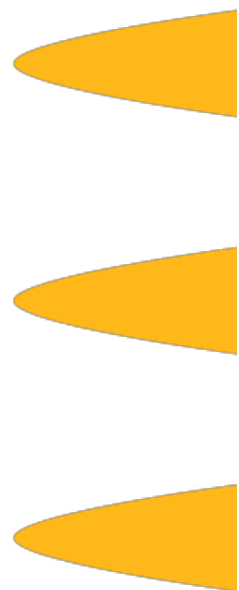




The voice of European
vehicle dealers and
repairers

**CECRA Priorities Towards the
European Elections 2019**

MANIFESTO
for an innovative and
future proof mobility



EXECUTIVE SUMMARY

We are seeking support from MEPs:

A Level Playing Field... to help ensure that SMEs in the Sector have equal access to in-vehicle data to enable them to service and repair latest technology vehicles to ensure competitive market for consumers across the European Union.

A Fair Balance:... to help protect SMEs in the Sector by supporting fair rules at EU level to ensure that Contracts between Vehicle Manufacturers and Dealer SMEs cannot contain unfair, oppressive and unreasonable requirements.

Protect Consumers but avoid Unreasonable Burden for SMEs:... to help ensure that unnecessary or unreasonable additional burdens on our European SMEs are avoided in the continued development of EU Rights protecting Consumer and Personal Data, which we also strongly support.

Protect European Consumers from fraudsters and criminals:... to help deliver EU-wide requirements to fight odometer manipulation by unscrupulous traders who can take advantage of the current lack of verifiable vehicle data. We are seeking the recording and collection of Odometer and Vehicle Damage information to be made available to EU Consumers, as a Right, through State supported Agencies.

The EU Retail Automobile Industry SMEs that CECRA represents:


- ...are the Automotive Sector's interface with the Consumer for vehicle sales and repairs
- ...are local businesses employing 2.9 million people in cities and towns across the EU
- ...help to collect Billions in Motor Related Taxation annually on behalf of Member States
- ...works to serve the needs of 260 Million vehicle owners
- ...works to keep 260 Million vehicles on EU roads safer and environmentally cleaner

PRESIDENT'S PREFACE

Automotive dealers and repairers, that CECRA represents, are an essential element in the European society. In direct contact with the consumers, not only do they sell, maintain and repair cars, trucks, vans and motorcycles, but they also play a key role in protecting the environment and are in the front line of road safety.

In a European Union where the economic growth seems to have finally replaced and left behind the long-standing period of financial crisis and stagnation, but where the slow-moving recovery has not yet managed to remove the feeling of anxiety that still worryingly attracts too many European citizens towards dangerous policy options such as populism and international isolation, motor trade and repair companies, with their strong anchoring to their local dimension, represent an important source of jobs which are not at risk of relocation, and therefore an important guarantee for protecting the social cohesion that Europe needs in these days.

The purpose of this policy manifesto is to highlight to Europe's present and future political leaders as well as key policy makers the importance and the needs of our industry, which is going to play a crucial role for the achievement of some unmissable goals of the EU in the next 5 years: the reduction of CO2 emissions, the reduction of congestion, and the acceleration of economic growth.



1 Set a level playing field for SMEs to compete in the mobility ecosystem of tomorrow

2 Establish a fair balance between all different players in the automotive value chain

3 Defend the EU acquis of a strong consumer and personal data protection while avoiding the creation of unneeded burden for SMEs

4 Restore European consumer trust in the used car market—fight against odometer fraud

Granting equal access to in-vehicle data, resources and functions is the only way to ensure fair competition, innovation and consumer's freedom of choice in the European vehicle service industry of tomorrow

WHAT? We call upon the EU decision-makers to act now by introducing requirements aiming to establish an “**interoperable, standardised, secure and open access telematics platform**” set out in the 2015 EU eCall Regulation in order to ensure a level playing field. This would allow all players in the European mobility ecosystem to better meet the ever-increasing consumer need for connectivity while competing to develop a wide range of new digital services enabling consumers to fully decide with whom they share their data.

WHY? It is important to highlight that: ‘there is no quality and innovative service without an equal access to in-vehicle data!’ However, nowadays, all in-vehicle telematics systems are being designed in such a way that only vehicle manufacturers are allowed to directly access in-vehicle generated data. This technical hurdle has turned vehicle manufacturers into de facto ‘owners’ of the in-vehicle data and is artificially restricting the fair competition, innovation and consumer’s freedom of choice. Furthermore, none of the technical solutions recently proposed by the vehicle manufacturers seem to effectively remove the current unjustified obstacles.

HOW? In order to allow European motor vehicle dealers and repairers to overcome the current hurdles in their way to access in-vehicle generated data, CECRA, supported by some recent resolutions of the European Parliament(1), calls upon the European Commission to introduce a robust regulatory framework requiring the establishment of an interoperable, standardised, secure and open access telematics platform. This technical solution will give motor vehicle dealers and repairers the opportunity to compete with vehicle manufacturers and other third parties in the new market of data-enabled services. CECRA’s solution is the only viable one as it ensures a level playing field for all concerned third parties who want to invest in the creation of new data-related services to better meet the increasing expectations of the European consumers.

