

Unchained melody: Why the current BER ensures trade is free to prosper

With the help of the ADF, UAN separates fact from fiction and shows how distributors can cast aside the misinformation on block exemption, leaving them free to attack new areas of growth within the aftermarket

LET'S RECAP where we are. In October 2003 European Union legislation affecting the motor trade came into force. Its full title is 'block exemption regulations 1400/2002' (in short BER).

This legislation changes the way cars may be serviced and repaired and gives motorists a lot more freedom in their decision as to who should look after their cars.

Before BER, it was very difficult to have cars, which were still covered by the manufacturer's warranty, serviced anywhere except a franchised dealer.

Now, motorists can use any garage of their choice to service their cars without invalidating the vehicle manufacturer's warranty. *Subject to certain conditions. See OFT quote

BER is subject to renewal in 2010. If the rules mentioned in this were to be lost, consumers and independent repairers would suffer severely. That's why the ADF and UAN are prime supporters of the right to repair campaign (R2RC).

The BER also covers service and maintenance during the warranty period and prohibits

vehicle manufacturers' warranties from including conditions requiring that :

- All normal maintenance be provided within the vehicle makers' network
- All parts used must be the VA's "original spare parts"

The European Commission declared that such clauses in a warranty document would represent 'an unjustified restriction for the consumer!'

The ADF have written confirmation from Office of Fair Trading (OFT) that :

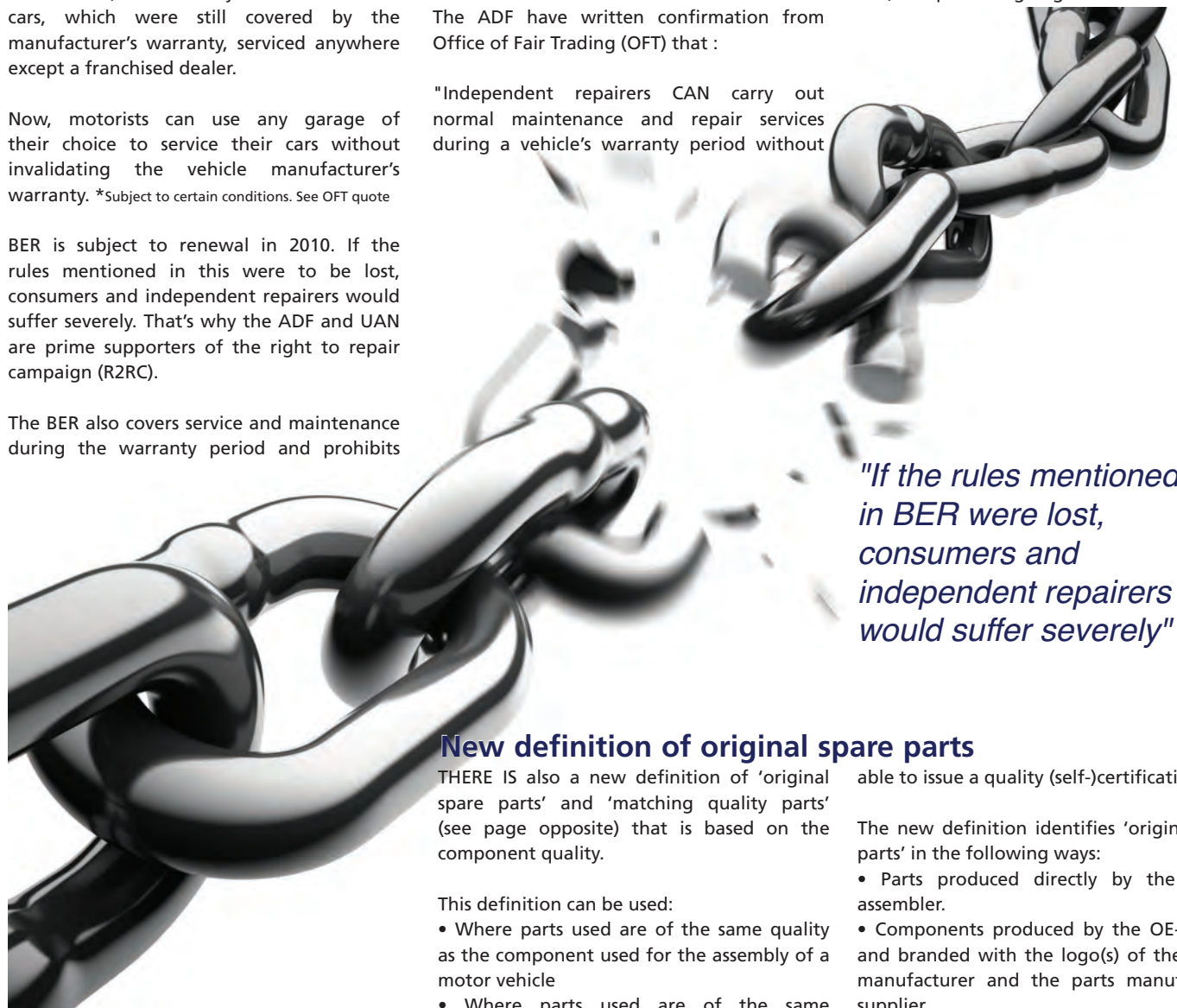
"Independent repairers CAN carry out normal maintenance and repair services during a vehicle's warranty period without

invalidating the VA's warranty conditions. With two provisos ...

