropriate vocational tertiary or professional qualification; or
 - b. having demonstrable knowledge, experience and/or skills.
- 3.25. The Government is also considering whether different levels or skills and training are required for different types of SSE information. For example, some information may be accessible if the repairer has the appropriate tools, whereas other SSE information may

require a certain level of training as it presents a high safety risk due to the technicality of repair required.

FCAI response:

- 3.24 FCAI recommends that the criteria required to be considered should include at a minimum the following;
- a. having a genuine reason to access SSE information
 - b. being a person, licensed workshop or business with an appropriate vocational tertiary or professional qualification with an approved membership affiliation.
 - c. For Security Information require police check with no undesirable history (theft, criminal history, undischarged bankruptcy) and a routine update (not just a once off)
 - d. Businesses registered with an ABN/ACN only

The FCAI does not agree with allowing individuals or businesses that do not have an appropriate qualification and only exhibit demonstrable knowledge, experience and/or skills. In many cases demonstrable knowledge can be well out of date. This is particularly the case with respect to electronic drive train technology, for which there is currently no nationally-recognised compliance certification available to technicians employed by independent workshops.

- 3.25 Emerging technologies such as BEV / Hybrid / HFCEV require specialised training in order to protect consumers, technicians and workshop proprietors from death and injury that can occur from untrained or ill-equipped personnel attempting service or repair.
1. Hybrid vehicles currently have batteries and components that utilise voltages ranging between 375V⁴ 650V⁵ range and of course this may increase in the future
 - a. For reference the household voltage in Australia is 230V⁶.
 - b. Contact with high voltages 375 - 650V is an electrocution risk.
 2. Hybrid vehicles use internal combustion engines to charge the battery as well as for motion, this means that the engine starts automatically when the battery is low if the ignition is in "ready mode" increasing the risks of physical injury when untrained personnel service or repair the vehicle.
 3. Hybrid or Electric vehicle batteries require particular handling techniques to deal with the chemicals involved in the event of a leak.
 - a. Nickel Metal Hydride batteries can result in Alkaline burns.
 - b. Lithium batteries can explode when in contact with ferrous materials and lithium is a fire hazard in the presence of moisture.
 4. Hydrogen fuel cell vehicles, in addition to the electrical risks highlighted in II & III, have the added risks of;
 - a. Extreme pressure of Hydrogen Fuel Cell typically 70 Mpa ⁷(approx. 10,000psi) for reference vehicle tyres are typically inflated to 32psi or 0.22Mpa. These pressures need careful management to negate personal injury.
 - b. Workshops and repair centres need to be designed to vent hydrogen in the event of a leak to prevent combustion risks this is similar to workshop registrations required for workshops and technicians engaging in LPG repairs.

⁴ Tesla Model S Battery Voltage

⁵ Toyota Camry Hybrid Inverter Voltage

⁶ Australian Standard AS/NZS_3112

⁷ Toyota Mirai fuel cell pressure

- c. OEM technicians are trained and approved workshops are set up to manage these emerging technologies prior to vehicle introduction. Technicians employed by OEM authorised dealers are required to undertake specific in-depth training, which must be renewed on a regular basis (for example every two years). Technicians at OEM authorised dealers who have not achieved certifications are not allowed to undertake certain repairs for advanced-technology cars.

Access to Information - Mechanism

Proposed definition for discussion:

- 3.1. Manufacturers would be responsible for setting up systems to allow access to information covered by the Code. These systems should ensure information is provided in the same form and manner, to the same extent and at the same time to all who purchase or are provided with it.
- 3.2. The Code would not mandate how manufacturers provide access to the information but the Government is considering mandating access principles to ensure there are no undue barriers to access. Manufacturers could elect to use existing mechanisms or develop their own systems. Alternatively, industry could opt to work together on a unified access approach (such as an information portal similar to the secure data release mechanism administered by the National Automotive Service Task Force in the United States of America).

FCAI response:

FCAI agrees that manufacturers are best placed to set up systems for access to service, diagnostic and repair information covered by the code. It is envisaged that manufacturers may elect to decide on a range of solutions based on the unique circumstances of the manufacturer. Flexibility in adapting existing platforms that exist outside of Australia will be essential to enable OEMs, particularly those with lower sales volumes in Australia, to minimise the regulatory burden arising through a mandatory code.

