



Submission on Bill C-27, An Act to enact the Consumer Privacy Protection Act, the Personal Information and Data Protection Tribunal Act and the Artificial Intelligence and Data Act and to make consequential and related amendments to other Acts

Submitted by: Automotive Industries Association of Canada

Executive Summary

AIA Canada is pleased to submit to the Standing Committee on Industry our perspective on Bill C-27, known as the *Digital Charter Implementation Act*.

Our association and sector has long supported reform to Canada's privacy laws that would allow for greater individual consent and control over their personal information. Components of the initial *Digital Charter* were extremely well received by our member businesses; particularly, the ability for Canadians to have the freedom to move their information from one organization to another in a secure manner. Specifically, members are aligned on four of the government's stated ten principles of the Charter:

1. Control and Consent - providing Canadians control over what they're sharing, who is using their data and for what purposes while protecting privacy.
2. Transparency, Portability, and Interoperability - clear access to personal data that can be transferred without undue burden.
3. A Level Playing Field - fair competition that will facilitate growth of Canadian businesses and protect Canadians from market abuses.
4. Strong Enforcement and Real Accountability - Meaningful penalties for violations of laws and regulations that support these principles.

We believe that any legislative effort to address data mobility rights is a step in the right direction on the issue of right to repair, which remains a top issue of national concern for our Association and industry. Our brief contains rationale for why action on this issue is sorely needed, and how it complements the efforts of C-27 to improve the user data and privacy experience.

There is an opportunity to strengthen C-27 in a way that will protect consumer choice and privacy over the long-term, ensure a level playing field between the aftermarket and OEMs, and ensure our industry can grow and adapt with new technologies. Specifically, we would support legislative amendment and regulatory clarification to the Bill that would:

- Require Canada's automotive manufacturers (OEMs) to be subject to a data mobility framework so that they are required to share data related to vehicle maintenance and repair with third party repair shops;
- Waive the consent requirement for vehicle owners to share their vehicle information directly with third party repair shops, as our businesses are service providers;
- Specifically define vehicle maintenance and repair as a business activity a reasonable person would expect the collection or use of their data for within the act, or introduce regulations that make clear this activity would be within scope of the Act itself.

We would also suggest Bill C-27 add a specific amendment related to the Competition Act, as it is already being amended through the development of this Bill. Specifically, we suggest the inclusion of a **new section be added after Section 75 of the Competition Act, 75.1, Vehicles – Access and Information and Service Parts.**

The new section should include the following:

75.1 (1) The Tribunal may make an order for access to vehicle data if the Tribunal finds that:

- a. an independent repair provider is substantially affected in their business or is precluded from carrying on business due to their inability to obtain, on the same terms and in the same manner as authorized repair providers, access to diagnostic and repair information — including technical updates, diagnostic software or tools and any related documentation — or service parts;

- b. the independent repair provider referred to in paragraph (a) is unable to obtain access to the diagnostic and repair information or the service parts because the manufacturer of the vehicle has withheld access to the information or parts with the object of impeding or preventing that provider's entry into, or eliminating them from, the business of repairing the manufacturer's vehicles;
- c. the diagnostic and repair information or the service parts are essential for the diagnosis, service, maintenance or repair of the vehicle; and
- d. the refusal to provide access to the information or the service parts has had, is having, or is likely to have an adverse effect on competition in the vehicle repair market.

75.1 (2) The Tribunal may make an order requiring the manufacturer of a vehicle to provide the independent repair provider with access to the diagnostic and repair information described in subsection (1) — or make service parts available for purchase by the provider — on the same terms and in the same manner as the manufacturer makes the information and parts available to authorized repair providers

Lastly, we want to make clear to members of the committee and to legislators that relying on voluntary arrangements and agreements to uphold these standards is simply not workable. As outlined in this submission, our own experience makes clear that efforts to work within voluntary agreements with large OEMs to achieve equal use of data and protect consumers has, regrettably, had limited success. We believe it is critical that industries (specifically of concern to us, automotive manufacturers) adhere to both the legislative text, and spirit of this bill, and that this is enforced through the adoption of codes of practice or policy directives that make clear they are subject to this legislation.

