

Key messages on the revised Design Directive



Insurance Europe appreciates the European Commission's intention to liberalise the spare parts market by introducing an EU wide repair clause in the reviewed Design Directive. The harmonisation of the provisions on design protection for visible and replaceable spare parts in complex products, such as vehicles, will bring substantial benefits in terms of fair competition, consumer choice and lower prices. This will also contribute to the objective of developing the circular economy.

However, the text of the proposal as currently drafted risks diminishing the effectiveness of the repair clause as it contains a **10-year derogation for parts that have already been registered and excludes key components from the scope**. This could be especially problematic for a number of specific reasons:

- It could lead to **legal uncertainty** as it will be difficult for consumers, independent parts producers and repairers to know whether a particular car, model or spare part is protected.
- It could lead to **de facto price discrimination** as owners of older vehicles will be penalised with high-priced visible spare parts, while new vehicle buyers will benefit from lower prices thanks to the new competitive market of visible spare parts.
- The deflation effect of **the liberalisation of the spare parts market could be deterred** as most of the repairs will still be subject to the old design regime or directly excluded from the scope of the Directive.

Insurance Europe, therefore, believes that the repair clause should apply to all designs that are already registered as well as to all future designs without spare parts exclusions. This would avoid market fragmentation, ensure fair and effective competition as well as enhance consumer choice.

Why is the repair clause important for insurers and policyholders?

Material damages represent a significant percentage of compensations paid out by insurers. In a similar vein, a substantial part of the total cost of repairs is dedicated to spare parts (in some countries representing about 30% of total compensation¹).

In addition, there has been a steady and significant increase in the cost of automobile spare parts in recent years. For example, in France, for almost 10 years now, insurers have been seeing a steady and significant increase in the cost of automobile spare parts. According to the National Institute of Statistics and Economic Studies (INSEE) this increase was systematically stronger than inflation at least for the last 15 years. The increase reached the alarming rates of 6.5% in 2019 (compared to 2018), 8.1% in 2020 (compared to 2019), 4.6% in 2021 (compared to 2020) and 9.6% in 2022 (compared to 2021).

These high costs are largely influenced by the de facto monopoly of car manufacturers in this closed market and are reflected in higher premiums. Enhancing competition on the car spare parts market, as a way to control the rise of repair costs, would therefore be in the interest of Europe's drivers.

Although insurance companies cover most costs related to accidents, some policyholders do not opt for comprehensive coverage, and therefore must pay for damages suffered out of their own pocket. Additionally, depending on the severity of the damages, some policyholders, even though they have a full cover, choose to bear the repair costs themselves in order to avoid a claim report and the potential financial drawback of a malus. Irrespective of the specific situation of a policyholder, liberalisation of the market would benefit them.

¹ France Assureurs (FA) – Position Paper on Intellectual property – review of EU rules on industrial design (Design Directive)