There should be no undue barriers and that the access should provide the same service, diagnostic and repair information as that is issued in a network-wide arrangement to franchised authorised dealers and from a timing perspective we recommend “as soon as practicable”.

Terms of Access

Proposed definition for discussion:

- 3.29. The Code would ensure manufacturers are fairly compensated for the provision of information and sale of tools. It would aim to ensure that purchasing access to information or tools occurred in a consistent manner and on fair and reasonable commercial terms. The Code would not specify fees and charges but manufacturers would need to justify their costs as being fair and reasonable.
- 3.30. The Code would specify factors relevant when considering whether fees and charges are fair and reasonable, including:
 - a. the cost to manufacturers of providing the information (which may vary by distribution method);
 - b. the cost of similar information charged to manufacturer-affiliated or franchised dealerships and repairers in other countries;
 - c. the expected use by the information purchaser (number of users, frequency, duration and volume); and
 - d. the extent to which pricing may prevent or limit purchase unfairly or unreasonably.

FCAI response:

Manufacturers should be fairly compensated for the provision of information and sale of tools. The FCAI points out that there are significant differences between the Australian market and other overseas jurisdictions which need to be considered.

The FCAI considers the global principle of “user pays” should be the basis of any free market charging model. A mandatory code should not dictate price controls, which should be determined between OEMs and recipients according to the market. However, there are numerous factors that will need to be taken in to account when determining what is reasonable and fair:

1. The Australian population is significantly different to overseas jurisdictions and therefore the number of repairers in the Australian automotive aftermarket is significantly less as a result;

a. Population estimates 2018⁸

- i.** Australian population: approximately 25 million;
- ii.** US population: approximately 325 million; and
- iii.** EU Population: approximately 742 million.

Therefore, direct comparisons with costs charged in both the United States and Europe are not appropriate for a small market such as Australia with 1/13th of the US population and 1/30th of the European population.

2. The market size of the manufacturer will be very relevant in determining the likely take-up rate of subscriptions and therefore affects cost amortisation.

a. Large market share companies’ costs are likely to be amortised quicker than smaller market size companies – noting Australia’s highly competitive new vehicle market with a large number of brands by international standards.

b. The number of models that a manufacturer retails in the Australian market will affect the number of manuals required to be made available.

c. Small niche manufacturers may have much larger costs as a result of limited models and market share.

3. The cost to the manufacturer for preparing and distributing the information, excluding any research and development costs incurred in designing and implementing, upgrading or altering the on-board computer and its software or any other vehicle component. Amortised capital costs for the preparation and distribution of the information should be included.

4. Some manufacturers may choose to make repair manuals available in other languages other than English, this would be considered a premium option.

5. Given that Australian local manufacturing no longer exists, all source information is obtained from overseas and therefore currency exchange rates need to be continually factored in.

6. Most manufacturers charge their franchised Dealers for this same information under the user pays model and this price could form the fundamental basis of any charging model.

a. It should be noted that authorised dealers are required to pay for 12-month subscriptions and are not offered daily / weekly / monthly subscriptions.

b. Existing charging models used by some OEM’s make yearly subscriptions the cheapest, while infrequent users pay more for their sporadic use (typically a volume discount).

7. The price charged by other manufacturers for similar information.

8. The price charged by manufacturers for similar information prior to the launch of manufacturers web sites.

9. The extent to which the information is used by the aftermarket, which includes the number of users, frequency, duration and volume of use.

⁸ UN estimates 2018

10. Inflation.

No regulation is without cost and as-such, the cost to access information borne by independent repairers should be considered an underlying business expense – just as it is for franchised dealers.

Obligations to act in good faith

Proposed definition for discussion:

- 3.3. The Government is also considering that for the purposes of the Code this would require all parties to make consumers aware of information regarding the service and repair of their vehicle, including whether a part to be used in repair or maintenance is recommended by the vehicle manufacturer.

