



Motor & Equipment Manufacturers Association

Comments to Federal Trade Commission

Re: Request for Public Comments, Used Auto Parts Guide Review, 16 CFR Part 20

FTC Project No. P127702

August 3, 2012

Introduction

The Motor & Equipment Manufacturers Association (MEMA) represents over 700 companies that manufacture and remanufacture motor vehicle parts for use in the light- and heavy-duty original equipment and aftermarket industries. Motor vehicle parts manufacturers are the nation's largest manufacturing sector, directly employing over 685,000 people across the country. MEMA represents its members through four affiliate associations: Automotive Aftermarket Suppliers Association (AASA); Heavy Duty Manufacturers Association (HDMA); Motor & Equipment Remanufacturers Association (MERA); and Original Equipment Suppliers Association (OESA).

MEMA, on behalf of its affiliate association, MERA, is pleased to submit comments in response to the Federal Trade Commission's (FTC) request for public comments regarding its revision to the "Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry" (Guides). In short, the Guides are outdated and outmoded because they suggest that remanufactured automotive products and various used automotive products are largely equivalent, thereby ignoring the significant advancements this country's remanufacturing industry has made with regard to consumer quality and in the area of international trade since the Guides were first adopted in 1979. Therefore, MEMA and MERA urge the Commission to overhaul the Guides to reflect these advancements and to encourage consumers to choose remanufactured products, which are produced using energy efficient and environmentally sound manufacturing processes. Such action would be consistent with other ongoing federal efforts.

The motor vehicle parts industry has led the way in remanufacturing. Examples of remanufactured components in the industry include: engines, transmissions, alternators, starters, turbochargers, steering and suspension components, and electronic control modules.

The remanufacturing industry provides a sustainable and economically viable response to increased global trade pressures, resource scarcity and rising energy costs—all for the benefit of the U.S. consumer. Remanufacturing preserves the value of the original manufacturing—including material and energy costs and investments in capital and labor inputs—which recycling alone cannot do. Remanufacturing saves 85 percent of the energy and material used to manufacture equivalent new parts, making it a sustainable and economically viable response to increased global trade pressures, resource scarcity and rising energy costs.¹ Remanufactured parts are on average 20 to 50 percent below the cost

¹ Nabil Z. Nasr, Newton B. Green II, David R. Fister, and Monica M. Becker, "Capturing Energy and Resources through Remanufacturing," Conference Proceedings, EUROPEAN COUNCIL FOR AN ENERGY EFFICIENT ENVIRONMENT (2003) (http://www.eceee.org/conference_proceedings/ACEEE_industry/2003/Panel_4/p4_21/paper/).

of most new parts, while delivering an equivalent level of quality backed by very competitive warranties.²

In 1997, the Environmental Protection Agency (EPA) recognized the quality of remanufactured parts when it published a study titled “Remanufactured Products: Good as New.”³ Since the remanufacturing process incorporates improvements in product design, in many cases a remanufactured product may perform better than the original part.

Remanufactured motor vehicle parts also represent an exceptional value for consumers. However, public awareness about remanufacturing and the corresponding economic, environmental and product performance benefits is all too lacking in the consumer marketplace.

MEMA and MERA strongly support efforts to educate consumers on the significant role remanufactured motor vehicle parts play in vehicle maintenance and repair. The FTC Guides can certainly assist with this important effort. To do so, the FTC must:

1. Align with other government agencies, including the Office of the United States Trade Representative (USTR) and U.S. Customs and Border Protection, states and municipalities, and recognize that remanufactured motor vehicle parts, while not “new,” should also not be classified as “used” parts;
2. Rename the Guides to reflect this important distinction; and,
3. Recognize that “remanufacturing” is a standardized industrial process—hence, remanufactured parts are produced in a factory setting.

Remanufactured Parts: Not New, Not Used

Although a remanufactured part is not “new,” classifying it as “used” is confusing to consumers and inaccurate for international trade purposes.

The Guides as written cover a broad range of automobile parts, from (re)used to remanufactured. That range also includes: repaired, refurbished, rebuilt, factory rebuilt and others. Refer to the attached chart, “Comparison of Used, Remanufactured and New Automobile Parts.” In most cases, the term “used” implies an “as-is” status to consumers, which is the case with the majority of vehicles labeled as “used” under the FTC Used Car Rule. In the automotive aftermarket, “used” parts are also typically sold “as-is” and can be sourced from end-of-life vehicles in salvage yards. In many cases, these parts will adequately meet the needs of consumers.

