

Keeping the Pressure on Right to Repair

By Aaron Lowe, AAIA Vice President, Government Affairs

I have been hearing a lot discussion lately as to whether AAIA and others should continue the effort for passage of right to repair legislation based on the apparent absence of success in moving the bill across the finish line to enactment. Certainly, it should not be unexpected that a battle that has gone on as long as right to repair would bring about a weariness by those on both sides of the debate. However, anyone urging a truce must first look at the stakes in the battle and what will be necessary to protect the interests of our industry.

I can't speak for the car companies and their allies, including the new car dealers and the Automotive Service Association (ASA), as to why they continue to spend huge sums to fight right to repair. While they continue to espouse the issue of aftermarket companies stealing parts design based on the release of service information, anyone reading the legislation would determine that the bill only requires the release of the same information that is provided to the new car dealers. I can guarantee that car companies are not turning over their parts blueprints to their thousands of dealer franchise employees. If they did, dealer personnel would have found a way to sell that information for a healthy profit.

The car companies further claim that everything is available and therefore, there is no need for the legislation. If this is true, then why the big fight? The bills are extremely clear that only information provided to the dealer is required to be made available for purchase by independent shops. Further any information considered proprietary is not required to be shared. If the concern is with the level of protection of their secrets, suggest better language. However, it is likely that this is not the real concern with right to repair or this battle would have been settled long ago.

I suspect that the battle over right to repair is really about parts, but not in the way the manufacturers have espoused. The manufacturers make a sizable profit from their replacement parts sale. While they sell a lot of parts to independents, they still are not the major supplier. If the manufacturers can control the flow of information and tools, they also likely can control the sale of parts which is considerably more profitable to them than the sale of new cars. The name of the game is not so much a monopoly on the service of vehicles, but in control of the service market. In other words, they don't want all of the business to go to new car dealers, but they do want all of the repairs performed using their parts.

This gets me to the reason that AAIA continues to believe that right to repair is a battle worth fighting for. Absent legislation, we are concerned that control of our industry will move away from consumers where we always win and into the hands of the original equipment manufacturers where they get the opportunity to choose where their car is repaired. They paid for the car it should be their choice.

Yes, we hear it all of the time that the car companies are making a great deal of the information available to independents. And yes, we are proud of the fact that our efforts to enact right to repair have played a role in forcing the car companies to make information and tools available to our industry. However, political pressure is only as effective as when it is being applied. Once the pressure is off, what will there be to keep the industry independent from the control of the manufacturers?

Few other industries in the world continue to have a repair market that is independent of the manufacturers. Whether the independents can survive the onslaught of technology on vehicles and in diagnostic and repair industry will depend on the amount of access that shops have to technology that can only come from the manufacturers. Every shop, and those that depend on those shops, must ask themselves a question, if the car companies stop providing the information, what will be your next move? Where would you turn for information if the dealer that has worked with you in the past decides it is no longer in their best interest to work with you. What happens if the manufacturers start determining that they will select shops as their “preferred providers” based on their parts purchase history and you find yourself on the outside looking in on the repair market? Yes, an antitrust suit might solve the problem, but how long would that take and how much would the litigation cost?

These are questions that AAIA and others in the right to repair battle have asked and have decided that we don't like the answers. Yes, it would be easier in some ways to give up the battle and look toward other issues that are also important to the industry. However, in the long run, many of these other issues will not make much difference if independents are not permitted to compete on a level playing field.

No one likes government involvement in their business. However, if the government does not play some role in ensuring that information and tools are made available to independents, then who will force two parties with significant economic interests to cooperate. We believe that when markets work they should be left alone, but when they don't, the government must step in. The right to repair bills attempt minimize that role, but in the end there must be a place, an independent arbitrator with teeth to step in and ensure a competitive market.

To those who favor the National Automotive Service Task Force (NASTF) or something like it as the solution to the right to repair as the answer. We are with you. It would be great for both the car companies and the aftermarket have a place to discuss information issues and resolve them without government interference. However, NASTF only works if there is some entity that can keep the parties honest in making information available. Someone that will not take “no” for an answer and right now the only entities that fit that description are either the government or the courts or both..

The bottom line is that AAIA and many of its members are in this battle to ensure the competitive future of our industry. This means that independents and their customers have full access to the same information, software and tools that dealers have to effectively repair vehicles. How we get to that point is negotiable, but we need to get that point.