STATEMENT OF

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BEFORE THE
SUBCOMMITTEE ON COURTS, INTELLECTUAL PROPERTY, AND THE
INTERNET
U.S. HOUSE COMMITTEE ON THE JUDICIARY
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Good morning, Chairman Issa, Ranking Member Johnson, and Members of the Subcommittee. Thank you for providing me the opportunity to testify before you today. My name is Scott Benavidez. I am the Chairman of the Automotive Service Association’s Board of Directors. I am also the second-generation owner of Mr. B’s Paint & Auto Body Shop Inc. in Albuquerque, New Mexico. I am here today on behalf of the Automotive Service Association.

ASA is the largest and oldest national organization committed to protecting the automotive repair industry. Our members, who hail from all fifty states, own and operate automotive mechanical and collision repair facilities. Independent automotive repair shops are responsible for the majority of all, post warranty, repair services in the United States. ASA advocates for the interests of its members and their customers.

ASA has been a steadfast advocate for right-to-repair principles – the right of car owners and independent repair shops to access vehicle service information needed to diagnose and repair vehicles – for decades. We take this unequivocal stance because our members are on the front lines of the vehicle data access issue and have been very clear: we want to have access to the data necessary to repair our customers’ vehicles. ASA worked with the U.S. House Energy and Commerce Committee and Senate Commerce, Science, and Transportation Committee to place language in the 1990 Clean Air Act Amendments that assured independent shops the same emissions service information that was provided, by the automobile manufacturers, to franchised car dealers. Then, in 1995, the U.S. Environmental Protection Agency (EPA) standardized, for all vehicles sold in the United States, an OBD port, which provides access to vehicles’ emissions control diagnostic systems. In 2002, ASA signed an agreement with automakers stipulating that independent automotive repair shops would have access to the
same emissions and non-emissions service information provided to the manufacturers’ franchised dealerships. Since 2002, the vehicles Americans rely on have become increasingly sophisticated, and we know that the rate of innovation will only accelerate. (attachment A) The way vehicle issues are diagnosed and repaired evolves in tandem with technological advancement.

The modern vehicle is essentially a computer on wheels, and just like a typical computer, an enormous amount of information is passed wirelessly to and from the vehicle. We call that wireless communication “telematics” in the automotive world. In many instances, our shops wouldn’t be able to diagnose and fix the problems their customers ask them to solve if they didn’t have access to telematics. This situation might not only harm repairers, but also drivers. Car owners deserve a competitive market from which they can select a repairer who will fix their vehicle at the best price.

Although today automotive repairers have access to vehicle data necessary for repairs, our industry has been concerned about the path forward for obtaining data in the vehicles moving into the marketplace. Newer vehicle technologies with an increasing number of sensors will present challenges to our shops without access to repair data. That’s why, last week, ASA proudly announced it had reached a landmark agreement with automakers that ensures independent repair shops can diagnose and repair their customers’ vehicles without hinderance from telematics nor any other innovation. Most importantly, it encourages a competitive repair market that yields the fairest prices for drivers and the highest quality safety outcomes. (attachment B)
With regard to the SMART Act, ASA supports a competitive parts marketplace. ASA has a long history of working with insurance companies in ensuring our customers the best possible repair experience following an accident. ASA is supportive of insurer direct repair programs (DRPs) that are open and fair to both vehicle owners and collision repairers. Many of our leaders serve on DRP advisory boards of state and national insurance companies. Although we work closely with insurers as part of DRPs, we are mindful that our customers’ vehicles are our first priority and that these vehicles must be safe and satisfactory to the customer when they leave our repair shops. We do have concerns when some insurers insist on repairs that are simply “cheaper and quicker” without regard for quality and safety.

I cannot overstate the importance of vehicle safety to the collision repair industry. Repairers understand better than anyone the threat posed by replacement parts of lesser quality. Automotive service business owners, their employees, their families, and their friends drive on and walk alongside the same roads as everyone else. The threat to their safety posed by defective vehicles on the road is also the exact same threat faced by everyone else. ASA believes we can and should have a competitive marketplace that doesn’t compromise quality or safety. Deciding to only cover the cheapest option without understanding implications for quality leaves collision shops and their customers in a tough position.

The automobile is the second most expensive purchase made by most Americans. Although the automobile is a major part of most Americans’ daily lives, few vehicle owners have much knowledge about automotive repair. This is particularly true relative to collision repair. After an accident, other than contacting law enforcement or other emergency personnel, the vehicle owner contacts their insurance company. Depending on state laws, consumers are
advised about repair facilities by insurers, or they may have some familiarity with repair shops. They might even search the internet for a repairer. It’s at this point that vehicle owners lose control. Very few consumers have any knowledge about the types of crash parts used to repair their vehicles as there are numerous crash parts choices in the marketplace, such as Original Equipment Manufacturer (OEM) parts, certified aftermarket crash parts, reconditioned crash parts, and recycled crash parts. Repairers can make recommendations, but their customers are unlikely to adhere if insurance won’t cover it. Quality standards are essential for crash parts.

One of the top concerns we hear from our members and others at collision industry events is that collision repair facilities should adhere to OEM repair procedures. This doesn’t mean that OEM parts must be used in all cases, but OEM repair procedures should always be followed. OEMs develop, test, and verify repair procedures to restore the safety and functionality of the repaired vehicle. Adhering to the manufacturers’ guidelines allows independent repair shops to assure car owners that their cars were repaired to the highest possible standard and protects them from unjust liability. Assuring more imported and other crash parts in the marketplace with limited quality standards gives insurance companies even more power to mandate that cheaper parts that may or may not meet quality expectations be installed, while leaving car owners and repairers to suffer the consequences of that dictate.

We also fear that the absence of quality standards in the SMART Act would negatively impact the quality of replacement crash parts. Section 2, subsection 2 would allow aftermarket manufacturers to make or offer to sell within or import into the United States “any article of manufacture that is similar or the same in appearance” to a part produced by an OEM if used “to restore the motor vehicle to the appearance of the motor vehicle as originally
manufactured...”, after the OEM part has been on the market for thirty months, without infringing upon the OEM’s design patent. In other words, car owners, repairers, and insurance companies could be misled into believing that parts that *look* the same *are* the same, when, in fact, they differ significantly in terms of quality and safety. Once again, car owners and repairers stand to suffer the most direct injuries and repercussions.

Thank you again, Chairman Issa, for convening this important hearing and allowing me to share the perspective of ASA and independent repair shops. I look forward to answering your questions today.