FCAI Comment:

With the growing importance and role that parts, accessories and lubricants play in the correct operation of a modern vehicle this clause should be adjusted as follows;

- 3.3 “The Code would require all parties to make consumers aware of information regarding the service and repair of their vehicle, including whether a part, *accessory or lubricant* to be used in repair or maintenance is recommended by the vehicle manufacturer.”

The use of OEM-approved genuine parts is a critical element to reputable service and repair activities. OEM approved genuine parts have been specifically tested within the vehicle for Australian driving conditions. Service manuals are prepared by OEMs to the specification that genuine parts, accessories and lubricants are utilised and the use of generic aftermarket parts represents a deviation away from the intent of the service, diagnostic and repair information provided. Provision of a clear disclaimer to consumers is essential for consumer safety and transparency and the integrity of OEM-supplied service, diagnostic and repair information.

As with other sectors in Australia such as the pharmaceutical industry, all parties to a mandatory code should be required to advise consumers of whether a part, accessory or lubricant is OEM-recommended, or an aftermarket generic alternative, **prior to** undertaking the repair task.

Dispute Resolution and Mediation

FCAI Comment:

The FCAI agrees in principle that policy makers should avoid the need for standalone legislation and seek to introduce an independent resolution and mediation mechanism. It is essential that any independent mediatory appointed by the responsible Minister has extensive knowledge of the Australian automotive industry. Importantly, the independent mediator should have a fundamental understanding of the automotive market, the realities of the automotive supply chain and the Australian automotive aftermarket.

As part of the review process for the code, the Advisory Committee may want to investigate establishing a Dispute Resolution Panel, as is the case under the United States MoU.

Given the nature of Australia’s automotive market with some 55 light vehicle brands operating in a market of just over one million new vehicles per annum, it is essential that the a new mandatory scheme does not include penalties upon the commencement of the scheme.

4. SERVICE AND REPAIR INFORMATION SHARING ADVISORY COMMITTEE

Terms of Reference

Proposed definition for discussion:

- 3.1. The Committee would meet on a regular basis to discuss developments in the automotive sector and provide advice to the responsible Minister on potential updates to the Code as needed. This would include advice on:
 - a. definitions (including information covered by the Code and SSE information);
 - b. access principles for information covered by the Code (including advice on the timing of access) and access criteria for SSE information (including advice on secure information sharing requirements);
 - c. any other relevant matters relating to the Code or its operation deemed by the Committee to be important to advise the responsible Minister about; and
 - d. responses to requests from the responsible Minister for advice relating to the Code or its operation.

FCAI Comment:

The FCAI agrees in principle with the proposed membership for the service, diagnostic and repair information sharing advisory committee, which reflects the current membership of the Voluntary Heads of Agreement:

- the Federal Chamber of Automotive Industries;
- the Australian Automotive Dealer Association;
- the Australian Automotive Aftermarket Association;
- the Australian Automobile Association; and
- the Motor Trader Association of Australia.

The FCAI is concerned however that the proposed membership structure of the Advisory Committee is imbalanced in that manufacturers, although having the primary compliance requirements, are the least represented.

Given the role that the mandatory code will play in overseeing access to service, diagnostic and repair information for advanced technology, the FCAI recommends that the committee membership also include other bodies who can provide insights with respect to technology, safety and training such as the Institute of Automotive Mechanical Engineers (IAME). The ongoing administration and oversight by the committee must ensure that new technologies adopted are introduced to the Australian market with appropriate safeguards – especially where there is a gap arising through automotive training provided through the TAFE system for advanced technologies. In order to facilitate the introduction of skills required for these technologies, further research is required.

As part of its ongoing review process, the Committee should also review the operation of the code from the perspective of take up rate by the Automotive aftermarket repairers in determining current and future regulatory cost burdens. This is essential and should be a key factor in determining the long-term viability of the mandatory code.

5. QUESTIONS FOR CONSULTATION

5.1.a Are the elements set out in this paper appropriate as a starting point for developing and consulting on detailed provisions?

FCAI response:

Telematics services, or any other remote or information service, delivered to or derived from the vehicle by mobile communications generally relies heavily on the personal data of the vehicle owner. Therefore, the broad inclusion of telematics in a mandatory information sharing regime raises concerns regarding consumer privacy.

