

Right to Repair Bill- what actually happened

On Friday March 6, 2009 MP Brian Masse (Windsor West NDP) introduced Bill C-273 to the House of Commons in Ottawa. This was the "Right to Repair" legislated solution to the challenges that aftermarket repairers face with accessing information and tools to fix newer, more complex OEM vehicles. Many shops, both collision repair, mechanical and tire service, have complained that they do not have the data to fix modern vehicles because the information is being withheld or restricted by the Original Equipment Manufacturers of vehicles in Canada. An effort has been underway in Canada to try and solve that problem with two different methods, but with the same aim.

One solution is to legislate the manufacturers to provide the same information to repair shops that they do for their OEM dealers. This is known as mandated Right to Repair and was encouraged by the Automotive Industries Association (AIA), a representative organization of jobber, distributors, mass merchandisers and retailers of aftermarket automotive product. AIA spent significant time, effort and monies on lobbying and advocacy efforts (including petitions and workshops) to convince a larger electorate that mandating the answers (requiring by law that suppliers supply data) was the answer and encouraged Mr. Masse to introduce the private member's bill. The mandated attempts were heavily advertised and promoted, but the OEMs largely failed to co-operate with AIA's efforts partially due to their fear that because of AIA's membership of active firms that wanted to copy OEM products and sell them as aftermarket, the OEMs were fearful that agreeing with the objectives of AIA would allow AIA members to compete with their OEM car firms rather than use the information to repair vehicles.

Similar mandated actions for the national program in the United States have been unsuccessful for close to 13 years, with only one of fourteen states (New Jersey) accepting mandated information proceedings.

The second solution was a voluntary program called VISTA, the Vehicle information and Service Tool Agreement. This method, of working with OEMs towards a voluntary agreement where each of the OEMs would share data with shops so that vehicles could be repaired anywhere was promoted by NATA, (National Automotive Trades Association) representing the large trade associations in auto repair across the country, made up of actual shop managers, owners and installers who worked on these vehicles on a daily basis. The OEMs were more amenable to this solution and about 2/3 of them

had already signed on when the Bill was introduced in the House. This approach would see a system developed for Canada similar to the National Automotive Service Task Force (NASTF) program, which is based on a voluntary agreement that appears to be working well in the US. The Conservative government in Ottawa seemed to favour an industry-led joint voluntary approach as well.

The introduction of an NDP private members bill to the House created some excitement. A private members bill is at best a gamble for success without government support. This Bill, as well as mandating a requirement for OEM information, also pre-determines prices that would apply for the information and modified both the Competition Act and CEPA (Canadian Environmental Protection Act) in order to do so. Both government and NATA felt that this constitutes a major risk in the private members bill which might not stand scrutiny. As well, a possible failure of the bill would mean that the threat of legislation, which the OEMs fear, would be gone.

NATA representatives Dale Finch and Diane Freeman met with a number of MPs in Ottawa over the last three days to give them the NATA position and to gauge support for the Bill in the House. They found little interest in supporting the OEMs "monopoly" and more importantly a meeting with Mr. Masse's policy and legislative advisor, showed that Mr. Masse was agreeable to having his Bill rewritten. NATA was assured that they would be invited to participate in the process and design in the committee stage. As well, Mike Lake, Parliamentary Secretary to the federal Minister of industry was very supportive of an industry led solution and stood in the House of Commons on Thursday afternoon and spoke of NATA's efforts and the need to make changes in the Bill. He also recognized the well intentioned but flawed sections of the Bill and indicated he was prepared to work with NATA's voluntary solution plans and with others such as AIA, in supporting a mandatory Right to Repair Bill in efforts to handle the Competition Policy and CEPA areas that he felt were not necessary or might fall outside of the scope of the proposed Bill.

In the end, the repairers in Canada, will be the winners in having a responsive government, an active shop-owner oriented trade association (NATA) visiting MPs and a significant effort in lobbying and letter-writing by others (AIA) to bring this forward. There is still a long way to go before we have a sustainable solution, but the willingness and groundwork is done. NATA members like your local association, applaud Mr. Masse for his dedication to this issue and we are delighted to work with him and the Industry Committee to craft a Bill that will help all concerned. Although our association through NATA, remains committed to a voluntary agreement with the OEMs, on this

issue, if that is not possible, we are supportive of, and will work for a well-crafted Bill, which serves all stakeholders.

The day after the vote, the phones are ringing with OEM representatives calling for updates and better clarity and that is a positive first step towards better co-operation for all.

John Norris

Executive Director, HARA

March 9, 2009

For your interest, the debate (HANSARD) records are below:

Private Members' Business

[Private Members' Business]

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[English]



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Mr. Brian Masse (Windsor West, NDP)  

moved that Bill C-273, *An Act to amend the Competition Act and the Canadian Environmental Protection Act, 1999 (right to repair)*, be read the second time and referred to a committee.

He said: Mr. Speaker, it is a pleasure to speak to Bill C-273, affectionately known as the right to repair and affectionately because it would bring in a set of rules that would be very appropriate for this country to have. It deals with the aftermarket situation with regard to fixing automobiles and repairing them. It is an environmental issue, a consumer issue and a safety issue.