Similarly, most consumers understand the concept of repair. An existing part such as a throttle body assembly can be repaired through proper cleaning and adjustment without the replacement of component parts. If the failure of any existing part cannot be addressed through cleaning or adjustment, the component part can be replaced with one that is reused, repaired, rebuilt, remanufactured or new, which can create confusion for the consumer.

Rebuilding can include dismantling, cleaning and reconstruction of a worn or non-functional product. And in many cases, it is tested for functionality. Although a rebuilt part may seem similar to a remanufactured part, there is a distinction.

MERA and others define “remanufactured” parts as those produced using a *standardized industrial process* by which previously sold, worn or non-functional products are returned to same-as-new, or

² Nabil Z. Nasr, Rochester Institute of Technology, “Remanufactured Goods: An Overview of the U.S. and Global Industries, Market, and Trade, pg. 7 (Feb. 2012) (http://www.usitc.gov/press_room/documents/testimony/332_525_001.pdf).

³ U.S. Environmental Protection Agency, Publication No. EPA530-N-97-002 (May 1997) (<http://www.epa.gov/osw/conserv/smm/wastewise/pubs/wwupda6.pdf>).

better, condition and performance. The process incorporates technical specifications, including engineering, quality, and testing standards to yield *fully warranted* products.” This definition has also been adopted by the Remanufacturing Industries Council (RIC), which was founded nearly 20 years ago at the Rochester Institute of Technology in Rochester, New York. It is also very similar to the definition being used by CLEPA, the European Association of Automotive Suppliers. In fact, MERA, RIC and CLEPA are engaged in an ongoing effort to harmonize a definition of remanufacturing that can be used across remanufacturing industries and across borders.

Remanufacturing goes beyond rebuilding by using a standardized industrial process to yield consistency and repeatability in the overall manufacturing and testing process. This provides the consumer with a product that is equivalent to—and in many cases better than—new and with a full warranty.

Consequently, it creates confusion for consumers to classify remanufactured parts—with quality consistent or superior to new—in the same category as parts purchased from a salvage yard.

These changes are not only important for consumers, but also the U.S. economy. Testimony during a February 28, 2012 ITC hearing on remanufacturing pointed to the intentional misuse of the term “used” by many international trading partners to create non-tariff barriers for U.S. exports of remanufactured goods.⁴

MEMA and MERA urge the FTC to no longer classify “remanufactured” parts as “used” and to reference language in the recently-passed Colombia, Panama and South Korea Free Trade Agreements (FTAs) regarding remanufactured goods.

The following definitions are used in Article 4.23 of the U.S.-Colombia FTA:⁵

“remanufactured goods means industrial goods assembled in the territory of a Party classified under Harmonized System Chapter 84, 85, 87, or 90 or heading 94.02, except goods classified under Harmonized System heading 84.18 or 85.16, that:

- (a) are entirely or partially comprised of recovered goods; and
- (b) have a similar life expectancy and enjoy a factory warranty similar to such new goods;

recovered goods means materials in the form of individual parts that are the result of: (a) the disassembly of used goods into individual parts; and (b) cleaning, inspecting, testing, or other processes as necessary for improvement to sound working condition.”

Renaming of the Guides

Once the Part 20 Guide is clarified to reflect the distinction that “remanufactured” is not “new” or “used,” we urge the FTC to rename the Guides. Neither the official name (“Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry”) nor the shortened name referenced in the Request for Comments (“Used Auto Parts Guide”) accurately categorize remanufactured parts.

MEMA and MERA urge the FTC to rename the Guides (recommendation: “Guides for the Used and Remanufactured Automobile Parts Industries”).

⁴ “Remanufactured Goods: An Overview of the U.S. and Global Industries, Markets, and Trade,” Hearing Before U.S. International Trade Comm’n, Feb. 28, 2012 (http://www.usitc.gov/press_room/spotlight/remanufacturedgoods_testimony.htm)

⁵ Article 4.23 of the U.S.-Colombia Free Trade Agreement (http://www.ustr.gov/sites/default/files/uploads/agreements/fta/colombia/asset_upload_file788_10154.pdf).

Remanufactured Parts: Produced in a Factory Setting

Remanufacturing utilizes a standardized industrial process; hence, remanufactured parts are produced in a factory setting. As such, consumers may be confused by the terms “remanufactured” and “factory rebuilt,” as referenced in 16 C.F.R. §20.3. Additionally, because “remanufactured” is a more commonly used term than “factory rebuilt” in the motor vehicle parts industry, there is an opportunity to bring clarity to this section for consumers.

MEMA and MERA urge the FTC to engage in further discussions with MEMA and MERA on the wording for this section.