(1) European Parliament resolution of 14 March 2018 for a European strategy on Cooperative Intelligent Transport Systems (2017/2067(INI))
European Parliament resolution of 15 January 2019 on autonomous driving in European transport (2018/2089(INI))

(Re-) Introducing some check and balances in the motor vehicle distribution contract would render motor vehicle dealers less dependent from the vehicle manufacturer and would stop some unfair trading practices that are quite widespread within the automotive distribution industry and generate harm for the European consumers

WHAT? As from 2013, year of the expiry of the last Motor Vehicle Block Exemption Regulation 1400/2002 (MVBBER) - which was defending the motor vehicle dealers' independence by mandating some clauses in the motor vehicle distribution contract concluded with the manufacturer - no specific rules exist at EU level to better govern the relationship between dealers and carmakers, and only some countries (Austria, Belgium and Luxemburg) have kept some of these rules at national level.

The above-mentioned rules used to lay down, and still do so in some EU countries:

- the possibility for motor vehicle dealers to act as a multi-branding distributor
- the freedom to transfer the business within the same brand distribution network at any time
- a minimum duration of the distribution contract, and legal certainty about the notice period
- a duty for the manufacturer to compensate the dealer in case of contract termination
- an arbitration clause in case of disputes

These rules have played, and still play in some countries, a crucial role in providing dealers with the necessary independence and the needed level of legal and financial certainty that allow them to innovate and develop new offerings for the benefit of European consumers.

WHY? As already preconized by CECRA - at the time when the European Commission decided not to renew the Regulation 1400/2002 - the inclusion of vehicle distribution contracts under the scope of the General Block Exemption Regulation 330/2010 on vertical agreements (GBER) has enabled the appearance and spread of unfair practices in the European vehicle distribution industry.

The mentioned unfair practices include:

- a lack of transparency in the criteria used by the manufacturer to determine the dealer's remuneration
- dumping of un-ordered over-produced vehicles in the dealer's courtyard
- direct sales carried out by the manufacturer in the competence area of the dealer

These widespread unfair practices highly affect the motor vehicle dealers' in their daily business, but also have serious consequences for the European consumers in terms of proximity and quality of service, diversity of supply and prices.

HOW? In light of the above, and with a view to provide the European consumers with a more competitive and future proof vehicle distribution market, CECRA firmly calls for the (re-) introduction of some check and balances in the motor vehicle distribution contract. This result, which requires a precise intervention of the European legislator, can be achieved through different legislative pathways.

Here we suggest a set of possible options:

New Block Exemption Regulation

The current General Block Exemption Regulation 330/2010 is expected to expire and be replaced with a new one by May 2022. The current EC is carrying out an evaluation process, and the newly appointed EC could consider the (re-) introduction of specific clauses for vehicle dealers.

EU-wide harmonisation of the franchising contract rules (Dutch example)

In a recent own-initiative report⁽²⁾, the European Parliament has highlighted the existing loopholes of the franchising contracts in the EU, and stressed the need for more legal certainty and protection of the franchisee against the unfair practices carried out by the franchisor due to the structural power unbalances. A very promising example is represented by the Dutch Franchise Code, a recently adopted self-regulation tool laying down rules and principles which render the contract between the franchisor and the franchisee more transparent and balanced (i.e. obligation for the franchisor not to stand in the way of a request by the franchisee to close-down or transfer the business on unreasonable grounds).

EU legislative tool to ban unfair trading practices in non-food industries

After a long consultation procedure, the European legislator has recently adopted a new legislative instrument ⁽³⁾ aimed at banning B2B unfair trading practices in the food supply chain. CECRA believes that a similar tool could perfectly be introduced to also oppose the unfair practices described above, that affect the motor vehicle distribution industry.

⁽²⁾ European Parliament resolution of 12 September 2017 on the functioning of franchising in the retail sector (2016/2244(INI))

⁽³⁾ Directive of the European Parliament and of the Council on unfair trading practices in business-to-business relationships in the food supply chain 19 December 2018

Making sure that the European citizens keep the same high level of consumer and data protection also in the digital world, should not come at the cost of an unreasonable increase of the regulatory burden, which would inevitably penalize SMEs against big corporations.

WHAT? Over the past mandate, the EC has made the flagship digital single market programme a priority. Several initiatives have been launched, and many have been successfully adopted, with a view to allow European citizens and companies to seize the big opportunities offered by digitalization. This is an objective that CECRA, along with its EU-wide community of vehicle dealers and repairers, has been fully sharing and supporting since President Juncker came into office, back in 2014.

But such a laudable objective, in principle, has sometimes been mis-interpreted by the EC, steering the law-making process towards the creation of new undesirable regulatory burden.

