

Guidelines for Competition in the South African Automotive Aftermarket- Everything you Need to Know

Presented by
Right to Repair
South Africa





Guidelines for Competition in the South African Automotive Aftermarket



- **DRAFTED
BETWEEN
2017-2020**

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DECEMBER
2020**

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EFFECT ON 1
JULY 2021**

Why do we need the Right to Repair Guidelines?

For many years manufacturers have seen the service and sale of spare parts as a major source of profit.

In order to corner this market they started to make it very difficult for independent companies and service providers to compete by:

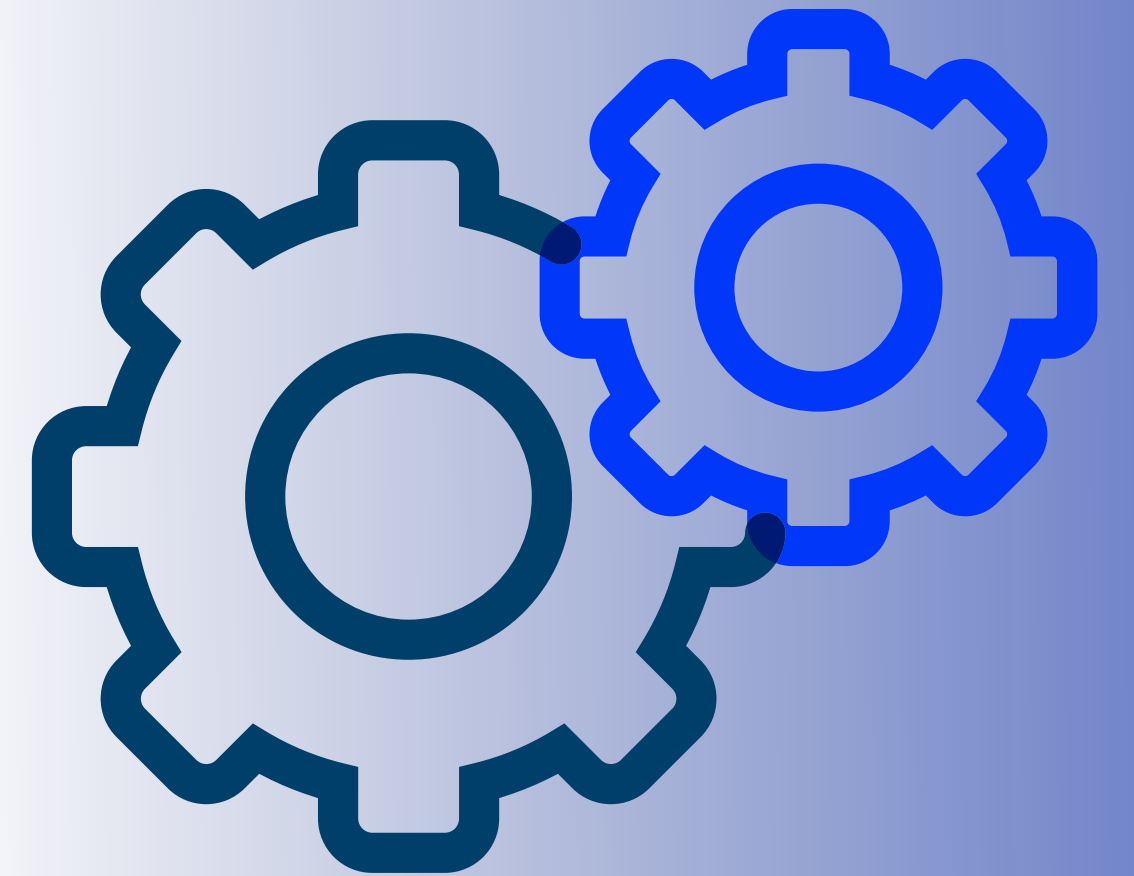
- Restricting access to technical information, tools and programming;
- Warranty restrictions;
- Creating compulsory built in service/maintenance plans
- Restricting the use of non-OEM branded parts and materials

This is where competition law and policy steps in. It's designed to create a level playing field where both big and small business can compete fairly and effectively. If the Guidelines can be implemented effectively, the South African Automotive Aftermarket will become a market where consumer choice is driven by the quality and price rather than restrictive contract clauses and practises.



