



Lawsuit against excessive pricing

No decision yet on “reasonable and proportionate” fees

PRESS RELEASE

Brussels, 7 March 2023 - On the 23rd of February, the Court of Cologne published a judgment refuting, on purely procedural grounds, the attempt of two associations representing the independent, multi-brand automotive aftermarket, ADPA and GVA, to react to a decision of the European Court of Justice within a pending lawsuit, hereby not providing additional guidance on the core of the dispute: what “reasonable and proportionate” fees are.

The role of data publishers in the aftermarket is crucial as they enable all workshops, and in particular the multi-brand, independent ones, to access reliable and affordable repair and maintenance information for the vehicles on European Union’s roads. As such, **ADPA Members directly contribute to the roadworthiness, safety and environmental performance of more than 320 million vehicles**. They have always committed to source the raw data they use for the establishment of their multi-brand databases from the vehicle manufacturers themselves, in an effort to guarantee to their customers and to end-consumers, the best possible services. Indeed, with regard to the ever-increasing complexity of vehicles, an extremely high-quality standard in terms of data publishing is more important than ever before.

Over the last years, **vehicle manufacturers have imposed dramatic increases in fees (some more than 1,000%)** charged to access this repair and maintenance information, an essential input for the automotive aftermarket to service vehicles. **This endangers the competitiveness and even the viability of the entire independent, multi-brand aftermarket**, and could result in **owners not having an affordable, reliable alternative** to repair and maintain their vehicles in the future.

In 2019, ADPA and GVA took on the responsibility to engage in legal proceedings to ensure fair competition in the market. At the heart of the dispute is the question **what “reasonable and proportionate fees”, as foreseen in the Type Approval Regulation, constitute**. The Court of Cologne rapidly decided to get clarification on the interpretation of European legislation from the European Court of Justice (ECJ) itself.

On the 27th of October 2022, **the ECJ rendered a decision confirming ADPA’s and GVA’s position on several points**. In particular, the ECJ confirmed that the provisions of the Type Approval Regulation also apply to vehicle models type-approved before it entered into effect, and that data publishers don’t need a licence to use the information they access. However, the ECJ didn’t provide additional guidance on how “reasonable and proportionate” remuneration for access to repair and maintenance information should be calculated.

As a consequence, ADPA and GVA submitted a request to the Court of Cologne to amend their initial motion in order to reflect the ECJ input. However, on the 23rd of February 2023, the Court rejected the change of motion on purely procedural grounds. Yet, in parallel, **the Court of Cologne also acknowledged that the dismissal of the lawsuit will not pacify the dispute between the parties**, and that the changed motion, had it been admissible, might actually be suitable for solving the dispute.



Quote

“ADPA Members are now considering what is the best way forward to finally get clear legal guidance on what constitutes “reasonable and proportionate fees”, **as no court has yet rendered a judgment on the material aspect of this dispute, which we have no reason to believe will resolve itself.**”

Ralf Pelkmann, ADPA President

For more information


Links:

- [ADPA press release on ECJ judgment \(27 October 2022\)](#)
- [ECJ judgment \(27 October 2022\)](#)

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ADPA, the European Automotive Data Publishers Association, aims to ensure fair access to automotive data and information and to provide competitive framework conditions for independent data publishers. This enables the publishers to design and provide competitive, innovative and multibrand solutions to operators of the automotive aftermarket. Founded in 2016 and based in Brussels, ADPA is a Member of AFCAR, the Alliance for the Freedom of Car Repair in the European Union.

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