The bill seeks to make some changes to the Competition Act and the Canadian Environmental Protection Act. I want to read into the record some elements that are very important. However, before I do that, it is important to outline that I have been working on this bill for a couple of years. It is not a bill that just came out of the blue. It has been dealt with in terms of hearing from people across the country, ensuring the issue was something that needed addressing and ensuring there would be a required element of Parliament to move on the bill. I hope all

members will look at this bill and the merit of it and endorse bringing it to committee for study and further work.

When I think about this bill and one of the key elements of it, I think of Nancy Suranyi. I went to her garage in Namao, Alberta, and that facility really showed another level to this. It is not only just about making sure consumers have the right to choose, but I found the public safety element very significant. In this facility, which requires this bill to move forward, there is everything, not only with regard to just vehicles for personal recreational use but also school buses and other types of public service vehicles where safety is required.

What is the consumer's right to a repair bill? The vehicle manufacturers are restricting access to tools, training and software to the aftermarket industry due to the increased sophistication of today's vehicles. It is gradually becoming more difficult for independent repair facilities to access the information and develop the skills required to service vehicles. By resolving some of this information for dealership networks, vehicle manufacturers are putting the aftermarket industry at an unfair disadvantage. The aftermarket market has made significant efforts in recent years to negotiate with vehicle manufacturers in order to find a solution to this problem. Unfortunately, the majority of vehicle manufacturers in Canada are unwilling to negotiate an industry-led solution and have little impetus to do so. The AIA has exhausted industry-led solutions and is now requesting the Government of Canada to intervene in order to restore the balance between the dealership network and the independent repair facilities.

It is important to note that the intent here, especially if we look at other parliamentary action we are taking, is to help the dealers as well. One of the things we are requesting is to pursue a new vehicle purchasing and procurement policy as part of a stimulus package to get more automobiles on the road that are more modern and will actually help the dealers. Therefore, this is very much done in balance.

What is the problem? Vehicle manufacturers are restricting access to the tools, training and diagnostic and repair codes to independent installers, preventing them from repairing late model vehicles. This effectively eliminates choice.

Over 18 million vehicles are on the road in Canada today and approximately 59% of them are equipped with onboard diagnostic capabilities, referred to as OBD-II. The ratio will increase over time. The number of vehicle components monitored by the OBD-II will also continue to increase. The tools and the software required to access the computer control units on vehicles have become increasingly proprietary. Vehicle design processes are also more sophisticated. The use of exotic materials and the changes in welding and assembly technologies make it necessary for independent repair shops to access factory specific training and tools. Consumer choice is evaporating and the impact of growing dealer monopoly is significant.

Fewer choices mean higher repair costs and many repairs will be delayed or ignored altogether, putting highway safety at risk and increasing the risk of poor quality emissions. Also, fewer choices mean lower productivity. The existing dealer network does not have the capacity to repair all vehicles on the road today. This means longer waiting times and increased travel distances for consumers, especially in rural communities.

Fewer choices mean instability. Independent repair facilities are primarily small enterprises found across Canada and many are located in small towns and rural areas. If this problem is not solved, many small businesses may be forced out of business within the next five years.

Fewer choices mean that emission standards for vehicles will not be maintained, leading to more pollution and contributing to other environmental problems.

Fewer choices endanger public safety because the safety mechanisms and the functions on the vehicle will be at risk of not being properly maintained, putting not only drivers and passengers at risk but also pedestrians and property owners.

 (1335)

It is important to note that this is a situation unique to Canada. I live very close to the border. When I walk down the front steps of my house and look to the left I can see Detroit, Michigan. It is literally two miles away. The river is two miles wide. Ironically, I could get my car repaired at an independent garage in Detroit within a matter of minutes and yet I could not do the same in

Canada. What is also ironic is the fact that the repair technician working on my vehicle in the United States could have less training than a repair technician in Canada because Canada has some of the highest qualification requirements. Our technicians get their training in independent garages.

I want to thank Danielle Grech, Andre Chamberlain and Daniel Clement who attended the press conference here. These technicians had never done a public press conference before and, despite that, came to the nation's capital and took part in the public forum. They talked about the fact that even though they were professionally trained, they found it difficult to service people's vehicles. They talked about the fact that they had gone to school and received the necessary training and met the necessary requirements, but because of technical problems related to an industry that could not find consensus, they were not able to compete in a fair and open process.

What is at stake here is the thousands of people who are affected by this industry. They know they will see diminished opportunities, not because of competition or because of other issues, but because they do not have the ability to be in a market that allows them to do so, which is why Canada needs to change this.

The U.S. environmental protection act requires the manufacturer to provide this kind of information.

I want to ensure all members in the House understand that I am not asking for something free. The legislation would require a fair payment system. We want to protect intellectual property. We want to ensure these things will be maintained. There is a clear effort from the groups supporting the bill to have a basic set of principles that will be accountable.

In the United States, people can easily download any of the software they need for a vehicle with just a credit card purchase. In Canada, a vehicle in an independent shop would need to be towed to a dealership because independent shops cannot simply download a simple program.

Vehicles now have increased computerization that require more of this type of atmosphere. Things like tire pressure could be affected in terms of whether a vehicle can be serviced at a particular facility or not.