As is the case in the United States MoU, service, diagnostic and repair information available under the scheme will not include telematics data, except where that data is required to enact repairs and does not breach any laws in Australia

Whilst the elements as set out in this paper are an appropriate starting point for a mandatory code, the success of any code is dependent on all parties, including the aftermarket, utilising the information in good faith. Experience in both the Australian market and anecdotally from overseas jurisdictions has demonstrated minimal use by the aftermarket despite being available on commercially fair and reasonable terms.

For example, Toyota Australia invested in and implemented an online service and repair information portal in late 2013. Toyota have arguably accounted for 20 per cent, or one in five vehicles on Australian roads over 10 years. Subscription data demonstrates the following take-up⁹:

- Approximately 30,000 independent repair workshops exist in Australia.
- 2013 to 2019: 719 Independent repair workshops subscriptions received.
- 2013 to 2019: 91 per cent subscriptions were daily subscriptions.
- 2018: 1,448 total subscriptions from all users.
- 2018: 175 Independent repairers subscriptions received.

The above data demonstrates a minimal take up by the independent repair sector, with approximately 0.6 per cent of independent repairers choosing to invest in purchasing information for Australia's largest volume brand. This demonstrates the considerable regulatory and cost burden involved in providing service and repair data for what is expected to be an insignificant return on the initial or ongoing investment.

The regulatory burden would likely be considerably greater for low-volume brands – with a majority of brands (31 of 55) in Australia retailing less than 4,000 models in Australia throughout 2018.

5.1.b Would the elements set out in this paper provide significant improvement on the current voluntary scheme?

A mandatory information scheme has the potential to benefit the broader automotive repair sector, and therefore the consumer as long as the independent aftermarket repair sector utilises the information provided. However, safety is paramount and any mandatory scheme requires a commitment by all participating members to commit to utilising the information provided and ensure that there is transparency between consumers and repairers. Scheme participants should ensure that they are:

⁹ Figures as of 6 March 2019

1. Suitably qualified to undertake the servicing or repairs;
2. Utilise OEM-provided safety, diagnostic and repair information to undertake servicing or repairs; and
3. Advise consumers of the use of OEM-recommended parts, accessories and lubricants, or whether the repair is opting to use a aftermarket generic alternative **prior to** undertaking the repair task.

5.1.c Are the elements set out in this paper a suitable alternative to a legislated scheme, which would enable the creation of an industry-funded body to advise on the scheme but would be slower to implement and update?

A mandatory information scheme should not be prescriptive and should be based on the principle of fair and reasonable. Policy makers should endeavour to minimise the regulatory burden of a scheme on the industry – the cost of which will ultimately be borne by consumers. On this basis, an alternative arrangement to a legislated scheme is, in principle, preferable to new legislation.

It is essential that any mandatory information scheme acknowledges the reality of Australia’s automotive market. Australia has a population that is considerably smaller than the United States or the European Union, however the market is one of the most competitive in the advanced world. With 55 brands and over 400 model variants, there is considerable choice in the market yet a far smaller critical mass than in comparable larger markets. Therefore, it is essential that any mandatory scheme enables flexibility and for manufacturers to leverage existing investment in digital information sharing platforms – in Australia and internationally.

5.2.a Should vehicles made available for sale in Australia prior to the Code taking effect be covered by the scheme? If so, how?

To ensure efficient and effective commencement of a mandatory regime, the sharing of service, diagnostic and repair information should only apply to vehicles sold after the code has come in to effect. For vehicles sold prior to the commencement of the code, the scope should be limited to the provisions of service and repair manuals only. The retrospective period should extend back one model change prior to commencement – to a maximum of ten years. This period captures the full life-cycle of most vehicles in the market, and extends to the approximate median age of the Australian vehicle fleet (10.1 years).

The FCAI also proposes the inclusion of a sunset provision of 20 years, as a cap on the requirement for manufacturers to maintain service and repair information for specific vehicle models. Maintaining this information over the longer term requires IT and labour resources. As technology and e-commerce channels change over time, the ability of newer systems to operate with archaic software programs may be problematic in the future. As vehicles age beyond their design life, diminishing requirements exist for service and repair information.

5.2.b (i) What are your views on the principled definition of “information manufacturers must make available under the scheme”?

