

Consultation Response - Draft CMA Guidance to accompany the Motor Vehicle Block Exemption Order (MVBE0). May 2023.

This reply is on behalf of the Independent Garage Association (IGA), 201 Great Portland Street, London, W1W 5AB.

The IGA is a member association of the Retail Motor Industry Federation, which was founded in 1913 to represent the interests of the retail motor industry. We are the largest and most prominent trade body in the independent garage sector, representing over 35,000 independent garage businesses across the UK.

The IGA, as a trade body, is in constant contact with members, offering them helpline support, holding regional meetings, and providing regular industry updates with information that may be applicable to their business and the services they offer to their customers. From these interactions, and the feedback received from our members, the policies and objectives of the IGA are formed, including the views expressed in this consultation response.

Please find below the IGA's responses to the consultation on the Draft Guidance.

In summary, the IGA is reassured that the CMA have seen fit to create a MVBE0 that is, by and large, aligned to the needs of the British consumer and the UK motor vehicle sector, by including greater clarity for consumers around warranty restrictions, and their freedom of choice in terms of vehicle service, maintenance and repair during the vehicle manufacturers' warranty period, along with guidance on parts and supplier agreements and authorised repairer network guidance.

However, the IGA feels that there is a lack of clarity and reach within the guidance document, associated with access to in particular, in-vehicle data and access to 'The Connected Car' which we will cover in detail in our response to questions below.

CONSULTATION QUESTIONS

5.1 *Is the content, format and presentation of the Draft Guidance sufficiently clear? If there are particular parts of the Draft Guidance where you feel greater clarity is necessary, please be specific about the sections concerned and the changes that you feel would improve them.*

IGA RESPONSE

Content:

Paragraph 3.8 of the Draft Guidance notes that *"the MVBE0 also contains a new excluded restriction. As a result, a restriction of the ability of an independent operator to access technical or vehicle information, or tools or training will not gain the benefit of exemption. Further guidance on the excluded restriction is also given in Part 5 of the Guidance."*

The IGA would like to see greater clarity on access to in-vehicle data and more importantly access for independent operators to connected vehicle communications. The latter has the potential to steer consumers away from independent operators and into authorised repair networks, creating the perception that they have no choice but to take their vehicle into the authorised repair network.

The IGA's concerns are that direct consumer communications of this type have potential for consumer detriment and also have the ability to restrict fair and open competition.

The IGA would like to see such direct end user communications be made available via an open-source channel, possibly via a subscription model, offered to both authorised repairers and independent operators on an equal footing as is required under the MVBE0.

FORMAT and PRESENTATION

The IGA have no suggested amends to the format or the presentation of the guidance document.

5.2 Do you have any other comments on the Draft Guidance?

The IGA is pleased to see that the CMA have by and large given consideration to our previous comments and suggestions, as submitted in our responses to the earlier consultations on the MVBE0.

The IGA welcomes the acknowledgment in **paragraph 5.25** of the Draft Guidance, that “the notion of technical information” is “fluid.”

Currently the Department for Transport is considering including vehicle safety recalls and software updates within the MOT test. This has the potential for considerable consumer detriment, should this be introduced.

Consideration should be given as to how any such recalls or updates might be possible through independent operators to avoid the potential for lengthy delays, should the ability to carry out these recalls and updates be restricted solely to authorised repairer networks.

Relating to **5.38**, the IGA believes that there should be greater and more proactive clarity to the consumer in relation to their freedom to choose a repairer to service their car during the warranty period, with specific clarity to the fact that this applies even to extended warranties.

The IGA does have concerns regarding **paragraph 5.39** in relation to the use of matching quality parts by independent operators and the potential this could have for new vehicle suppliers to reject a valid warranty claim.

The IGA supports the spirit and logic of **paragraph 5.39**, however we have concerns that the last sentence of **paragraph 5.39** opens the opportunity for warranty claims to be rejected, when all work carried out and parts fitted by the independent operator, are of matching quality and to the supplier’s prescribed methods.

Therefore, we would like to see a requirement added to **paragraph 5.39** requiring irrefutable evidence to be provided by the motor vehicle manufacturer/supplier that, in the event of a rejection of a warranty claim, a full investigation has been conducted and all evidence made available detailing the reason for rejection of such a claim, in order to provide protection to consumers against malicious rejections.

Lastly, given the pace of technological advancements of motor vehicles in recent years, the IGA would like to see an interim review of the MVBE0 at three years, that being around midyear 2026, to ensure that the terminologies remain relevant and the MVBE0 remains effective in order to provide consumer protection, freedom of choice and fair competition across the motor vehicle sector.