The bill has been looked at through a lot of different lenses. I want to read some of names of the organizations that are supporting the bill: the Retail Council of Canada; Pollution Probe; the Canadian Association of Retired Persons; Corporation des Carrossiers Professionnels du Québec; the Canadian Independent Automotive Association; the Barrie Automotive Repair Association; the Grey Bruce Independent Automotive Repair Association; Association des marchands de véhicules d'occasion du Québec; the Ontario Tire Dealers Association; Motorist Assurance Program; Automotive Oil Change Association; Atlantic Tire Dealers Association; Independent Garage Operators Association; Western Canada Tire Dealers Association and the Windsor Professional Automotive Repair Association. The list also includes associations in Kawartha, Sudbury, and western Canada.

I would be remiss if I did not thank John Sawatsky and Dave Santing from my local riding who have been pushing this issue and have been doing some very good work in terms of public policy.

The bill is not just about being fair to consumers, it is also about public safety. Repairs to municipal vehicles, ambulances and regular vehicles are being done In Dave's garage, in my riding. To keep his business going, he specializes in certain vehicles, as well as regular vehicles in order for him to make ends meet. It is important to note that not all car companies are like this but some are better than others.

 (1340)

I would note that General Motors is not opposing this bill and is one of the better companies that has provided information about this. There needs to be a clear accountability system. People need to access some of these programs, services and tools.

I spoke with Nancy Suranyi in Edmonton, Alberta. She had recently sent a team of employees to the United States to get the training, qualifications and equipment because they were not available here. There is a grey market aspect. Companies would love to train Canadians on their

own soil. That is part of what is necessary to make sure we have a modernized fleet and will continue to see the issues addressed.

One of the issues is emissions. In Ontario there are a number of different clean air and drive programs. We need to make sure that small and medium size businesses are certified as well so that greenhouse gas emissions are lowered. A lot of vehicles will stay on the road for many years and they need to be function as cleanly and efficiently as possible. It is critical for controlling smog and greenhouse gas emissions.

Pollution Probe is supporting the bill. I want to read a statement that it generously provided to me:

Pollution Probe supports the "Right to Repair" Act presented by...M.P., Windsor West. Minimizing emissions of air pollutants and greenhouse gases from vehicles into the environment is a responsibility shared by government, automakers and drivers. An important step that drivers can take to minimize emissions is to keep their vehicle in a state of good repair and ensure that their vehicle's emissions control system is functioning properly. It is important that drivers have effective access to required vehicle maintenance and service in this regard. To the extent that the "Right to Repair" Act facilitates this objective, Pollution Probe supports this action.

That was written by Mr. Bob Oliver, executive director of Pollution Probe.

That is important recognition as we move toward cleaner running vehicles. There are more on the market. Hopefully we will see some of the newer models. Some of the better vehicles are emerging but many Canadians will not be able to purchase new vehicles. What do we do about that situation? Do we allow a slow strangulation of independent associations, or do we provide a set of rules so they can compete? It is critical for consumers who have bought vehicles. They may have extended warranties or they may decide to go to an independent facility later on to obtain that service.

It does not make any sense for our air quality that because a simple program cannot be downloaded in one facility, a tow truck has to be hired to transport a vehicle across the city to a dealership. That does not make any sense. It is also a drag on productivity in Canada. We need to make sure the individuals working in the facilities are doing so in an efficient way. Adding extra hours of labour on top of a simple procedure like that is not helpful to anyone. It is not going to make Canada competitive. It is certainly going to cause more congestion and will lead to more problems. It does not make any sense.

Nobody understands our roads better than the CAA. The CAA has been a very active element in Canadian society. It has provided the following statement:

CAA represents over 5 million motorists across the country. Our main concern on the "Right to Repair" issue is to ensure that automobile owners have the opportunity to choose and get the best possible service at a fair price. This bill will benefit the consumer by allowing for increased competition and consumer choice.

I want to thank all the individuals who have put their support behind this bill. The bill is intended to make significant improvements in terms of our economy and create a level playing field. Other countries have done so and I do not think Canada should be put at a disadvantage because other people cannot get their act together.

I have spoken about the automotive industry in the House for a number of years. I have been pushing for a greener, stronger automotive industry in Canada. The bill fits with that. That is why I hope it will pass this stage and go to committee. I believe it is an improvement for Canadians.

  (1345)

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Mr. Dean Del Mastro (Parliamentary Secretary to the Minister of Canadian Heritage, CPC): 

Mr. Speaker, as you know, prior to being elected to the House, I spent my adult life on the retail side of the auto industry. I served on the CADA's industry relations board and I served as chair of the Suzuki Dealer Advisory Board. I can say unequivocally that an overwhelming number of manufacturers, including Chrysler, are opposed to this bill. It is deeply flawed. It is very wide ranging and makes seriously flawed amendments to things like the Competition Act and so forth.

I would like to ask the member if he has considered the implications on the Chrysler dealer network. He stood yesterday and talked about 1,500 Chrysler workers being laid off. Has he

considered the implications of his bill on the Chrysler new car dealer network right across this country and what negative effect it has on dealers when the cars are sold that his CAW members built?

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Mr. Brian Masse:  

Mr. Speaker, I appreciate the parliamentary secretary's comment.

First of all, it is 1,200 workers that get laid off, but I am sure that with their policies, the Conservatives will make sure it is 1,500 in no time.

We have to have a level playing field. This will not hurt car sales. This will not provide some type of a downturn. In fact, it will provide for a fairer system.

There are other government policies the member could bring in but chooses not to, to get better procurement out there. His party's former minister, David Emerson, promised an auto strategy. He promised that when he was a Liberal and then he flip-flopped and crossed the floor to the Conservatives. He promised that policy and never acted upon it. Canada does not have a plan right now for our auto industry. If it is suffering right now, it is because we have no plan.

