

5 Views of independent calibrators of EGAs and those servicing garage equipment

5.1. The MMC wrote to all the calibrators on the VI's list of approved calibrators (Appendix 5.1). This list covers calibrators employed by EGA manufacturers/suppliers as well as independents. The replies from independent calibrators together with letters received from other firms servicing garage equipment are set out in this chapter. Some of the complaints they raise are answered in Chapter 8.

Views of independent calibrators

Addtronics

5.2. Addtronics (Somerset) submitted as evidence copies of its correspondence with the Office of Fair Trading (OFT). In May 1992 it had bought a Hermann EGA which required quarterly calibration. Addtronics said that even a simple operation such as removing the instrument case to replace an internal filter would require the calibration seal to be broken so that recalibration and certification by a NAMAS-approved engineer were necessary. Addtronics considered that as NAMAS would only approve manufacturers' engineers this was a restrictive practice resulting in monopolies for certain companies. Users had to pay whatever the calibrating company decided, since the MOT station had no alternative but to pay if it were to continue to offer MOT testing.

5.3. The proprietor, Mr Addison, said that in 1991 he had given Hermann technical support, enabling it to achieve NAMAS laboratory accreditation. He had acted as Hermann's calibrator charging the company £50 per visit; the MOT stations were charged £80 by Hermann.

5.4. Mr Addison said that he had been in the garage equipment business since joining Crypton as a service engineer in 1965 and had run his own company since 1979. He became sole repair agent for Hermann equipment in 1988 and subsequently acted as Technical Service Manager, as a subcontractor, and enabled Hermann to achieve NAMAS accreditation in the latter half of 1991. This enabled Hermann to calibrate any gas analyser irrespective of make or model. Mr Addison told us that he simply needed to write a calibration procedure for each model and prove to NAMAS that he was capable of carrying out calibrations in accordance with the procedures that he had written.

5.5. Mr Addison said that during 1992 he personally carried out 90 per cent of all the calibrations attributed to Hermann/Autocraft and completed all the repairs and modifications.

5.6. Mr Addison told us that due to increasing difficulties in obtaining payment for work which he had carried out, he finally stopped undertaking work on Hermann's behalf in November 1992. As he refused to undertake any further work on Hermann's behalf, he was now in the situation where he was unable to undertake repairs and calibration of MOT equipment even though it was he who had written the service/calibration instructions to enable Hermann to obtain NAMAS accreditation. He had also trained and appraised Hermann's staff to enable them to conduct calibrations.

5.7. Mr Addison explained that both Addtronics and Hermann had a mutual customer with the Opus 4 gas analyser that had a faulty oxygen sensor-approximate repair cost £100. Hermann had refused to rectify it even though its warranty did not expire until June 1993. It had completed the latest three-month calibration visit and charged the customer accordingly, but was refusing to carry out the necessary repairs

to the oxygen circuit and accept the costs incurred. Addtronics believed that Hermann was waiting until the 12-month guarantee period had expired so that it might charge the customer in full. Mr Addison suspected that he was, in any event, the only person with the requisite knowledge to complete a satisfactory repair. This particular equipment had already been the subject of a number of repairs and Addtronics was concerned that it might not have been of merchantable quality or suitable for the purpose for which it was purchased.

Kaltek UK

5.8. Kaltek, an association established by a former employee of Sun (Mr Gostling), and with eight engineers in different areas of the UK, referred the MMC to the evidence it had sent to the OFT prior to the reference. Kaltek also attended a hearing, and subsequently forwarded supplementary evidence. Kaltek had NAMAS approval, through the SIRA scheme, to calibrate certain of the EGAs manufactured by Sun. Kaltek told us that this had led to a dispute with Sun which had subsequently issued writs against Mr Gostling¹ and some of his colleagues.

