

## **General Motors Europe Commitments**

### **9 February 2007**

The commitments outlined below are provided by General Motors Europe ("GME") within the scope of the European Commission Case COMP/E-2/39.143 – Opel. Such commitments concern the brands Opel (in continental Europe and Ireland) and Vauxhall (in the United Kingdom).

The commitments below cannot be construed or interpreted as GME's acknowledgment of any infringement of Articles 81 and/or 82 of the Treaty or the Automotive Block Exemption Regulation EC 1400/2002 nor can they be construed or interpreted as GME's agreement with the preliminary legal assessment dated 1 December 2006.

The acceptance of the present commitments by the European Commission pursuant to Article 9 of Regulation 1/2003 implies that the European Commission no longer has grounds for action in this case, without concluding whether or not there has been or still is an infringement. Such acceptance is without prejudice to the powers of competition authorities and courts of the Member States to make such a finding and decide upon the case.

#### **1. INFORMATION TO BE PROVIDED**

GME commits itself to ensure that all Technical Information, tools, equipment, software and training required for the repair and maintenance of its products which is provided to authorised repairers of its Opel/Vauxhall brands by or on behalf of GME or its connected undertakings in the EU is also made available to independent repairers. GME shall provide such access in a way that is proportionate and non-discriminatory, and shall provide the Technical Information in a usable form and without delay. Technical Information shall be provided to independent repairers in accordance with section 2 of the present commitments irrespective of the medium on which it is made available to authorised repairers.

For the purpose of these commitments, "Technical Information" has the meaning ascribed to it in Article 4(2) of European Commission Regulation 1400/2002. It is therefore to be construed as including all information provided to authorised repairers for the repair or maintenance of such models or variants of motor vehicles of Opel/Vauxhall brands that GME or its connected undertakings may have placed on the market or may so place over the period to which these commitments relate.

Particular examples of Technical Information currently include software, fault codes and other parameters, together with updates, which are required to replace, re-program, re-set, re-initialise, or otherwise work on a vehicle's electronic control units (ECUs) with a view to restoring settings recommended by GME, or in the case of replacement, to introduce such settings; vehicle identification methods; parts catalogues, including parts codes, descriptions and illustrations; working solutions resulting from practical experience and relating to problems typically affecting a given model or batch of vehicles; and recall notices as well as

other notices identifying repairs that may be carried out without charge within the authorised repair network.

Access to tools includes access to electronic diagnostic and other repair tools, together with related software, including periodic updates thereof, and after-sales services for such tools.

Recital 26 of the Regulation makes it plain that Article 4(2) does not require GME to provide independent repairers with Technical Information that would enable a third party to bypass or disarm on-board anti-theft devices and/or recalibrate<sup>1</sup> electronic devices, or to tamper with devices which limit the speed or other performance-related parameters of a motor vehicle. Nevertheless, GME commits itself to allow independent repairers unrestricted access to information of these types, provided that they obtain the GME Training Certification. Such certification will be issued to independent repairers without delay subject to the completion of training. If, in the future, GME were to invoke the exception in recital 26 as a reason for withholding access to certain items of technical information to independent repairers, it would be incumbent upon it to ensure that the information so withheld was limited to that necessary to provide the protection described in recital 26, and that the lack of the information in question did not prevent independent repairers from carrying out operations other than those listed in recital 26, including work on devices such as engine management ECU's, airbags, seatbelt pre-tensioners, or central locking elements.

## **2. MEANS FOR PROVIDING SUCH INFORMATION**

Since October 2003 GME uses a dedicated website, currently known as TIS2Web or TIS Online ("the TI website"), for providing independent repairers with Technical Information. The present Commitments shall remain applicable to any successor to the TI website.

GME commits itself to ensure that the information on the TI website complies at all times with the principles set out in section 1 above. In particular, the conditions of access to the TI website shall not amount to discrimination between authorised and independent operators, access to the TI website shall be given upon request, and the Technical Information on the TI website shall be updated without delay.

As regards the Electronic Parts Catalogue, which is currently not available on the TI website GME shall be deemed to comply with these commitments if it places this information on the TI website by 31 December 2007. As a short term solution, the Catalogue will be available through GME Call Centre Services, which will on demand and without delay provide independent repairers with the requested pages by fax in any of the languages in which the Catalogue is made available to authorised repairers. This service will be available for €1 per page (+ 3.9% handling fee), and local call tariffs will apply.