There are ministers wandering around Washington right now. I would encourage the member, just like General Motors and ironically, Suzuki, to provide access to this information. All we are asking for is a fair set of rules for all of those out there, and that can be done in an accountable way. All we are asking for is a fair set of rules.

I believe the member's family has a dealership. They should think about this issue because General Motors has set an example, but the problem is that the rest of the automotive groups out there have not been able to form a consensus.

The hope of this bill is to bring forth a policy that is accountable and fair so that people can compete in an open market.

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Mr. Alan Tonks (York South—Weston, Lib.): 

Mr. Speaker, I would like to congratulate the member for introducing this bill in the effort to find a balance. I reflect on the debate we had between generic and non-generic drugs.

My question is similarly intended. The individuals who have come to see me who are opposed to this bill have indicated that in one particular respect, that is, the investment with respect to software proprietary rights and so on, there should be some consideration given to the manufacturers that have made those investments. Then there is the commercialization issue that comes into it. Could the member express how that balance similarly can be achieved through this bill?

The issue of training and safety has been brought forward. The member has talked a little about that, but does he think that training and safety will be placed at risk in terms of protection for the consumer?

  (1350)

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Mr. Brian Masse:  

Mr. Speaker, there will be a purchase requirement through the actual element of this bill, so that one would have to pay for that service or equipment, or that actual information. There would be money going back to the proprietor. It is very important to protect that element.

With regard to training and safety, that is a great point. Many Canadians head down to the United States every single year, and if they have car problems, they get the car fixed at different places by people who have fewer qualifications than Canadians. They come home and they cannot get the same services here by those same independent organizations. It does not make any sense. Over here on the Canadian side, we have better training, better scrutiny, and we also have a process that is blocked. However, if one heads into the United States and has a car problem, the vehicle can be fixed by someone who could be less qualified and that vehicle will be back on Canadian roads.

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Mr. Mike Lake (Parliamentary Secretary to the Minister of Industry, CPC): 

Mr. Speaker, I am tempted to start by commenting that the member just answered the Conservative member's question with a little bit of rhetoric. He did not mention the fact that he voted against the \$12 billion for the secured credit facility that is needed so desperately right now for dealers, but I will not mention that to start.

Instead I will say that I am pleased to have the opportunity to discuss this important issue. The issue is a complex one. At hand is automotive repair and service. It involves a fair and competitive marketplace and the legitimate proprietary concerns of manufacturers, as well as the interests of consumers.

This bill attempts to legislate access to information for the repair and services of vehicles to independent automotive aftermarket on the same basis as franchised auto dealers. Essentially this would require the vehicle manufacturers to make information and tools for the repair of the vehicles they build available to vehicle owners and independent repair facilities.

Independent aftermarket service providers are asking for the same access to information, training, software and tools as provided to dealerships. As we know, new vehicles are increasingly equipped with computer control systems and onboard diagnostics, making software as or more important than parts in vehicle repairs.

These independent service providers claim that manufacturers provide more information to their dealerships, which they say threatens the long term competitiveness of the independents. On the other hand, many car makers believe they already share the necessary information and that legislating beyond this affects their dealer networks.

Dealers also have concerns about this issue. They believe that this information sharing will cut into revenues. In fact the Canadian Automobile Dealers Association, which represents some 3,500 dealers in Canada, opposes legislating on this issue.

In the middle, of course, are vehicle owners. Consumers want choice. They want competitive pricing, but they also want assurances that the work being done on their vehicles is done right.

According to data shared by automotive consultant Dennis DesRosiers, the average age of vehicles on the road in 2007 was 8.2 years. It is estimated that over the course of a vehicle's life it will accumulate about \$14,000 in aftermarket repairs and service. That is a lot of repairs, service and revenue.

Of the 18 million vehicles on Canadian roads today, 59% are equipped with onboard computerized diagnostic systems. This percentage naturally is expected to increase as older vehicles are relegated to the auto graveyard. While new car owners tend to remain affiliated to their dealership, especially during the life of the warranty, this affiliation tends to weaken as time passes, and especially with second and third owners of a vehicle. Owners of older vehicles generally like to find the cheapest cost in repairing their vehicles.

This is what we are faced with. On the one hand, independent aftermarket service providers are demanding access to critical information and access to tools and training. Car makers believe they are already providing necessary information. Consumers want the choice and the best price, as well as the comfort of knowing that those servicing or repairing their vehicle have the best knowledge and tools at their disposal.

The automotive repair and services sector covers non-warranty automotive repair and service. It includes autobody and collision service. This work is performed at over 30,000 establishments located at either new car dealerships, independent garages, specialty shops, such as those dealing with transmissions, mufflers, glass, et cetera, and branded retail outlets like Canadian Tire and Wal-Mart. The total employment in this sector was about 220,000 in 2004, with more than half in the independent and specialty shop sector. This represents a sizable group and substantial employment.

The government is certainly very much aware of the aftermarket industry concerns and is engaged with stakeholders on the issue in an effort to ensure an efficient and competitive marketplace while protecting consumer interests.

According to a February 2006 study by DesRosiers Automotive Consultants for the Automotive Industries Association of Canada, of the 25 assemblers and importers operating in the Canadian

market, 10 at that time permitted varying levels of access to this information from within Canada.