5.9. In summary Kaltek alleged that Sun had taken a number of actions designed to impede Kaltek's calibration/servicing business.² Those actions were as follows:

- (a) Sun had retrospectively increased the warranty on its EGAs from one to two years to attract back Kaltek's customers.
- (b) Sun had subsequently threatened to invalidate the second year warranty of the EGAs concerned, and simultaneously offered some free calibrations, if the MOT stations concerned were willing to sign a calibration contract with Sun.
- (c) Kaltek believed that in some cases suspension of warranty had been carried out.
- (d) Sun had also 'blacklisted' Kaltek's customers.
- (e) Sun had changed its terms and conditions of warranty to require calibration by Sun thereby denying the user a choice of calibrator other than Sun's own employees.
- (f) Sun was now installing, during its routine or free calibration visits, new software (version 3.8) which had a password that changed daily, and a 'lockout' advising the user that the equipment calibration had expired. This lockout could only be reset by use of the appropriate password for the day which was only available to Sun's employees.
- (g) Sun had also told its customers that parts approved to the OIML standard for its machines were available only from Sun.
- (h) Sun had written a letter to owners of its EGAs saying that if parts other than those approved and obtainable only from Sun were used in its OIML Class I EGAs, this would have to be notified to the VI, and would result in calibration frequency being increased from twice to four times a year.
- (i) In December 1991 SIRA sent a list of NAMAS-approved calibrating companies to the trade press to publicize them because of the very heavy volume of calls to SIRA enquiring about approved calibrators. When the list was published in the February 1992 edition of *Motor Retailer* the names of Kaltek and two other independent companies had been deleted as calibrators of Sun instruments

¹The first writ was issued approximately one year after he had been operating.

²See paragraphs 8.34 to 8.40 for Sun's response.

and that of Sun and another EGA supplier inserted in their place. Kaltek alleged that this was due to intervention by Sun.¹

5.10. Kaltek was asked whether it was the cost, rather than the availability of information, that prevented Kaltek gaining approval to calibrate other manufacturers' EGAs. It agreed that it was necessary to examine each proposition to see if it were viable. It said that there were ways for Kaltek to calibrate other companies' products if it wished. Kaltek considered that the SIRA route would be closed, because it believed SIRA had a rule that it would only operate with one manual to one product; and if the owner of that manual would not allow its release Kaltek would have to approach another calibration house, for example Hermann.

5.11. Kaltek told the MMC that for the first time in many years Sun had not increased its calibration/service prices in 1992. This, it considered, was due to the competition the company was facing and this, Kaltek believed, was in the public interest. Moreover this year Sun `warranties' would expire, so Kaltek would have a considerable opportunity to compete further. However, Kaltek believed that Sun and other leading manufacturers which were members of the GEA would seek to restrict its ability to compete. This was, in Kaltek's view, now becoming evident in the calibration market for smoke meters used in the emission test for diesel-engined vehicles.

Servtec Limited

5.12. Servtec Limited (Servtec) (of Guildford) attended a hearing at the MMC. It told us that it was incorporated in October 1991 specifically for carrying out calibrations on gas analysers. Mr Skan, its Managing Director, explained that Omitec Instrumentation Ltd, which made gas analysers under three labels and was purely a manufacturing company, asked him to put together a network of service engineers for them. All Servtec's three calibrators had gained NAMAS approval through SIRA.

5.13. Mr Skan told us that the costs of securing approval through SIRA consisted of £750 for preparation of the manual, a £400 initial assessment charge and a further £400 for the training of each individual engineer. In addition there was an ongoing audit fee for each engineer of £430 a year payable in quarterly instalments. Each calibration certificate issued cost £2.25 from SIRA. All the equipment used, the manometer, multimeters and insulation testers, had to be calibrated once a year by SIRA, for which it charged an average of about £50 a piece.

5.14. Mr Skan considered that the system of securing approval through SIRA was working quite well. He feared that for the market to be thrown open to more engineers would be harmful. The only way Servtec could carry out calibrations for a uniform price was by careful and selective scheduling of visits.

5.15. Mr Skan said that he could see both sides of the argument. He understood that localized `cherry-picking' would endanger some in the trade, or otherwise lead to higher-priced calibrations in the remoter locations. He did not want to lose work, but considered that some regulation on price was needed, based on how much the job was worth. He said that while most people charged about £65.50, Souriau had decided that it took two hours to calibrate an analyser and that it took £40 travelling costs, so it charged £110 per calibration. Servtec charged £65.50 per calibration. Mr Skan was not in favour of the larger manufacturers' practice of levying an annual charge.

