

Joint recommendations for providing transparent information to customers about software updates and recall actions for automobiles

1. Introduction

Customers are entitled to clear and transparent information about the interventions that are carried out on their automobiles, whether this takes place at their own request or at the initiative of the car manufacturer, the importer or the concession holder / garage owner. Febiac, Traxio and their members acknowledge this right expressly.

They adhere to the Joint recommendations below.

To this end, the importers who are active on the Belgian market will use all the resource available to them to the extent in which they receive the relevant information themselves from foreign car manufacturers. The importers, who are active on the Belgian market, will point these recommendations out to car manufacturers and will seek to obtain all necessary information from these car manufacturers.

Car manufacturers and importers, who are active on the Belgian market, can take equivalent measures to comply with the code of conduct below, insofar as these provide at least the same level of protection to the customer. When the above-mentioned car manufacturers and importers take alternative measures, they will inform the FOD Economy and they will explain how an equal level of protection is ensured ("*comply or explain*").

In order to enable the concession holders / garage owners to answer customers' questions with regard to recall actions and software updates, they will receive all relevant information which is available to the importers who are active on the Belgian market.

Febiac and Traxio will support initiatives to inform candidate buyers of a second-hand vehicle about modifications that have been carried out in connection with recall actions.

2. Scope of application

The recommendations pertain to the recall actions and software updates for automobiles.

3. Definitions

For the application of these recommendations, the following terms are defined as:

- a. **automobile:** the passenger car, the car for double use, the mini-bus, the light truck and the camper, as described in Article 1, paragraph 2 of the Royal Decree of 15 March 1968 regarding general regulations for the technical requirements that automobiles, their trailers, their parts and their safety accessories have to satisfy or any later replacing applicable legislation.
- b. **recall action:** every measure that the car manufacturer or importer of automobiles, who are active on the Belgian market, take to invite owners of an automobile to bring their automobiles to a garage or dealer network of the brand to have modifications carried out in the hardware or the software with the aim of guaranteeing the safety and conformity of the automobile.
- b. **conformity :** in accordance
 - (i) with the legal requirements for taking automobiles into use and in accordance
 - (ii) with the description and the characteristics that are laid down in the pre-contractual and contractual information;
- c. **software update:** every change (regardless of the objectives and whether or not this is of a paying nature) to or via the software in the automobile.

4. Transparent

4.1. provision of information by car manufactures and importers active on the Belgian market

a. In the event of recall actions

Recall actions are always organised by the car manufacturer or importer. They contact all customers in an individual manner who are owners of an automobile to which the action pertains.

In every communication to the customer it shall be stated in a clear, obvious and unambiguous manner that the recall action is being organised for safety or conformity reasons. In addition, it shall be confirmed that interventions in connection with recall actions are always free of charge for the customer.

In this communication, it shall be explained in an understandable manner what the safety risk or the conformity shortcoming concerns. Moreover, it shall be pointed out to the customer explicitly that, if he does not respond to the recall action, this will be stated on the car pass which will be drawn up at the time of the sale of his automobile.

When organising recall actions, the car manufacturers or importers shall always take the provisions of the European guideline for corrective actions of Prosafe into account: http://www.prosafe.org/images/Documents/EMARS/Corrective_Action_Guide_Final-published.pdf.

b. In the event of software updates

The car manufacturers and importers, who are active on the Belgian market, will inform their customers mainly digitally about all software updates for the automobiles that they sell on the Belgian market.

This information shall be presented in a well-structured manner and shall at least contain the following information:

- the code of identification of the software update;
- the date as from which the software update will be carried out;
- an understandable description of the changes that are aimed for with the software update; when the software update is part of a recall action, they shall clearly state that this concerns a software update for safety reasons or for conformity reasons;
- the identification of automobiles (models, types, motorisation, etc.) for which the software update will be carried out;
- whether or not the software update is of a paying nature.

In their communication, they shall include a warning for possible undesirable consequences when carrying out the software update, when other software modifications have been carried out on an automobile than those that were decided upon by the car manufacturer or importer.

This information can be provided on the website or can be provided to the customer via other digital means (for example via the special customer section, via apps, via email).

4.2. Information provision by the concession holder / garage owner

a. in the event of recall actions

Based on the information that he has received from the car manufacturer or importer, the concession holder / garage owner provides a further explanation to the customer at the customer's request regarding the recall action, the intervention that will be carried out and the consequences thereof for the automobile.

When a work specification has been drawn up for an intervention in connection with a recall action, the customer's signature only means that he has been informed about the reasons for the intervention or that he agrees to the intervention being carried out at the request of the car manufacturer or importer.

When a customer expressly refuses to have the intervention carried out in connection with a recall action, an effort shall be made to have him confirm in writing that he has been informed about the fact that not having the intervention carried out will be stated on the car pass. If the customer is not willing to provide such a confirmation, this refusal shall be documented and he shall be notified in writing or informed via another durable means of communication.

b. in the event a software update is requested by the customer

The following will be regarded as a software update requested by the customer:

- each software update that has been expressly included in the purchasing agreement,
- each software update that he requests at a later date,
- each software update that is necessary for carrying out a repair requested by the customer.

When a customer requests a software update himself and he wishes to receive a further explanation about this software update or about the price of this update, the concession holder or garage owner shall provide the requested information to him no later than when carrying out the work.

When the software update is carried out at the customer's request, this is clearly stated on the invoice.

5. Monitoring

The federations that have signed these recommendation undertake to:

- actively inform their members about these recommendations;
- encourage their members to adhere to these recommendations;
- provide support and training to their members for the correct applications of these recommendations;
- cooperate in a periodic evaluation of the application of the recommendations and the formulation of any useful amendments and supplements.

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