Consumers have the freedom to choose their service providers

- Consumers are entitled to choose where they service their vehicles both during the in-warranty period and after.
- They may choose to service their vehicle at the dealer from whom they purchased their vehicle or shop around for a better price.



Warranties are protected no matter which service provider consumers choose to use

- Consumers are entitled to take their vehicles to an independent service provider (ISP) for their services or other non-warranty related maintenance during the in-warranty period AND still keep their warranty.
- If the vehicle is insured all insurance based accident repairs must be undertaken by an original equipment manufacturer (OEM) approved repairer while the vehicle is still under warranty.
- ISPs must record all work performed in the vehicle's service book and must disclose to consumers the risk that a OEM may decline a portion of the warranty should a fault arise and the ISP or materials used be found to be the cause of the fault. In such instances the OEM is not entitled to void the warranty in its entirety.
- ISPs must disclose to the consumer whether they have adequate commercial insurance to cover an instance where a OEM declines a warranty claim.



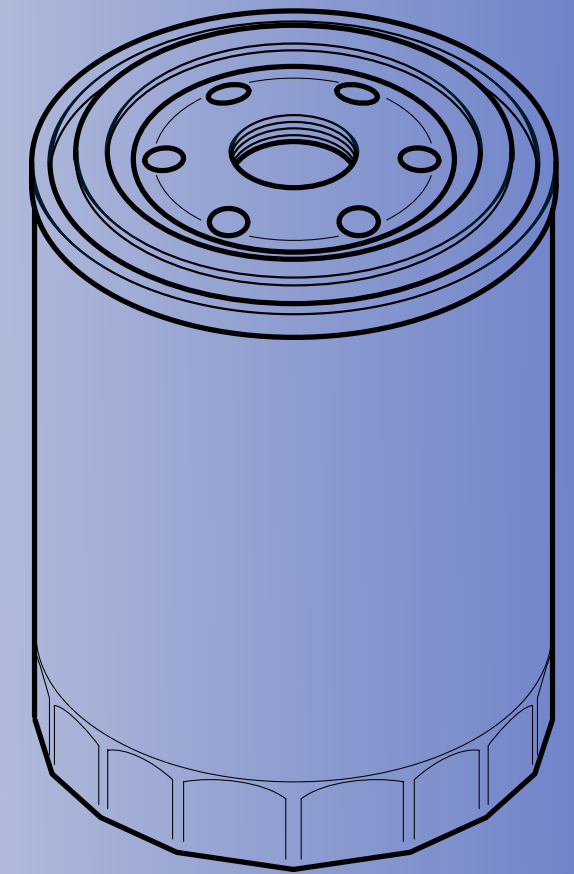
Unbundling of service/maintenance plans from the price of a vehicle

- Vehicle retailers are now obliged to provide consumers with separate prices for a vehicle and for any value added products that they have on offer such as service and maintenance plans, extended warranties ect.
- Included in the price breakdown must be the average price of each service included and the average price of the parts covered by a maintenance plan.
- Car retailers are also obliged to sell vehicles without a service or maintenance plan if the consumer does not wish to purchase one and simply pay for their services as they are performed.
- Consumers are entitled to purchase value added products from any licensed third parties.