Car makers have made their own decisions about how they share their technical information. Selected special tools, including diagnostic scan tools, are also available for purchase by independent repair facilities from either the original manufacturers or from third party manufacturers or distributors of aftermarket tools to service most brands and models of vehicles that are beyond their warranty period.

However, there is no doubt the technology that goes into today's automobiles has become increasingly more sophisticated. There are highly specialized and specific tools that require technical training and diagnostic information, as well as the proprietary software from manufacturers, which their dealers are privy to.



These specialized resources do not come free or cheap. Dealerships make significant investments in necessary modern facilities, staff, specialized tools and training. Independents, who service a wide variety of vehicles, have not made the same level of investment, so there is a question of fairness when it comes to commitment and investment.

There are also a number of other issues with legislating that the information, tools and training be provided widely. These issues include safety and security concerns ranging from anti-theft access key codes getting into the wrong hands to the possibility of knock-off parts being manufactured and sold, especially safety equipment like airbags and brake parts.

Today consumers do have a choice, and mechanisms out there provide for a competitive marketplace. Could it be better? Absolutely. That is why the government is reviewing options that will take into consideration small business and consumer interests, as well as environmental interests and the legitimate proprietary rights of manufacturers.

Once such option is the voluntary approach. This approach would be industry-led and industry-based. It is an approach that is consistent with the National Automotive Trades Association, NATA, an association of provincial and local associations representing the automotive aftermarket and repair sector in B.C., Alberta, Saskatchewan, Manitoba, Ontario and Nova Scotia.

What the voluntary approach would do, other than keep government out of telling businesses how to run their business, would be to harmonize our approach with the approach taken in the United States. Mr. Speaker, as you know, our automotive industry is highly integrated with that in the U.S. This integration encourages standards, regulations and processes across Canada and the U.S. to be as consistent and complementary as possible.

NATA cites the U.S. National Automotive Service Task Force voluntary agreement as an example of how such a system can work effectively while safeguarding the concerns of assemblers. All automotive manufacturers voluntarily agree to provide all non-emissions-related repair information and diagnostic tools to any independent repair shop through an online portal with a non-profit volunteer task force created as the oversight body.

The bottom line is that we must ensure that consumers are protected, while allowing a free and competitive marketplace to operate.

Competition is about consumers. When competition is present, consumers have choices. In the end, the issues that we will have to address are whether the instruments used in this bill are the appropriate ones and whether legislation is the best way to approach the issue. The provisions in the bill related to the Competition Act may not be necessary and may create negative, unintended consequences. The changes to the Canadian Environmental Protection Act may fall outside the scope of this act.

As we all know, the auto industry overall is in the midst of an economic crisis, with some manufacturers fighting for their very survival. Auto dealerships are having trouble moving the inventories they have. While this industry treads water, trying to keep its head above the water, this bill, as well-intentioned as it may be, proposes to hit them with a binding regulatory burden.

The government continues to review options and to engage with stakeholders on this important issue. We need to look at the best possible solution for consumers while ensuring a fair, efficient and competitive marketplace.

 (1400)

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Mr. Marc Garneau (Westmount—Ville-Marie, Lib.):

Mr. Speaker, as a new member of Parliament I have to say that I was somewhat surprised by the amount of discussion generated by this private member's bill within my party and by the number of representations made to me in the last several weeks. Certainly Bill C-273 has generated a great deal of debate, and I think this is something we should welcome.

I would like to commend the member for [Windsor West](#) for bringing forward this bill, because I think at its heart is the desire to offer a greater choice to the consumer.

It is also clear that on the face of it, the bill is commendable in the sense that it argues that implementing the bill will provide us with safer, cleaner cars and that the consumer will have a greater choice.

At the same time, obviously there are always two sides to every coin and to every argument, and certainly in the last week I have heard many arguments from groups that do not support Bill C-273.

I certainly welcome the opportunity to hear more, because I think it is important for us to have a full debate. The bill was presented before, but it did not get as far as it will hopefully get this time.

I think what is important here is that we allow a full airing of all issues. One of the things that has surprised me, I must admit, is that diametrically opposite viewpoints are being presented on the same issues. On the one hand, one group will argue that we will end up with safer cars, while on the other hand, those who are against it are arguing that we will end up with cars that are less safe. On the environmental side, arguments are presented by one side that we are going to end up with cleaner cars. On the other side are groups that say we will end up with cars that are less clean. If one looks at the cost side, on the one hand there are groups who say that this is ultimately going to cost the consumer less, while the other group, predictably, is saying that this will actually end up costing the consumer more.

Therefore it is very clear to me, as the hon. member of the government pointed out, that this is a very complex issue. Strong arguments have been brought forward by both groups.

I personally would like to see this debate continue. I would like us to air it more fully and bring the groups together. I believe that one way to do so is through the legislation proposed in this private member's bill.

I would like to argue that what is important at this point is that we bring all the players together and continue to discuss the bill. Hopefully we can come to some arrangement, perhaps through modifications to the bill, that will satisfy all the groups. Ultimately I think it is important for us to always be mindful of the importance of trying to make a bill that will offer the consumer a greater choice.