5.16. Mr Skan said that he did not disagree with the argument that the manufacturers of the EGAs needed to be able to exercise some control over those who calibrated their machines in order to protect their interests, ie their copyright and other intellectual property rights, the integrity of the MOT test and their reputation in general.

¹This point was raised with the editor of *Motor Retailer* who told us that a corrected version of the list was published in the March 1992 edition of *Motor Retailer*.

5.17. While not sure what a reasonable charge would be, Mr Skan considered that a possible solution would be for the manufacturers to charge third parties who wished to use their manuals in order to secure NAMAS approval.

5.18. Asked, on a hypothetical basis, about possible remedies for the present situation, Mr Skan said that it would always be sensible for there to be more than one company capable of calibrating/servicing any machine, because a company could always disappear, or go bankrupt. He was in favour of some controls on the market, otherwise there would be a tendency for companies to concentrate on the densely populated areas and that would not be in the interests of MOT stations in the remoter locations.

Mr Neil Jeffery

5.19. Mr Jeffery (trading as Automotive Test Equipment), an independent calibrator approved by NAMAS to calibrate Oliver, Souriau, Omitec, Tecalemit and Triton EGAs, told the MMC that he was about to lose his accreditation to calibrate Souriau EGAs, since its calibration and servicing operation was being taken over by Tecalemit in July 1993. He thought at the time that no NAMAS approval for calibrating an EGA was possible without the support of the service agent or the EGA supplier. He understood from SIRA that Souriau owned the 'copyright' of its manual and could therefore withdraw permission to use the manual at any time. His contract with Souriau specified the calibrations that he could carry out but there was only a verbal agreement to charge the same price. Souriau had just raised its price (£65 to £110, non-contract; £85, contract).

5.20. Under the terms of his contract with GEMCO,¹ Mr Jeffery could only calibrate those Gascheck 2000 (Oliver) EGAs which he had sold. Its calibration manual could not be reproduced and would have to be returned to GEMCO if he ceased to be its agent. A charge of £125 was made for the calibration manual. GEMCO had not specified a calibration charge. He was concerned that although GEMCO had raised its calibration charge to £115 he was not allowed to calibrate any EGAs supplied by GEMCO even though he was only charging £58. However, he did calibrate some second-hand machines. He could only buy spare parts through GEMCO, not from Richard Oliver.

5.21. Mr Jeffery said that he had wished to tender as the second calibrator/servicer (after GEMCO) to BT's nation-wide operation. GEMCO had no objection to Mr Jeffery offering such a service but had effectively spoil his tender by stipulating that he could not hire other engineers.

5.22. Mr Jeffery considered that users of EGAs should have a choice of calibrator. In his opinion any engineer in this field with minimal training would be capable of carrying out a calibration. He estimated that 150 to 200 calibration customers would be required to support one engineer. Servicing could not be carried out separately from calibration. He considered that he had the skill to carry out calibration and servicing of any make of EGA given the correct information. In practice he was unlikely to have the resources to offer calibration for a large number of models over a wide area. He recognized that the major suppliers operated broadly efficient calibration/servicing operations and that the charging of a uniform price was justifiable because of its simplicity-he did that himself.

5.23. In Mr Jeffery's view EGA suppliers were over-reacting to the threat of independents taking their customers if the market was opened up. Independents were unlikely to take much of the market. Most users of the 75 per cent of EGAs now out of warranty would be likely to remain with their existing supplier for calibration and servicing. Nevertheless he believed that users should have a choice and the presence of independent calibrators/servicers might benefit the main suppliers. He pointed out that if there were an increase in the number of calibrators for a particular model of EGA it might well enhance the reputation of the supplier on the analogy of an older car being maintained by an independent garage. It was in the interests of the independents to provide positive support to the new car suppliers since the independents relied on their selling cars (here EGAs) for business.

¹ See paragraph 8.129 for GEMCO's response.