MERA is currently developing an effort to elevate public awareness of the economic, environmental and product performance benefits of remanufacturing and would welcome the opportunity to partner with the FTC in this endeavor. In fact, the important role and growing impact of remanufacturing in the U.S. and global motor vehicle markets led to the creation of MERA—the affiliate association of MEMA focused on remanufacturing—in 2011.

Among MERA’s top priorities is an education and awareness campaign, named Manufactured Again™, to heighten the understanding and acceptance of remanufacturing in the motor vehicle parts industry. The campaign will include a certification program that will let consumers and commercial customers know that remanufactured parts from MERA member companies are truly remanufactured. The program will define minimum process criteria for products to be eligible for Manufactured Again™ certification and include industry certifications such as ISO 9001 and TS 16 949.

To achieve Manufactured Again™ certification, each remanufacturer must demonstrate that they utilize a standardized industrial process in a factory setting. Other criteria will apply, but the important distinction is that Manufactured Again™ remanufacturers are first and foremost manufacturing companies. The manufacturing processes they utilize consistently produce high-quality products that are fully warranted. This effort will lead to a process certification seal that can be affixed to the part and/or box and used in advertising and other promotional materials by participating companies. MEMA and MERA urge the FTC to follow the advancement of this program, which will continue to educate consumers on the important benefits of remanufactured motor vehicle parts.

Conclusion

Both federal and state officials have begun to research and promote the benefits of remanufactured parts. Most notably, USTR requested an ITC investigation of the size and scope of the U.S. remanufacturing industry. The study, titled “Remanufactured Goods: An Overview of the U.S. and Global Industries, Markets and Trade,”⁶ will be instrumental in further defining the motor vehicle parts remanufacturing industry by providing important data. The ITC will issue its report by October 28, 2012. In December 2011, a bipartisan coalition of Members of Congress submitted a request to the U.S. Government Accountability Office (GAO) to study the use of remanufactured parts in the federal vehicle fleet.⁷ Earlier this year, the GAO indicated that it will begin the necessary research to conduct the study. MEMA and MERA expect the GAO to complete the study in 2013. MEMA and MERA urge the FTC to review these reports, as their findings may be helpful when revising the Guides.

⁶ 77 Fed. Reg. 11157 (Feb. 24, 2012) (<https://www.federalregister.gov/articles/2012/02/24/2012-4262/remanufactured-goods-an-overview-of-the-us-and-global-industries-markets-and-trade-change-in-start>).

⁷ Dec. 12, 2011, Letter from 18 Members of Congress to Eugene Dodaro, Comptroller General, Government Accountability Office (available at <http://www.mera.org/Document-Vault/GAO-Reman-Request-FINAL.pdf>).

MEMA and MERA are not aware of federal, state or local laws that conflict with the Guides, but, in recent years, there has been legislative activity at the state level seeking to promote remanufacturing in the motor vehicle parts industry. We applaud these efforts as they will help inform consumers and expand remanufacturing in the marketplace.

Between 2007 and 2010, resolutions were passed in Pennsylvania on the state and local level to promote the use of remanufactured parts in the corresponding government vehicle fleets. Most recently, Michigan in 2011 approved consideration of remanufactured goods in its procurement process. State governments are recognizing the benefits of remanufacturing and this helps to rightfully legitimize the industry for the marketplace. The Guides could benefit by examining state efforts to enhance the role of the motor vehicle parts remanufacturing industry.

MEMA and MERA continue to work with USTR and the Department of Commerce to promote remanufactured goods trade with our trading partners, and we commend the government for including remanufactured goods in the recently passed Colombia, Panama and South Korea Free Trade Agreements. Government efforts to promote remanufacturing at the Asia-Pacific Economic Cooperation forum and in the current Trans-Pacific Partnership trade negotiations are important steps to increasing global trade in remanufactured goods that will support the domestic U.S. industry.

In closing, MEMA and MERA appreciate the opportunity to comment on the Guides and that the information provided will help improve the Guides' ability to promote fair competition and consumer awareness. We urge the FTC not to finalize the Guides in the current format, which does not properly recognize the significant advancements made by the U.S. remanufacturing industry over the past 30 years. Instead, the Commission should overhaul the Guides to reflect this ongoing evolution of the remanufacturing industry, and particularly to capture the federal government's other actions that recognize that remanufactured motor vehicle parts, while not "new," should not be classified as "used" parts.

In addition, MEMA and MERA request a meeting with the FTC to further discuss the industry and the process for revising the Guides. For further information, please contact MEMA Director of Government Relations Dan Houton at dhouton@mema.org or 202-312-9250.

Respectfully submitted,

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