Consumers/Workshops are entitled to use original or matching-quality spare parts

- Consumers/workshops are entitled to use original or matching-quality, non-oem branded spare parts (for example oil filters) in vehicles during the vehicle's in-warranty period and OEMs are not entitled to void the vehicle's warranty for doing so. These spare parts/materials are also not required to be approved, a good example of this is oil. While it is highly important to use the correct spec oil, it is not a requirement that the oil manufacturer purchase oem approval for the oil, so long as they are confident that the oil is up to standard and of the correct spec.
- If there is any damage to the vehicle from the fitment of matching-quality parts by an ISP, there is a risk that the provisions in the warranty relating to the fault may be voided by the OEM. In such instances the OEM is not entitled to void the warranty in its entirety.
- OEMs must make original parts available to ISPs where required to perform service, maintenance or repair work.
- OEMs are entitled to require ISPs to meet accreditation standards before providing access to security critical components.
- OEMs may not restrict manufacturers of spare parts from placing their logo on the parts they produce.



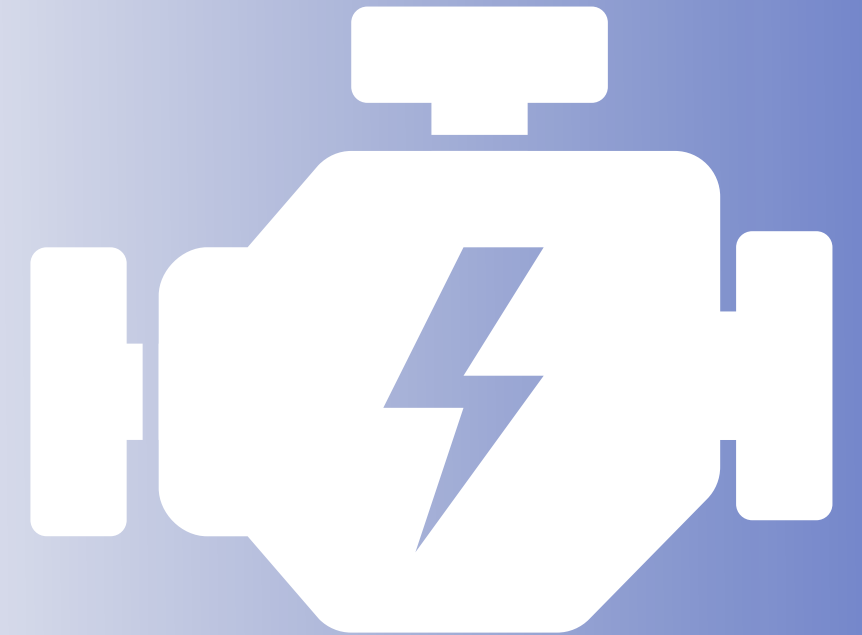
Whats in a name?

- The Guidelines define spare parts as:

"2.25. "Spare Parts" means replacement products for worn, defective or damaged components or parts of a Motor Vehicle.

2.25.1. "Original Spare Parts", for purposes of these Guidelines, are replacement Spare Parts produced by, on behalf of or under the instructions/order of an OEM and in accordance with specifications and production standards provided by the OEM, as well as those Spare Parts distributed by the OEM or any other authorised distributors of the OEM or marked with the trademark of the OEM.

2.25.2. "Non-Original Spare Parts", for purposes of these Guidelines, are Spare Parts that carry a Warranty from its manufacturer and are legitimate and traceable for sale in the aftermarket, but that are not Original Spare Parts. Non- Original Spare Parts exclude counterfeit Spare Parts."