The FCAI submits that “information manufacturers must make available under the scheme” is:

Service, diagnostic and repair information that is in the possession of an OEM and that has been made available, from the point of network-wide notification, to authorised dealers by an OEM to enable safe repair of a vehicle, noting the following:

- a. Service, diagnostic and repair information available under the scheme will not include investigative information shared with select authorised dealers during the diagnostic process prior to the issuance of a TSB;
- b. SSE information should be provided only under a secure data release model to be confirmed that requires vetting procedures to be developed;
- c. As is the case in the United States MoU, service, diagnostic and repair information available under the scheme will not include telematics data, except where that data is required to enact repairs and does not breach any laws in Australia;
- d. Recalls and Special Service Campaign work instructions will not be provided under the scheme. OEM's are responsible for repairing such vehicles at no charge through their franchised authorised dealer network;
- e. Event Data Recorder (EDR) data is not shared with the Dealer network and is not required for safe service and repair of the vehicle.

5.2.b (ii) What are your views on the principled definition of "SSE information"?

The sensitive SSE information includes information, currently made available by an OEM to authorised dealers, which places obligations upon recipients governed by strict franchise agreements. Recipients should be automotive repair entities with sufficient technical qualification and in possession of the correct tools. With rapid advancement in automotive technology, it is vital that all mandatory regime participants can verify adequate qualifications and training on advanced technology features for highly-electrified vehicles (as outlined in paragraph 3.25), highly autonomous vehicles and advanced propulsion sources.

5.2.c What information should be included in more detailed lists of information included in the above definitions (i) and (ii)?

The FCAI looks forward to working with stakeholders to develop this principled definition of SSE information which would at a minimum include the following:

- a. Immobiliser reset systems;
- b. Security related electronic control modules;
- c. Any source code for software or full copies of any software programs;
- d. Any information (including vehicle computer updates) that may result in non-compliance with any relevant safety, emission, Australian Design Rules (ADR) or any other legislation affecting motor vehicles or manufacturers compliance with applicable Federal, State, or Territory laws, or compliance with any relevant Code of Conduct; or
- e. Intellectual property of a manufacturer (other than information that is produced specifically for service, repair and maintenance purposes) or any information that might disclose intellectual property, trade secrets or confidential information of a manufacturer
- f. Information required to diagnose and repair advanced technologies where significant consumer and/or repairer health and safety risk exists. This includes, but is not limited to, high-voltage power systems for electrified power trains, high-pressure systems associated with fuel cells and advanced autonomous and connectivity technology.

5.2.d What are your views on the principles guiding access to SSE information?

The FCAI looks forward to working with stakeholders to develop a principled definition however the minimum criteria to be considered should include the following;

- a. Having a genuine reason to access SSE information.
- a. Being a person, licensed workshop or business with an appropriate vocational tertiary or professional qualification with an approved membership affiliation.
- b. For Security Information require police check with no undesirable history (theft, criminal history, undischarged bankruptcy) and a routine update (not just a once off)
- c. Businesses registered with an ABN/ACN only, for the specific purpose of undertaking service and repair activities.

5.2.e What are your views on factors to be considered relevant to fair and reasonable prices for information?

Manufacturers should be fairly compensated for the provision of information and sale of tools. FCAI points out that there are significant differences between the Australian market and other overseas jurisdictions which need to be considered. The FCAI considers the global principle of “user pays” should be the basis of any free market charging model.

The FCAI believes that this proposal is a competition document and not one that should dictate price controls. However, as outlined in 5.1c, pricing models need to account for the reality of Australia’s highly competitive automotive market that is servicing a far smaller population base than larger advanced markets such as the European Union and the United States (as outlined in response to definitions 3.3 and 3.4).

5.2.f What are your views on the suitability of the dispute resolution and mediation process?

The FCAI agrees in principle that policy makers should avoid the need for standalone legislation and seek to introduce an independent resolution and mediation mechanism. It is essential that any independent mediatory appointed by the responsible Minister has extensive knowledge of global automotive industry. Importantly, the independent mediator should have a fundamental understanding of the global automotive market, the realities of the automotive supply chain and the Australian automotive aftermarket.