[Translation]

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Mr. Robert Bouchard (Chicoutimi—Le Fjord, BO): 

Mr. Speaker, I am happy to speak today in the House of Commons, on behalf of the Bloc Québécois, about Bill C-273. To begin, I would like to point out that we are in favour of this bill in principle and feel that it deserves to be studied in committee. I salute the efforts my colleague from [Windsor West](#) has made to encourage competition in the automobile maintenance sector so that Quebeckers and Canadians have the right to affordable, accessible and good quality

services. This legislative measure will allow consumers to choose the business they want to use for vehicle maintenance.

As my colleagues have mentioned, cars and trucks are becoming increasingly complex. Some of the businesses that sell automobiles in Canada offer specialized information and tools needed to repair and maintain the vehicles they sell, but others do not. If a business does not do so, the customers are locked in to getting their cars fixed there. Such businesses then have a monopoly on the repairs and maintenance done on the vehicles they sell. A monopoly often means higher prices for the consumer, but above all, it means less choice. In this type of situation, the consumer cannot take the vehicle to any garage of their choice. They have to do business with the dealership. Without this legislative measure, the consumer has no other choice but to do business with the dealership.

The people of my riding, [Chicoutimi—Le Fjord](#), elected me to represent their interests and this bill is a step in that direction, since it aims to promote accessible, affordable, good-quality maintenance services. Without this important legislative measure, Quebeckers and Canadians will be forced to continue doing business with dealerships for their vehicle maintenance. The situation is particularly difficult for Quebeckers who do not live close to a major urban centre.

More and more, vehicles require electronic diagnostic tools and as a result, garages in more remote regions do not have access to the information needed for proper maintenance, and repairs to vehicles can therefore be limited. People who live in rural areas must travel great distances to have their vehicles serviced and repaired. The numbers on this speak for themselves. According to a study by DesRosiers Automotive Consultants, the number of motor vehicles and the concentration of dealerships is increasing in urban centres. Yet 21% of vehicles but only 12% of dealerships are located in rural areas, and this discrepancy will only become more pronounced over time. I therefore ask my hon. colleagues the following question. When was the last time any of us saw a new car dealership open up in a rural area?

This bill would allow garages in the regions to service vehicles for Quebeckers and Canadians in the very communities where they live. As a result, these people will no longer have to travel to urban centres to have their vehicles serviced.

As I pointed out, under this bill, independent mechanics in rural regions will be able to compete in the vehicle maintenance sector and do work for vehicle owners. This bill will ensure that local garages continue to be part of the landscape.

Neighbourhood garages in all regions of Quebec and Canada are important. Two of the largest replacement parts distributors, NAPA and Uni-Select, are located in Quebec. Together, they employ hundreds of Quebeckers in a Montreal plant, and their activities rely on neighbourhood and rural garages.

We think that [Bill C-273](#) will be good for consumers because it will enable them to decide where they take their cars for service and repairs. Vehicle manufacturers want consumers to come to them, but the Bloc Québécois believes that car owners should have the right to choose their own mechanic.

 (1405)

This bill will ensure that consumers are not forced to go back to the dealer for repairs and maintenance, unless the committee finds, in its study of the bill, that some vehicle parts should be serviced exclusively by the dealer. That is why we think it is important to study [Bill C-273](#) in committee.

We have to wonder why the solution currently before us has not yet been implemented. The United States has been looking at a similar bill for a few years now. They implemented a voluntary system that enables anyone to access the information for a fee.

In Canada, vehicle maintenance and repair technicians cannot get that information. I would like to ask the members of the House a question: if vehicle manufacturers have refused to supply the information to Canadians to date, then why should they start now, given that they make more money by forcing people to come to them for maintenance and repairs?

Some dealers even imply that if clients do not use the dealer's services, vehicle safety could suffer. However, members should know that to work in a car centre anywhere in Canada,

technicians must have a valid licence. Whether they work at a car dealership or the corner garage, they are responsible for the safety of their clients' vehicles.

The bill gives consumers the right to choose where they have their vehicle serviced and repaired, and it enables neighbourhood garages to continue serving local communities.

The bill is not designed to deprive manufacturers of innovations in which they have invested a great deal of money. However, it does establish that when a consumer purchases a vehicle, the innovations it contains are included in the price.

In conclusion, Bill C-273 allows consumers to choose where they have their vehicle serviced and repaired and will prevent people from paying monopoly prices. It will also enable rural Quebecers and Canadians to continue having their vehicles serviced and repaired at local garages.

In Quebec, the vehicle maintenance industry, which does \$3.5 billion in business annually, could continue employing Quebecers and contributing to the health of our economy.

Companies will be able to compete in the vehicle maintenance sector, and consumers will benefit from quality services that are more affordable and accessible. By giving vehicle service and repair technicians access to the training and tools they need, we will help the market work better.

Lastly, companies will benefit from healthy competition, which will be good for consumers in Quebec and Canada.

 (1410)

[English]

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Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): 

Mr. Speaker, it is a pleasure to rise to speak to this issue. I believe when private members' business was first designed some decades ago, this was the way it was meant to work. A member of the House of Commons was able to receive ideas from their constituency, from people interested in the issues upon which the member was elected, and then present ideas to the House for consideration.

The right to repair bill proposed by my hon. colleague from [Windsor West](#) accomplishes a number of things that go to the heart of what it is to be a New Democrat, and that is the idea of consumer advocacy.