About AIA Canada

The Automotive Industries Association of Canada (AIA Canada) represents, supports and leads innovation in Canada's \$37.8 billion auto care sector. With thousands of members from coast to coast to coast, our vision, research, training programs and advocacy supports Canada's collision and mechanical sectors. Our best practices for the auto care industry help our members keep Canada's fleet of almost 26.6 million vehicles on the road.

Whether you have been in a collision or require maintenance, our members help vehicles last longer, pollute less and keep drivers safer by offering Canadians any product or service a vehicle may need after it rolls off the dealership's lot.

Vehicle Data & C-27

C-27 provides a legislative opportunity to protect Canadians' access to their personal data and information. AIA Canada believes that these extensions and protections of privacy legislation ought to include the data compiled from your vehicle, and that this data belongs directly to vehicle owners.

By giving Canadians access to their vehicle's data, you are providing them both the right, and the choice when it comes to the repairing and maintaining of their vehicles - creating competition, driving down costs, allowing for greater convenience and supporting small and medium sized businesses in the process.

Vehicle Right to Repair: Why Action is Needed

As vehicle technology advances, modern, web-connected vehicles collect thousands of data points that are required for diagnosis, service, and repair. This data, which is wirelessly transmitted directly to the automakers, is often harder to obtain, more costly and sometimes completely unavailable to vehicle owners or independent auto care shops. The growing

electric vehicle market and emergence of connected vehicle technology will only exacerbate the problem. Studies have shown that by 2030, about 95 percent of new vehicles sold globally will be connected, up from around 50 percent today.

Without access to repair and maintenance data, independent auto repair shops cannot service a vehicle, which puts their future at risk, along with the jobs of hundreds of thousands of Canadians. This data model also leaves consumers without the right to repair their vehicle at the auto repair shop of their choice, which leads to increased costs to vehicle owners, further distances travelled to access vehicle repairs, and longer wait times.

Vehicle Right to Repair Aligns with Digital Charter Principles

AIA Canada believes that augmentations to C-27 would better enable the right to repair for vehicles, and aligns directly with several of the principles outlined in the original Digital Charter proposed in 2019:

1. **Control and Consent:** C-27 aims to provide Canadians control over what data they're sharing, who is using their data and for what purposes, all while protecting the data owner's privacy. When applied in the context of vehicles, C-27 should enable Canadians to control their own vehicle's data, including the sharing of it with third party service providers for the purposes of diagnosis, maintenance and repair.
2. **Transparency, Portability, and Interoperability:** C-27 aims to remove burdens that can result from transferring personal data, including between service providers. In the context of vehicles, this should result in vehicle owners being able to share their car's data with the service provider of their choice, without barrier, should C-27 come into force.
3. **A Level Playing Field:** C-27 aims to ensure fair competition that will facilitate growth of Canadian businesses and protect Canadians from market abuses. In the context of vehicles, this would ensure that Canadians are not forced to have their car exclusively serviced directly by manufacturers, simply because those same OEMs are hindering access to, or withholding diagnostic and repair / maintenance information with the aftermarket.
4. **Strong Enforcement and Real Accountability:** C-27 introduces meaningful penalties for violations of laws and regulations that support these principles. In the context of our industry, this would mean holding to account OEMs who routinely make it more difficult or do not share diagnostic, maintenance and repair information with the aftermarket.