As part of the review process for the code, the Advisory Committee may want to investigate establishing a Dispute Resolution Panel, as is the case under the United States MoU.

Given the nature of Australia’s automotive market with 55 light vehicle brands operating in a market of just over one million new vehicles per annum, it is essential that the a new mandatory scheme does not include penalties upon the commencement of the scheme. The FCAI submits that the Advisory Committee and the Minister should closely monitor early take-up of the mandatory scheme before determining the introduction of a penalties regime. This early take up information will be critical to determining a proportional penalty response within a newly enacted intervention by government into the automotive market.

5.3 Are the suggested members of the Committee and the proposed terms of reference suitable?

The FCAI agrees in principle with the proposed membership for the service, diagnostic and repair information sharing advisory committee, which reflects the current membership of the Voluntary Heads of Agreement.

Given the role that the mandatory code will play in overseeing access to service, diagnostic and repair information for advanced technology, the FCAI recommends that the committee membership also include other bodies who can provide insights with respect to technology, safety and training. The ongoing administration and oversight by the committee must ensure that new technologies adopted are introduced to the Australian market with appropriate safeguards – especially where there is a gap arising through automotive training provided through the TAFE system for advanced technologies.

As part of its ongoing review process, the Committee should also review the operation of the code from the perspective of take up rate by the Automotive aftermarket repairers in determining current and future regulatory cost burdens. This is essential and should be a key factor in determining the long-term viability of the mandatory code. The regulatory burden will not be known until after the regulations and details of the scheme are fully developed.

6. KEY RECOMMENDATIONS

Conclusion:

The FCAI supports a viable service and repair sector, which creates choice and competition for consumers. However, the industry places a high premium on security, environmental standards and the safety of motorists. Ultimately, the industry's number one concern is the safety of consumers and the occupational health and safety of practitioners who work on increasingly sophisticated vehicle technology supporting reduced emissions and improved road safety for road users.

No regulation is without cost and the FCAI submits that this disproportionate regulatory burden would be far greater on low-volume brands across the highly-competitive Australian market. Ultimately, additional costs are born by the consumer and policymakers need to ensure that any mandatory information sharing regime can enable consumers to enjoy the benefits of competition – especially in the current tighter economic climate.

Key recommendations:

1. Service, diagnostic and repair information included within a mandatory information sharing regime should only apply to vehicles sold in the market by OEM's and only that information that is presently cleared and issued to dealers in a network-wide arrangement.
2. The primary objective of any mandatory service, diagnostic and repair information sharing regime should be to protect the safety of consumers and automotive technicians. As such,
 - Sensitive information associated with safety, security and environmental (SSE) features of a vehicle should be restricted to adequately qualified automotive technicians who utilise the correct tools and in the case of security, requires a secure data release model to be utilised;
 - SSE information should include modern automotive technologies that require specific training to ensure the safety of consumers and technicians. These technologies include, but are not limited to, high-voltage power systems for electrified power-trains, high-pressure systems associated with hydrogen fuel cells and advanced autonomous and connectivity technology; and
 - Other non-SSE information (general service, diagnostic and repair information) shared through a mandatory regime should only be required to be provided on commercial terms to entities with a commercial need for this information, including independent repair businesses, registered training organisations and third party data aggregators, should an OEM opt to utilise this route to market.
3. Service, diagnostic and repair information shared through a mandatory regime should be for genuine service and repair or training activities only, and should not be open for further commercial purposes that risk violating a manufacturer's intellectual property, such as the manufacture of generic aftermarket parts and accessories.
4. To limit regulatory burden on industry and consumers, the mandatory information sharing model should not be excessively prescriptive as information sharing channels need to be flexible and enable existing platforms outside of Australia to be leveraged. This is particularly important for low-volume brands.
 - Policy makers should consider a minimum annual sales threshold of 1,000 vehicles, unless adequate existing overseas systems can be effectively and efficiently utilised.
7. The mandatory service, diagnostic and repair information sharing scheme should apply to vehicles available in Australia from up to ten years prior to the commencement of the code – which reflects the median fleet age.

- 8.** Nothing in this mandatory code should be read, interpreted or construed to abrogate, interfere with, contradict or alter the terms of any franchise agreement executed and in force between a dealer and a manufacturer.