We see around the House of Commons and in Parliament many groups advocating for many things. Many outside lobbyists spend a great deal of time, money and effort trying to influence and convince members of Parliament of their issue and their slant on that issue. If people are in the oil and gas sector or some sectors in pharmaceuticals, they can spend a great deal of money without the need to have a great deal of Canadians on their side. They simply can have a limited number of partners, go forth and spend much money on dinners and cocktails.

In going through some of my emails this afternoon, I note that average every day ordinary Canadians hearing about the issue are writing asking how this thing works and how they can we make it better.

The NDP has done this on ATM fees, interest rates on VISAs and Mastercards, on the ripoff of consumers at the gas pumps. We have time and again stood up for the folks who do not necessarily have a lobby group organized around them. They are people who pay their taxes, who go to work, who get their kids up to go to school. They have to deal with everyday life. They do not have associations or groups of people willing to try to influence members of Parliament. This is the role New Democrats have taken on, not just in this Parliament, but in many parliaments before.

In advocating for the right to repair, the member for [Windsor West](#) has been able to bring together an unlikely consortium of groups and individuals represented in the millions by these associations, the Canadian Automobile Association, the Association of Retired Persons, Pollution

Probe, environmental groups, people interested in making things cleaner, greener and more fair for Canadian consumers when it comes to repairing their cars.

There will be contention around the bill, and we have heard some of those contentious pieces already. It is incumbent upon all members of the House that if they agree with the principle that is provided here, which is to allow for the free and fair distribution of information about how to fix a car or truck, then that idea should be promoted to committee.

At committee, we can hear from witnesses on what the repercussions may or may not be for certain sectors. At the very least, we can look at the listing of groups that are interested in hearing about this, that have both direct connection to the automobile sector and that are more tangential, like the environmental groups. Then we can look at our in boxes, phone messages and letters from constituents who, when they hear about the issue as promoted by the member for [Windsor West](#), think it is a good idea. Why does Parliament not do what Parliament so rarely does, which is work together on behalf of ordinary working people to get something positive and constructive done in this place.

It is very easy to tune into the evening news. We can listen to the [Prime Minister](#) on a daily basis rattling his sabre and screaming over the heads about the need for another election and that it all must end. It is destructive debate. The "my way or the highway" approach of government is not in the best interests of the country, particularly at this time.

I note the desperate economic times and the fact that Canadians are scrambling to keep it together. When one or more members of a household have lost their jobs or have had their employment severely reduced, or the when the quality of their employment is severely reduced, they come to us. I hope members are in their constituency offices listening to these families and individuals. They are saying that making it to the end of the month is becoming more and more difficult.

I represent a rural riding in Canada, the great northwest of British Columbia, the entire quarter of that province. I have to travel approximately two hours, 220 kilometres, to get to the car dealership for the most basic repairs to keep the standard required of the car I leased a number of years ago. That is a simple fact of life for many rural Canadians who do not have dealerships in every community.

 (1415)

When those dealerships are holding onto the manual and people walk into an independent dealership needing a small repair, they are unable to get that repair done and unable to have the servicing they need. As the member from Windsor pointed out, people near the border who have the same vehicle from the same manufacturer simply go across the border and experience another reality entirely. It makes no sense whatsoever.

Canadians realize this, and they want it fixed. It is one of those issues that one does not realize until one bumps into it. A lot of Canadians who live in a large metropolis where it is very easy to get to dealerships may not have faced this situation, the moment when they hop across to the repair shop down the road, a shop where they have some relationship and trust with the mechanic, and are told that the car simply can't be fixed because, in this modern age of the Internet and information being everywhere all the time, the mechanic cannot get access to fix the car. They are told they will have to go over there, that they have no consumer choice, that they have no right to repair with the company they choose.

It baffles many when they step back and ask why this situation exists. What is the role of government in this place? What is the foundational and functional role of government?

As I pointed out at the beginning of my comments, when it was around ATM fees and interest rates on credit cards, when it was on the measurement of gas at the gas pump, with some companies jimmying with it a little, and government throws its hands up and says it is not its duty or responsibility, one wonders what its duty or responsibility is.

If basic consumer protection is not part of a government's mandate, then what is the mandate? Are these folks just here as sleeping gatekeepers who no longer pay attention to what is going on?

One of my hon. colleagues is suggesting that the government's role is to listen. I would then suggest that it listen, because on this piece of legislation people are saying they would like that right. They would like the government to consider that option. I am hearing support. I could not quite decipher and parse the government's words. I know we will be hearing from more members as to whether they are supportive or not.

I suggest there will be some sort of fierce negotiations going on in the lobby as this bill comes to a vote, but I encourage members, even those from the Conservative Party who have some concern, to look at the merits of this bill. I encourage them to hear the hopes of their constituents, those within the sector as well as those who just own a car in Canada, are hoping to buy a Canadian-made car, or are hoping to help that part of the economy, that there is not going to be some sort of extra penalty.

It is important for folks to realize just how large this market is. We take a step back and realize that the aftermarket in Canada is a \$16 billion market with 225,000 Canadians employed. About 40%, about 90,000 of them, are general automotive service technicians, and they are very well-trained people.

For those of us who have lived in other countries and have had the misfortune in certain nations to try to get a car repair, it is a worrisome prospect. In Canada, we actually enjoy an extremely high level of service, both in the dealerships and in the independents.

Having at least a few measures and rules in place that allow us some protection as consumers to get good service for fair pay and fair price actually leads to a productive economy, whereas in a lot of other countries in the world, it is hit-and-miss and the buyer must beware at all times.