GME commercial website in each Member State shall at all times contain an easily locatable link to the TI website. GME shall also ensure that the TI website provides an equivalent level of performance to the methods used for providing technical information to members of its authorised networks.

GME shall ensure that as soon as it provides the members of its authorised repair networks with a given piece of technical information, this piece of information shall be placed on the TI website without delay. GME shall include on the TI Website all Technical Information relating to models of its brands launched after 1996. However, as regards wiring diagrams,

GME shall place on the TI website all such that have been generated in or converted into digital format for use by its Opel/Vauxhall Authorised Repairers in the EU. The remaining diagrams, which relate to certain models launched after 1996 and which do not exist in digital format, shall be available to independent repairers through GME Call Centre Services. Such Call Centre Services shall operate in all languages required to avoid direct or indirect discrimination between independent and Opel/Vauxhall Authorised Repairers, taking into account the conditions at which such authorised repairers obtain access to wiring diagrams. The wiring diagrams will be provided without delay by fax in the smallest packages that the average independent repairer would need to carry out a repair job and on the same conditions as they are provided to Opel/Vauxhall Authorised Repairers. GME commits itself to maintain, during the validity of the commitments, the conditions currently applicable for these non-digitalised wiring diagrams.

As soon as GME or another undertaking acting on GME's behalf makes a piece of Technical Information available to authorised repairers in a particular EU language, GME shall ensure that this language version of the information is placed on the TI website without delay

As regards the obligation to give access in a proportionate way, GME commits itself not to oblige independent repairers to purchase more than the Technical Information necessary to carry out the repair task for which such information has been requested. It shall further ensure that the price charged for the information takes account of the extent to which the independent repairer uses it. To this end, GME commits itself to provide for a pro rata breakdown into monthly, weekly, daily and hourly time windows as described below:

	1 hour	1 day	1 week	1 month	1 year
- TI website	€1,-	€30,-	€100,-	€300,-	€700,-
- Tech1/Tech2 SWDL (Diagnostic Tester Software Download)	-	-	-	€100	*
* Independent repairers can obtain this service either by buying an annual subscription to the TI Website, or by paying a stand-alone monthly subscription fee of €100. Hourly, daily and weekly subscriptions will not be available.					

For initial access to TI Website, a one-time registration fee of €15 will be charged + 3.9% handling fee.

GME shall maintain this access fee structure during the whole duration of these commitments and shall not increase fee levels at a rate that exceeds increases in the average CPI (Consumer Price Index) within the EU-25.

**Fees for the Training Certification**

Fees will be equivalent for authorised and independent repairers and GME commits itself to keep them at the same level during the validity of the present commitments. The training will comprise (i) two days instructor-based training (cost of between €15 and €230 per day depending upon the national market) and (ii) a one day Tech2 web-based training (cost of between €30 and €50 per day, again depending on the national market in question). The training will be provided by the GM Academy.

### **3. MINIMUM STANDARDS PRINCIPLE**

These commitments are without prejudice to any current or future requirement established by Community or national law that might extend the scope of the technical information to be provided by GME to independent operators and/or might set out more favourable methods and/or conditions for independent repairers to get access to technical information and/or for car manufacturers to provide such information.

### **4. DISPUTE RESOLUTION**

In order to address any complaint raised by an independent repairer concerning access to Technical Information, GME commits to put in place a GME "Ombudsman" whose mission shall be to deal with such complaint. Upon receipt of an independent repairer's complaint the GME "Ombudsman" shall, within a maximum of three weeks from receiving the complete file, provide the independent repairer with a GME Response. Such complaint will need to comprise at least the following elements: identity of the complainant, detailed description of the Technical Information required and of the different steps leading to the complaint. In case the Independent Repairer does not accept the GME Response, GME commits to accept an arbitration mechanism for resolving disputes relating to the provision of Technical Information whereby each party to such a dispute may nominate one expert, who may then jointly decide on the appointment of a third. The arbitration shall take place in the Member State where the requesting party's registered seat is located. The language of the arbitration proceedings shall be the official language at the place of arbitration.

The arbitration mechanism described in this section of the present commitments is without prejudice to any right to file an application with the competent national court.

### **5. DURATION**

The present Commitments shall be binding on GME until 31<sup>st</sup> of May 2010.

Signed by: Paul Copses  
Executive Director, GME Aftersales

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<sup>i</sup> i.e. to modify the original settings of an ECU in a way not recommended by GME