



**Subject:** Parliamentary Enquiry - Software Charges to Australian Consumers  
**Date:** Saturday, 2 June 2012 5:40:28 AM

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Committee Secretary  
House of Representatives Standing Committee on Infrastructure and  
Communications  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600  
AUSTRALIA

Dear Chairman & Committee Members

I understand that you and your Committee are planning to conduct an enquiry into software costs to Australian consumers later this year. I would like to submit some information that will hopefully ensure that Automotive Vehicle Manufacturers and parts suppliers are also included within your enquiry's terms of reference.

The easiest way for me to explain this is to give you a factual account of a situation I am dealing with at the moment.

I have a faulty ECU (Electronic Control Unit) in my 2005 Mercedes Viano passenger van – it still operates but with an interesting starting procedure each morning. I went to Mercedes, the price for a replacement part is \$5200.00 – I literally went weak and had to sit down when I heard this. (Cost of fitting and programming extra).

Talking with Bosch Australia they agreed that this part is designed to last the life of the vehicle, with only an average of 16 units per million ever failing. Jacqui Howard Corporate Communications Manager who works for Gavin Smith the President of Robert Bosch located a replacement part for me through an aftermarket parts supplier which they were going to supply gratis. Excellent work, wonderful support of a product and their good name.

Then Ms Howard got back to me and apologised that if THEY were to supply the part it would amount to a useless “lump of metal” as I would then need to have the ECU “programmed”. She told me Mercedes refuses to program any ECU that is not sourced through their parts supply chain.

Gavin Smith got in touch with the CEO of Mercedes Australia / New Zealand Mr Hans Tempel and was able to negotiate a price reduction to **\$2887.50 + GST**. I wasn't doing cartwheels at that price either. Mainly because the part could be purchased in the UK for approximately **AUD \$1450.00** (plus fitting & reprogramming)

I was informed by Jacqui Howard at Bosch that the program required to operate my vehicle and make any replacement ECU work was Mercedes Benz propriety information. Mercedes wished to protect their "rights" by restricting any aftermarket sales of ECU to occur through their parts & service departments and be programmed by their technicians.

Okay, I accept that, but the issue in my case is faulty hardware that Bosch have generously agreed to supply – not Software which I am being forced to "buy" a second time at a huge cost.

When I bought my Mercedes brand new in 2006 I bought everything that was required to make my vehicle work – and I would guess a license to the software that "drove" my vehicle. The Software has NOT failed. In fact the process to make any NEW replacement ECU work in my vehicle is for a Technician to upload my current vehicle information from my ECU and download it into the new ECU. If they don't do that then my vehicle odometer, ignition key and remote door key codes will be lost and the car won't be able to operate. The process also involves downloading a program that I ALREADY OWN – and charging me money I can't afford for it.

At the very most, I am advised by Bosch Technicians that Mercedes may "flash" my ECU with a newer version of my program – but this is a common service procedure and is part of regular maintenance – not a supply of "new software", but I would still use my original program that is inherent to my vehicle. I am informed by Mercedes of Sydney that the reprogramming of the new ECU will take about 3 hours at a cost of **\$198.00 per hour**. Other Automotive ECU programmers that I have spoken with advise a cost of around \$125 - \$135 per hour **WITH** a Dyno tune to test & ensure vehicle performance is an industry average. If they were simply doing a reprogramming/coding then the industry average is closer to \$88 per hour.

But I am unable to access these alternative service providers as Mercedes has designed a closed monopoly where I have no choice but to go to Mercedes for software and service. I was advised by Luke from Mercedes Customer Service that the added cost is to cover the "liability" that Mercedes takes on in the supply of a replacement part. If it fails and causes a fire or accident then Mercedes would be liable. All well and good – but there are more disasters and failures caused by O rings that blow under pressure and Mercedes doesn't levy a \$3000 insurance policy on those.

The way I see it, Mercedes only sees this hardware failure as an opportunity to make a LOT of money for nothing. Bosch have been wonderfully helpful. Mercedes are not respecting that I OWN the software as much as they do as I bought the vehicle new and therefore should have a license for the program. At most Mercedes are providing me with

perhaps a software upgrade that is routinely offered FREE during regular service but at a huge cost in this instance.

This is why Vehicle Manufacturers should also be investigated about the way they price & supply software to Australian consumers.

Mr Secretary, if you would like to check my bonafides, our small business looks after the ground transport of South Australian & New South Wales Parliamentary colleagues – references you could call on are:

1. Sandra Swalling Personal Assistant to the Hon Jack Snelling MP
2. Sandra Centofanti, PA to Hon Russell Wortley MLC –
3. Georgia Pavloudis, PA to Hon Patrick Conlon
4. Natasha McLaren Jones NSW MLC

Business is not as abundant as it used to be here in Sydney, and having to spend \$3100 + an exorbitant technician's fee is money that will not be going towards meeting direct family needs. My 3 young kids will miss out on things because of what I feel is a gross manipulation and monopoly of a product and service by a huge multi-national company worth \$2,357,176,000 (Australia Pacific region Statement of Financial Position Dec 2011).

Your good work with this issue will take some time to bring any changes. This being the case I am forced to accept the charges that Mercedes has deemed necessary. I am forced to kowtow and pay them what they are demanding to ensure my business and earnings continue. I will keep a record of all correspondence, and I do hope you take them and the CEO of Mercedes Australia Mr Tempel to task when your enquiry begins.

Regards  
John Aquilina



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