Strengthening C-27: Amendment to Competition Act

Proposals in C-27 would provide updates to the Competition Act among other Acts. We think this provides an opportunity for a specific amendment related under the Competition Act, that would create a **new section to be added after Section 75 of the Competition Act, 75.1, Vehicles – Access and Information and Service Parts.**

The new section should include the following:

75.1 (1) The Tribunal may make an order for access to vehicle data if the Tribunal finds that:

- a. an independent repair provider is substantially affected in their business or is precluded from carrying on business due to their inability to obtain, on the same terms and in the same manner as authorized repair providers, access to diagnostic and repair information — including technical updates, diagnostic software or tools and any related documentation — or service parts;

- b. the independent repair provider referred to in paragraph (a) is unable to obtain access to the diagnostic and repair information or the service parts because the manufacturer of the vehicle has withheld access to the information or parts with the object of impeding or preventing that provider's entry into, or eliminating them from, the business of repairing the manufacturer's vehicles;
- c. the diagnostic and repair information or the service parts are essential for the diagnosis, service, maintenance or repair of the vehicle; and
- d. the refusal to provide access to the information or the service parts has had, is having or is likely to have an adverse effect on competition in the vehicle repair market.

75.1 (2) The Tribunal may make an order requiring the manufacturer of a vehicle to provide the independent repair provider with access to the diagnostic and repair information described in subsection (1) — or make service parts available for purchase by the provider — on the same terms and in the same manner as the manufacturer makes the information and parts available to authorized repair providers

Should legislators decide this is not the appropriate avenue for such an inclusion, we would strongly encourage decision-makers to consider this legislative amendment in a broader review of the Competition Act, which is currently underway with the Government of Canada and Innovation, Science and Economic Development.

Strengthening C-27: Codes of Practice

Another way to strengthen C-27 would be to adopt clear Codes of Practice and regulatory guidelines for industries to ensure maximum compliance. We believe that this may be necessary in the case of vehicle manufacturers who may not adhere to the spirit of this legislation and the *Digital Charter Implementation Act* principles.

We have seen the importance of having clear, non-voluntary codes of practice through our own experience with the Canadian Automotive Service Information Standard (CASIS). CASIS sets out a voluntary agreement between automakers and the aftermarket - in essence serving as a code of practice for the industry. However, because it is voluntary, there are non-participating automakers, and the lack of a proper enforcement mechanism is a major flaw. As a result, signatories are able to ignore the agreement without consequence or fear of penalty. From Honda to Volvo, there are many case studies where signatories are making it more complicated, more expensive or are simply not sharing data with independent repair shops.

Given the challenges surrounding voluntary agreements, Canada's automotive aftermarket is asking the government to strengthen the codes of practice in Bill C-27 to include penalties for any company or organization that does not participate. We believe the latter part around enforcement and penalties is adequately achieved through the Bill, but that impacted industries could use further clarification.

Further, we would like the Codes of Practice to make clear obligations for OEMs such as the following:

- Require Canada's automotive manufacturers (OEMs) to be subject to a data mobility framework so that they are required to share data related to vehicle maintenance and repair with third party repair shops;
- Waive the consent requirement for vehicle owners to share their vehicle information directly with third party repair shops, as our businesses are service providers;
- Specifically define vehicle maintenance and repair as a business activity a reasonable person would expect the collection or use of their data for within the act,

or introduce regulations that make clear this activity would be within scope of the Act itself.

Conclusion

C-27 provides a real opportunity for Canadian legislators to unlock the right to repair for vehicles and the consumer, business and competitive benefits it entails. It is our association's view that, without intervention at the national level, automakers will continue to control the terms through which independent auto repair shops access necessary data. This means a risk of shop closures, limiting access for consumers to repair their vehicles where they choose, a compromised ability to meet vehicle repair demand, and higher costs for average consumers.

Through parallel amendment to the *Competition Act*, clear Codes of Practice which make mandatory obligations for vehicle manufacturers straightforward, and enforcement for those who do not comply with the Act, we believe there is a major opportunity not just for our member businesses, but Canadian consumers, to fully realize the digital charter principles that are outlined in this Bill.

We remain ready to engage with Members of Parliament, Senators, and public servants in order to advance these recommendations and welcome further opportunities to do so.