Mr Derek Whittaker

5.24. Mr Derek Whittaker told the MMC that as an FKI Transervice service engineer he had been tested and approved by a SIRA examiner to carry out calibrations of FKI Crypton EGAs. He had also been quality audited 'in the field' in July 1992. On 29 September 1992 he had been made redundant and the following morning found three FKI Transervice representatives waiting outside his house, one of whom stayed to withdraw his SIRA-approved calibration manuals, his accreditation identity card, all relevant stickers, reports and anything at all to do with calibration of MOT equipment.

5.25. Having found a job with a much smaller garage equipment servicing company which he could have enabled to offer calibration of FKI Crypton EGAs, as indeed he might have done on a self-employed basis, Mr Whittaker told us that his attempts to find out why he was unable to do so had met with evasion and unhelpfulness from SIRA. It warned him of the prohibitive cost of reapproval. Mr Whittaker considered that if he were still an employee of FKI Transervice the question of reapproval would not have arisen since approval was a 'one-off' process and did not require an annual fee or retest in order to continue calibrating. Mr Whittaker said that throughout his training it was repeatedly pointed out to him that the process of calibrating FKI Crypton equipment was intended to be exclusively FKI Transervice business.

5.26. Mr Whittaker said he had no doubt that the main purpose of the alliance of NAMAS, SIRA and FKI Transervice was to create an uncompetitive practice from which all three in their own way had extracted the maximum amount of profit. Mr Whittaker considered, however, that FKI Crypton/Transervice were only adopting the same practices as their competitors.

Views of garage equipment servicing companies

5.27. *Brover & Co Ltd* (Brover) (West Drayton) described itself as an independent garage equipment and service and installation company not tied to any manufacturer or importer of EGAs.

5.28. Brover said that originally it had anticipated seeking accreditation to protect its existing share of the MOT calibration market. It was fully competent to carry out calibrations of all known car brake testers and headlight testers and saw the EGAs as an extension to this service. Brover pointed out, however, that the rules now adopted by manufacturers, importers and the VI unfortunately precluded it from obtaining a share of this market and could easily lead to a loss of existing business for Brover because MOT operators might not want to pay for two separate companies to calibrate equipment in the same MOT bay.

5.29. Even if a number of manufacturers were prepared to allow Brover to calibrate their units, Brover would need separate approval for each manufacturer's equipment and it considered that this would not be a viable proposition.

5.30. *Tune & General Garage Equipment Limited* (Tune), a garage equipment specialist from Newbury, told the MMC that it was a distributor of EGAs principally of the FKI Crypton make. Its sales were made directly to motor vehicle testing stations-and it had sold quantities equivalent to 20 to 25 per cent of the local MOT testing station market. It had withdrawn from general servicing and calibration, as it considered that it was not viable to compete with the manufacturers' service organizations due to the high cost of NAMAS approval. Furthermore calibration manuals were not made available by manufacturers.

5.31. Tune said that a few of its customers had expressed a desire to change from what they regarded as a monopolistic situation covering calibration of EGAs, but at current market rates it still would not be viable for a small company such as Tune to try to compete with a major national organization.

5.32. *A distributor* for one of the leading EGA suppliers also attended a hearing with the MMC. He told us that before the start of the calibration scheme he had bought and sold some 250 of his supplier's EGAs and had also arranged to hold a small number of calibrated units to offer a replacement service to his customers whose EGAs required attention. He had assumed that his engineers' experience of his supplier's diagnostic equipment would enable them to secure NAMAS approval as calibrators when the calibration scheme started.

5.33. The distributor had attended the meeting in June 1991 of all the interested parties at which the draft calibration scheme prepared by SIRA had been discussed (paragraph 2.10). It was only there that he learned from statements by two of the leading EGA suppliers, including his own supplier, that they did not intend to allow calibration of their instruments by third parties. He was subsequently told by his supplier that its calibration manual would not be released to him to enable his engineers to seek NAMAS approval as calibrators. When he was informed of the calibration charges proposed by his supplier and put these to some 200 of his customers, about 120 had written back to complain about the level of the charges and the absence of any choice of calibrator.