At CECRA we've been following closely 2 proposals which can definitely be identified as burden-making ones:

- the Directive on contracts for the sales of goods across the EU(4)
- the E-Privacy Regulation(5)

WHY? Both texts have intervened in fields where a previous satisfactory piece of legislation was already existing (Consumers Sales and Guarantees Directive 1999/44, General Data Protection Regulation 2016/679 and e-Privacy Directive 2002/58/EC) and where the new proposal was bringing-in very little or no added-value at all, resulting in a simple addition of new regulatory burden for European companies.

HOW? For the next mandate CECRA calls upon the European legislator to avoid such kind of initiatives and stay true to the principle of better regulation according to which each new proposal should always bring-in a clear added value for the European citizens and companies.

(4) Amended Proposal for a Directive of the European Parliament and of the Council on certain aspects concerning contracts for the sales of goods, amending Regulation (EC) No 2006/2004 of the European Parliament and of the Council and Directive 2009/22/EC of the European Parliament and of the Council and repealing Directive 1999/44/EC of the European Parliament and of the Council COM(2017) 637 final - 31 October 2017

(5) Proposal for a Regulation of the European Parliament and of the Council concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications) COM(2017) 10 final - 10 January 2017

Introduce EU-wide technical and legislative measures to tackle odometer manipulation for both new and used motor vehicle.

WHAT? Odometer manipulation is widespread across the European Union and has tremendous consequences for the consumer. Also known as “clocking”, it is the practice of rolling back a car’s mileage counter to show a false reading, lower than the car’s actual mileage, in order to boost the sales price.

Since many years CECRA is strongly committed in fighting against such a harmful practice. CECRA’s commitment, which has recently resulted in a European Parliament resolution⁽⁶⁾ urging the EC to take action, has produced some good results in terms of increased awareness among the EU decision-makers, and we hope that it will also meet the goodwill of the future EC so that we can eventually put an end to this shameful phenomenon in the EU.

WHY? A 2018 European Parliament study⁽⁷⁾ found that up to 40% of used cars traded across borders are “clocked” and that citizens EU-wide incur a loss of € 8.9 billion per year, under conservative assumptions and without taking account of the consumer damage from manipulated vehicles sold in within a same country. Besides inflated costs for the consumer, odometer tampering has adverse consequence on road safety, the environment and substantially distorts the functioning of the used car market in the EU.

HOW? At CECRA, we want stricter measures to prevent mileage fraud and improve the consistency of penalties across the EU. More specifically we recommend:

- the creation of national databases and mandatory exchange of mileage readings across the EU
- recognition of odometer tampering as a criminal offense across all EU countries
- technical Inspections to include regular registration of vehicle mileage readings
- integration of tamper-proof technological solutions by car manufacturers, with blockchain being considered as a possible measure

Some European countries (i.e. Belgium, the Netherlands) have successfully managed to bring down the number of manipulated cars to almost zero. We believe that big results could also be achieved at European level by simply capitalising on their experience and extending it to all the other EU Member States.

⁽⁶⁾European Parliament Resolution, of 31 May 2018, with recommendations to the Commission on odometer manipulation in motor vehicles: revision of the EU legal framework (2017/2064(INL))

⁽⁷⁾Odometer manipulation in motor vehicles in the EU - European Parliamentary Research Service - Aleksandra Heflich, January 2018

ABOUT CECRA

The European Council for Motor Trades and Repairs [CECRA] is the advocate for the automotive distribution and repair industry in Europe, representing 336,720 automotive enterprises of automotive trade and repair businesses in Europe.

CECRA's members are national trade associations and European brand dealer councils.

CECRA's 4 key missions are:

- **Monitoring policies** affecting the automotive distribution and repair sector

CECRA's role is to monitor and accompany the development of European legislation affecting the automotive distribution and repair sector;

- **Advocating the interests** of authorised dealers and repairers (both authorised and independent) before the European regulatory bodies

Acting as a watchdog, ensuring the interests of dealers and repairers are taken into due account by European regulatory bodies, is one aspect of CECRA's core business. Digitization, increasing automation and new business models have revolutionized the automotive industry. In a rapidly changing world, the European legislative framework needs to shift into a higher gear and should above all ensure an open playing field to maintain competition;

- **Building up alliances** with other European stakeholders

CECRA builds up alliances with other European associations representing various stakeholders, areas of expertise and sectors of activity which have a common interest in one or more particular fields;

- **Identifying and sharing new business opportunities, practices and trends**

A team of experts, located within the EU Member States, are looking for best practices as well as new business opportunities. With new technologies standing at the front door, such as connected vehicles transmitting and receiving in-vehicle data, it is essential that our companies continue to be part of tomorrow's automotive scene. Our businesses are an essential element in our society. Not only do they employ 2,9 million people, they are also sitting at the front desk, understanding and offering professional assistance and service to drivers (end consumers). With their daily activity European dealers and repairers also play an essential role when it comes to ensuring the emission reduction and road safety.



Boulevard de la Woluwe 46, bte 9

B-1200 Brussels

T: +32 2 771 96 56

mail@cecra.eu

cecra.eu