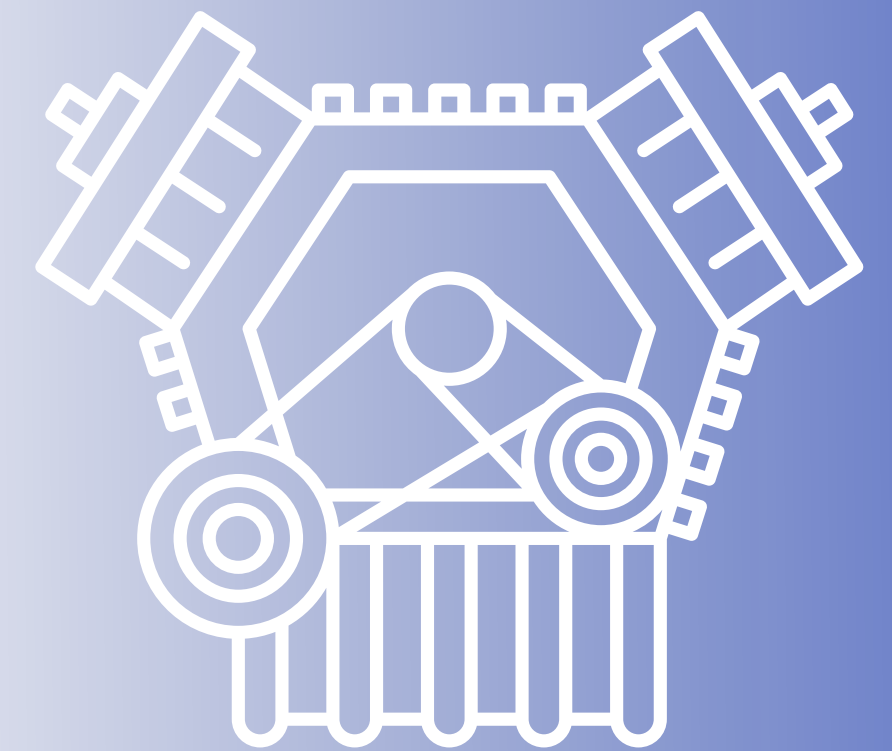


Whats in a name? Part 2

The term “non-original spare parts” has come to have a negative association and to be thought of as unsafe and/or unreliable as a result of PR/marketing on behalf of the OEMs.

As a result we would like to take back control of the narrative and see the adoption of the term Matching Quality Spare Parts when referring to aftermarket parts which are permitted to be used as alternatives to original parts. We would like to make it clear to the industry and the consumer that there certainly is a large middle ground between original and grey/pirate parts.

We will be doing this through a series of PR and social media posts as well as market education, we are also in the process of petitioning the Competition Commission to amend the Guidelines to this effect.



Workshops are entitled to technical information

- ISPs are entitled to be provided with the technical information they require in order to work on the vehicles brought to them by their customers.
- OEMs must provide access to training to employees of ISPs who request training.
- OEMs are required to provide the technical information and/or training on reasonable terms and conditions that are no less favourable to the terms offered to its dealers and approved motor body repairers.
- The information that OEMs are required to provide access to includes, but is not limited to: service books (stored electronically or in the cloud); technical repair and service information; diagnostic codes; operational software and data record information.



Enforceability of the Guidelines

The Guidelines were created as a document which must be considered when interpreting the Competition Act in the context of the Automotive Aftermarket. The Competition Act is of course enforceable and accordingly the sections of the Guidelines which are very clear and directive in their nature must be adhered to if one wishes to stay on the right side of the law.



Common Misconceptions

- Your right to choose comes at the point of making a decision whether to purchase a service plan or not. Once you have chosen to purchase a service plan you must take your vehicle to the service provider indicated in the contract. You cannot later elect to take your vehicle to an ISP and then claim the cost of that service back from the manufacturer.
- ISPs **are** entitled to service vehicles that are still under warranty that were purchased prior to 1 July 2021, but only if they were purchased without a service plan or if the service plan has finished prior to the expiration of the warranty.
- Warranties can only be voided where there is a causal link. If you fit an aftermarket non-original tow bar and your engine blows up the manufacturer cannot turn around and void the warranty on your engine, citing the fitment of the tow bar.
- Workshops do not need to be a R2R member or a member of any other organisation to work on in-warranty vehicles.
- In the same vein there is no official list of approved parts (filters, spark plugs ect) however we recommend that only “Non-Original” Parts of traceable origin, manufactured by an Original Component Parts Manufacturer where a warranty is applicable should be fitted at any time.

Stand up for your rights!

Encountered what you believe to be non-compliance with the Guidelines?