For those areas of our country and those constituencies that are very hard hit, which I would assume is almost everywhere right now, this measure does offer some hope. It offers some hope particularly to people in those rural sectors of the country who do not have immediate access to a dealership because they are three or four or five hours down the road from the dealership that offered the car and model that was best for their family,

The nuanced government concerns presented so far can be ameliorated. There are ways to work this through.

Again I congratulate my colleague from Windsor for figuring this out, for presenting to the House of Commons a good idea, an idea we are supporting, an idea that will be accepted and encouraged by Canadians.

 (1420)

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Mr. Rick Norlock (Northumberland—Quinte West, CPC):

Mr. Speaker, I am pleased to stand in the House to discuss the issue of the right to repair.

According to the provisions contained within the bill, automobile manufacturers who sell cars in Canada must provide unrestricted access to all the service and training information relating to its vehicles.

New vehicles are increasingly equipped with computer control systems and on board diagnostics making software more important than mechanical parts in later model vehicles. Independent or after market service providers are claiming that manufacturers provide more information to their dealerships which threatens the long-term competitiveness of the after market sector.

The manufacturers feel that some of the information that the after market industry demands is proprietary and that they already provide service and repair information for all but the newest of vehicles.

There are also a number of other issues with legislating that the information, tools and training be provided widely. Issues such as safety and security concerns, from anti-theft access key codes getting into the wrong hands to the possibility of knock-off parts being manufactured and sold, especially safety equipment like air bags and brake parts.

Furthermore, the bill provides an amendment to the Competition Act to add a definition of product in section 75. It says:

--to make it clear that that term includes technical information that is required by a person in order to provide a service to a customer. This ensures that the Competition Tribunal is able to require a supplier to provide this information to a customer in accordance with section 75 in cases where the supplier has previously refused to do so.

First off, while this bill is well intended, the provisions of the bill related to the Competition Act may not be necessary and may create negative, unintended consequences.

If the information, diagnostic tools and capabilities referred to in the bill are products; that is, goods or services actually exchanged for value or consideration, then they are already covered by the provisions of the Competition Act and no amendment is necessary.

If they are not products, the amendment would import an exception into the Competition Act that would undermine the key and widely accepted competition law concept of requiring a product in order to define a relative product market.

The issue that needs to be addressed is whether the instruments used in this bill are the appropriate ones and whether the legislation is the best approach. The provisions of the bill related to the Competition Act may not be necessary and may create negative, unintended consequences.

The government is very much concerned with consumers' best interests. The aims of the bill I believe have consumers' best interests in mind. However, it is not clear the instruments the bill intends to use are in the right direction.

We need to ask ourselves, under the current process, are consumers protected by allowing a free and competitive marketplace to operate? Competition is about consumers and when competition is present, consumers have choices.

With that in mind, the government has introduced reform to the Competition Act. The changes proposed will modernize the Competition Act, which has not been significantly changed for nearly a quarter century, and better protect Canadians from the harm caused by anti-competitive acts like price fixing and misleading advertising.

The reforms will promote an efficient marketplace by better protecting consumers, improving the competitiveness of Canadian businesses, and making Canada a more innovative and productive country. With this reform, the government will ensure that consumers' interests are respected and promoted. Canada's laws and policies must protect consumers and focus on delivering the benefits of economic competition to all Canadians.

Obviously, business benefits from a competitive environment. Vigorous competition creates efficiencies and successes. It improves productivity and the ability to take advantage of market opportunities whether at home or abroad.

The technology that goes into automobiles today is becoming increasingly more sophisticated.

 (1425)

The technology that goes into automobiles today is becoming increasingly more sophisticated. In order to repair and service newer vehicles, there are highly specialized and specific tools that require technical training and diagnostic information. Manufacturers also own proprietary software which is made available to their respective dealer networks. These dealerships in turn make significant investments to ensure their facilities have the modern capacity and the specialized tools to service these vehicles, and into staff and training.

Therefore, car company A's dealerships become experts on its vehicles, gained by its investments into the proprietary information tools and training from its parent manufacturer. The same goes with car company B on its own vehicles, and so on. Consumers have come to accept and expect this. Owners of car company A vehicles know that by going to the A dealerships, they are being serviced by an expert on these A vehicles.

It would be extremely difficult, if not impossible, for an independent after market business to have the updated information and training on every manufacturer's products or be able to make the appropriate investment to service all makes.

There is also a concern that by legislating access to this information, training and tools, consumers could automatically assume that all after market service providers are indeed experts on all makes. Respecting the legitimate property rights of manufacturers does not necessarily diminish competition or choice for consumers.

According to data shared by automotive consultant Dennis DesRosiers, new car dealerships have a 32% share of the parts and service marketplace. That means after market providers take a vast majority of the business. Consumers are also protected for new vehicles through the manufacturers' warranty. Typically, most repairs that fall under the warranty are done at the dealership.

[*Translation*]



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The Acting Speaker (Mr. Barry Devolin): 

The time provided for the consideration of private members' business has now expired, and the order is dropped to the bottom of the order of precedence on the order paper.

It being 2:30 p.m., the House stands adjourned until next Monday at 11 a.m., pursuant to Standing Order 24(1).

(The House adjourned at 2:30 p.m.)

How your trade association can work for you

“Right to repair”