

31 January 2023

AMICE Contribution to the European Commission's call for feedback on the review of EU rules on industrial design

AMICE, the Association of Mutual Insurers and Insurance Cooperatives in Europe, represents a specific sector of the European insurance industry. Our members are characterised by their central focus on their policyholders, who are generally the owners of their insurers rather than the external shareholders. The products, services and benefits derived from our members' activities are conceived and applied for the best interests of their policyholders, with a long-term perspective at the core of the relationship between the mutual/cooperative insurer and the policyholder. Mutual/cooperative insurers represent approximately one-third of all insurance business in Europe, and range from some of the smallest insurance entities to some of the largest in the region.

AMICE welcomes the opportunity to provide feedback on the European Commission's proposals to recast Directive 98/71 on the legal protection of industrial designs and to amend Regulation 6/2002 on Community designs.

1. AMICE supports the introduction of the EU-wide repair clause

AMICE supports the revision and modernisation of the EU rules on legal protection of designs. We welcome the proposed exclusion of spare parts design from legal protection and the introduction of an EU-wide repair clause in Article 19 of the revised Design Directive.

In most member states, car manufacturers can protect visible spare parts using design rights and therefore prohibit the production and import of identical parts by independent manufacturers. In these countries, consumers are required to purchase visible repair parts exclusively from original manufacturers or their suppliers. In other member states, national design law specifically excludes visible spare parts from this protection. As outlined in the European Commission's impact assessment, the patchwork of existing conflicting national laws creates fragmentation in the spare parts market and legal uncertainty.

Over the years, vehicle manufacturers have gained a dominant position in the spare parts market which restrains competition from independent manufacturers. It makes it difficult for small repair shops to perform efficiently and increases repair costs for end-consumers and insurers. For example, in France spare parts represented some 51.5% of the total cost of automotive repairs in 2022, from 48.3% in 2014. According to the National Institute of Statistics and Economic Studies (INSEE), the increase in the vehicle spare parts has been systematically higher than inflation for at least the last 15 years. The increase reached the rate of 9.6% in 2022, compared to 2021.

AMICE therefore strongly supports the full liberalization of the spare parts market. This will increase competition and it is essential in the context of increasing car insurance premiums due to the continuous increase in the cost of spare parts. By reusing and recycling spare parts from vehicles that are no longer used or have been involved in car accidents, the proposal will also complement efforts to promote repairs and the circular economy. An EU-wide repair clause will bring benefits to consumers, by increasing consumer choice and lowering prices of automotive spare parts.

Association of Mutual Insurers and Insurance Cooperatives in Europe aisbl | www.amice-eu.org

Rue du Trône 98/14 | B-1050 Brussels | T: +32 2 503 38 78 | E: secretariat@amice-eu.org | Twitter: @AMICE_Mutuals

RLE Brussels, French-speaking division | Company number: 0893.970.608 | EU transparency register: 62503501759-81

2. Instant full liberalisation of the spare parts market for existing and future designs and models

AMICE believes that the repair clause should apply to all existing and future designs and models registrations. As rightly pointed out in the Commission's impact assessment, the instant abolition of design protection in the aftermarket would lead to increased competition in across the value chain and bring potential savings to customers in markets where currently no repair clause is in place ranging between EUR 415 and 664 million annually due to price competition. Moreover, we are of the opinion that the impacts of such a policy option on prices, on fair and effective competition, legal certainty, investment and innovation, employment, consumer safety, administrative and compliance costs, outweigh by far the risk of infringing on existing design rights of manufacturers.

Therefore, we request the deletion of the proposed ten-year transitional period in Article 19(3) of the Directive for parts that have already been registered. The transitional period will make it more difficult for consumers, administration and companies to distinguish which designs are already protected from those that are not and will lead to legal uncertainty about the applicable regime. This could also result in price discrimination where customers of older vehicles end up paying higher-priced visible spare parts compared to new vehicle buyers.