Contact Right to Repair South Africa at kate@r2r.org.za or lay a complaint directly with the Competition Commission by doing the following:

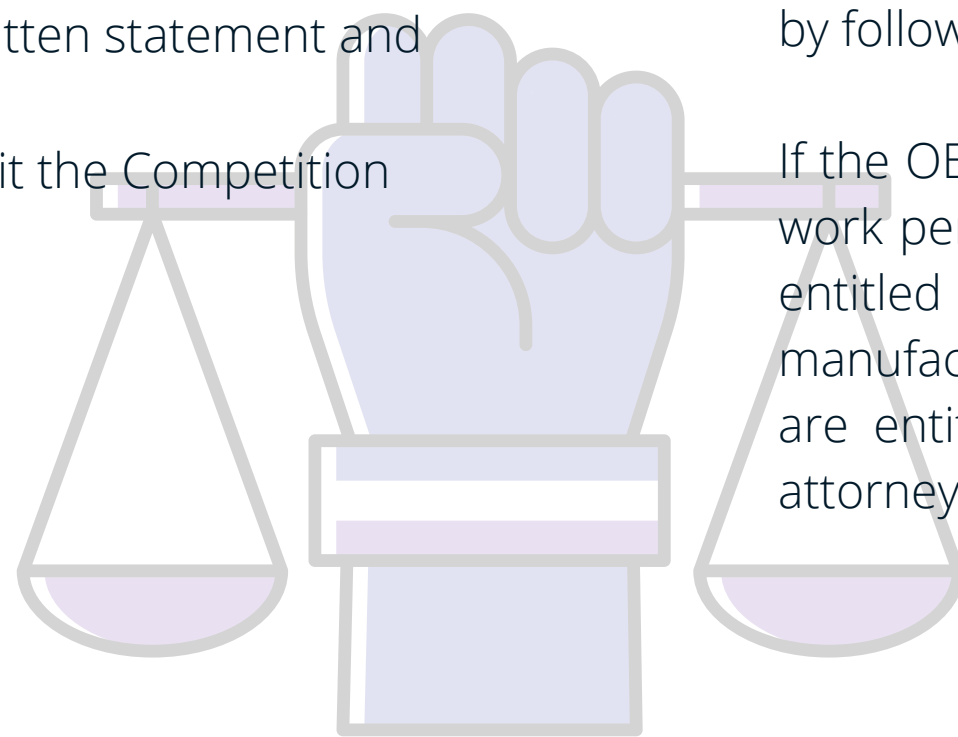
- Download the complaint form [here](#) and fill it in.
- Prepare a written statement setting out all of the facts relating to your complaint and attach any evidence you may have to the statement (eg. an email, photograph ect.)
- Email your complaint form together with the written statement and evidence to ccsa@compcom.co.za
- For full details regarding lodging a complaint visit the Competition Commission's website [here](#).

An OEM has declined your warranty, now what?

When you bring your vehicle to a OEM with a suspected warranty fault the manufacturer must at its own cost conduct an assessment of the vehicle and fault to ascertain the cause of the failure. If the failure is a factory fault the OEM is obliged to honour the warranty.

If the OEM declines your warranty without a valid basis, your options are to contact the Motor Industry Ombudsman [here](#), approach an attorney to take legal action or if the basis on which the OEM is refusing to honour your warranty relates to any of the provisions of the Guidelines such as making use of an ISP for your services then you can contact the Competition Commission by following the instructions above.

If the OEM is able to provide evidence that the failure can be attributed to the work performed by an ISP or the parts/materials used by an ISP then you are entitled to claim against any party in the supply chain (ISP, supplier, manufacturer ect.) If the ISP/supplier/manufacturer disputes your claim you are entitled to approach the Motor Industry Ombudsman or approach an attorney to assist you with your claim.



Latest Developments

- **Global Position Statement**
- **Competition Commission Survey**
- **OEM and Dealer Compliance**



Contact

For any further queries,
please feel free to contact
us

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