Provided: That the service is in accordance with the VA's servicing schedules and is recorded as such. And ...

Provided: That the parts used are of 'appropriate quality' and recorded as such."

Don't forget, the new BER helps parts distributors, independent garage and motorists. ■



"If the rules mentioned in BER were lost, consumers and independent repairers would suffer severely"

New definition of original spare parts

THERE IS also a new definition of 'original spare parts' and 'matching quality parts' (see page opposite) that is based on the component quality.

This definition can be used:

- Where parts used are of the same quality as the component used for the assembly of a motor vehicle
- Where parts used are of the same specifications and production standards as those used by the vehicle assemblers
- Where parts manufacturers / suppliers are

able to issue a quality (self-)certification.

The new definition identifies 'original spare parts' in the following ways:

- Parts produced directly by the vehicle assembler.
- Components produced by the OE-supplier and branded with the logo(s) of the vehicle manufacturer and the parts manufacturer/supplier.
- Technically identical parts produced by the parts supplier, branded with his own logo and sold to the independent aftermarket.

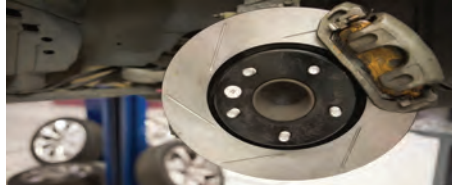
Definition of 'matching quality' parts

SPARE PARTS of 'matching quality' identifies parts in the following way:

- Spare parts made by any undertaking which can certify at any moment that the parts in question match the quality of the components which are or were used for the assembly of the motor vehicles in question.

An interesting point is that if the vehicle manufacturer himself offers spare parts of differing quality (e.g. an

'economy' line), they cannot prohibit its contractual partners (i.e. dealers and authorised repairers) from buying spare parts of the same quality from the independent market.



From the OFT:

"Independent repairers CAN carry out normal maintenance and repair services during a vehicle's warranty period without invalidating the VA's warranty conditions"

* With two provisos (see opposite)

With BER 2003:

Motor factors can: Supply parts of appropriate quality to dealers and authorised repairers.

Suppliers can: No longer be forced by their OE contract to limit supply of certain parts to the car companies.

Garages can: Identify the manufacturer of the part when it is removed and source its replacement from any distributor.

Consumers can: Have their vehicle serviced at any time (within the first 3 years) by an independent garage.

Do not be intimidated: Contact the ADF who will fight on your behalf.



ADF's new leaflet on BER

The freedoms awarded to the independent aftermarket

THE CURRENT BER introduces four 'freedoms' that are aimed at safeguarding free competition in the entire market for vehicle spare parts, service and repair. They affect the way in which the parts distributor can act in the market.

1. Freedom for a franchised dealer and/or an 'authorised repairer' to purchase 'original spare parts' and 'matching quality' spare parts from independent market operators of their choice.

This Means: Parts factors can supply parts of appropriate quality to Dealers and authorised repairers without the Vehicle Manufacturer/Assembler using dealer / repairer contracts or other means to prevent them.

2. The freedom for parts manufacturers/suppliers to sell their OE-components without restrictions into independent wholesalers or independent repairers.

This Means: Parts manufacturers can no longer be forced by their 'OE' contract to limit supply of certain parts to the vehicle manufacturer / assembler. The end of the 'tied parts' arrangements.

3. The freedom for parts manufacturers /

suppliers to brand their 'original equipment parts' with their own logo.

This Means: Motorists and garages will be able to identify the manufacturer of a component when it is removed from a vehicle and source its replacement from any distributor of the part. They will no longer feel that they 'have' to go to a dealer for a part.

4. An extension to the obligation on vehicle assemblers to pass on technical information to operators in the independent aftermarket. This information includes, for instance:

- Access to electronic systems for controlling the vehicle's operation
- Right of "reprogramming" information to correct maladjustment

This Means: Anyone with a legitimate need for technical information – parts manufacturers, remanufacturers, distributors, factors, garages, technical publishers, security companies – will have right of access to it in a usable form and at a reasonable cost (the same cost as charged to anyone within the VAs network).

