6 Views of EGA users and other parties

6.1. The MMC commissioned a telephone survey of a sample of 801 of the 18,000 MOT stations in the UK (see Appendix 3.4). The MMC also wrote to 200 individual MOT stations as well as 23 MOT chains, six Government departments, the Confederation of British Industry, the Trades Union Congress, trade and consumer organizations, filter suppliers and a number of other likely users of EGAs (including car manufacturers, petrol forecourt companies, car fleet operators and other major UK companies). The views of those organizations which responded as well as those of eight other companies are summarized in this chapter. Some of the complaints raised are answered in Chapter 8.

Government departments

6.2. In March the Northern Ireland Office told us that in Northern Ireland the Driver and Vehicle Testing Agency had been carrying out visual checks on exhaust emissions during the annual MOT test. The use of exhaust gas analysers (requiring calibration) was to start on 1 April 1993, and the necessary equipment had recently been purchased. Tests on motor vehicles in Northern Ireland were subject to separate legislation and not carried out under the Motor Vehicle (Tests) Regulations 1981. Accordingly in the Department's view the calibration and servicing of EGAs in Northern Ireland did not fall within the terms of this reference.

6.3. The Scottish Office told us that it had consulted a variety of users of EGAs and found that most garages were generally content with their current servicing arrangements. Some smaller independent garages in Scotland were aware that certain EGA suppliers were operating restrictive maintenance contracts; such garages generally avoided dealing with those companies. The Scottish Office found that the larger garage companies in Scotland fell into two categories: those who were content to enter into binding agreements for the ongoing maintenance of their EGAs with their suppliers, and those who actively avoided such arrangements. The former were able to offset the higher service costs by their own economies of scale and/or by passing on higher costs to their customers. The latter were able to use their size to secure more favourable maintenance contracts with smaller local servicing companies.

MOT chains

6.4. Of the 23 multiple MOT station operators approached five offered views.

6.5. *T Cowie plc* (Cowies) told us that it had carried out 7,500 MOT tests in its 14 test centres in 1992. It considered it intolerable that there was no competition in the market for the calibration of EGAs. In Cowies' view at least three companies should be able to calibrate each type of EGA in order to allow competitive tenders to be sought. It said that ideally anybody should be able to calibrate this equipment once their competence had been established and they were licensed. For its own EGAs (Sun and Protech models) Cowies had national calibration contracts costing £280 per annum. Its 12 Protech machines were calibrated by Lucas, and its two Sun EGAs by Sun. Cowies said that there was no choice of calibrators, with only one source as far as it was aware being licensed to calibrate each make of machine. No spare parts had yet been fitted.

6.6. *Henlys Limited* (Henlys) said that 16 of its branches carried out some 20,532 MOT tests in 1992. They had 19 EGAs between them: 7 Kamasa (Protech), 5 Sun, 3 Lucas, 3 Bear and 1 Bosch. It also had several other EGAs requiring calibration, but they were not used for MOT testing. The fees paid and frequency of each calibration varied, but most EGAs were calibrated quarterly, the cheapest being £48 per quarter, and the most expensive £81.08 per quarter. All its EGAs were calibrated by the manufacturer except that the Bosch EGAs could be calibrated by anyone of Henlys' choice, and the Kamasa EGAs were currently contracted to Lucas, although this was not imposed upon Henlys.

6.7. *Inchcape Motors Retail* (Inchcape), comprising the grouping of the trading businesses Mann Egerton and Company Ltd (Mann), Wadham Kenning Motor Group Ltd (Wadhams) and Cooper Group Ltd, said that the latter company only operated one MOT station, but Mann operated 26 and Wadhams 36. Mann had conducted 26,960 MOT tests in 1992 and Wadhams 33,612. These two companies had some 62 EGAs, of which 34 were Churchill, 14 Oliver, 6 Sun, 3 Crypton, 2 Bosch, 2 Souriau and 1 Hermann.

6.8. Inchcape said that the fees it was charged for the calibration of the machines varied from £65 + VAT per visit, for one manufacturer, up to £85 plus VAT for another. Most machines were tied to an annual prepaid contract with the manufacturer. Inchcape said that the manufacturers appeared to be using the VI requirement for a written calibration contract to exert pressure on customers for an annual prepaid fee. With the exception of one unit all of its EGAs were calibrated by the manufacturer concerned.

6.9. Inchcape recollected very few approaches having been made by independent calibrators offering to calibrate its EGAs. It said that it was aware that garage equipment servicing firms would like to break into this market, but, in its view, the manufacturers' control from original EGA supply (to meet the VI installation date) to ongoing calibration had been very tight.

6.10. Inchcape concluded that three factors needed to be reviewed:

(a) *Frequency of calibration*: It considered that the VI requirement of quarterly calibration was too onerous. Churchill EGAs were self-calibrating, relying on microchip technology. The machine automatically recalibrated itself on each test. Inchcape told us that its Churchill EGAs were sold to it on this basis, but the VI requirement for quarterly calibration had overridden this selling point.

(b) *Cost of calibration*: Inchcape considered that the manufacturers had a monopoly which coupled with the prepaid contracts they had put in place enabled them to charge a high price per calibration. The quarterly calibration requirement was advantageous to the manufacturers who charged accordingly.

(c) *Calibration agency*: Inchcape's view of the requirement for technicians who calibrate the EGAs to be NAMAS-approved was that this was sensible to ensure a national standard. It considered that true competition could only be established if users were able to contract with whoever they wished for calibration and service arrangements. Inchcape said that it would be concerned that technical knowledge and spare parts might be strongly controlled to prevent independent businesses being able to compete.

6.11. *Lex Retail Group Limited* (Lex) told us that of its 79 branches 55 were approved testing stations. It currently had 129 EGAs in use, and had completed 55,508 MOT tests in 1992.

6.12. Nearly all its branches had locally negotiated maintenance contracts for their analysers. Each EGA was being calibrated by the respective manufacturer. The calibration fees currently paid by the group ranged from £60 to £144, with extra charges being made for parts as required.

6.13. Lex said that on average each of its locations had a choice of three suppliers when placing a calibration contract. It considered that the existence of more than one supplier of calibration services and the range of contract prices indicated that fair competition had been created, indeed it considered that charges at the bottom of the range were not unreasonable at today's labour rates, and therefore, at this stage, Lex was not seeking any safeguards.

6.14. *The Perry Group plc* (PG) with 15 test centres said that it had carried out 25,000 tests in 1992. It had 17 EGAs used for MOT test purposes-6 Sun, 5 Crypton, 3 Souriau, 1 Churchill, 1 Oliver and 1 Kamasa. Its calibration arrangements had been made locally and were frequently included with a more general maintenance contract for the machine, and in some cases other workshop equipment. Fees for calibration had ranged from £50 to £90 depending on who had carried it out, and whether a more general maintenance contract existed. 70 per cent had been calibrated by the manufacturer. On choice of calibrator, PG recommended that the MMC consider what guidance (if any) was issued by the VI at the time of the run-up to the introduction of the emissions test.

6.15. PG said that if it were approached by manufacturers with an offer to calibrate, this was a logical route to take, particularly if it had enjoyed an ongoing understanding with that supplier. If dealers were unaware of the possibility of independent calibration, they would not have considered such an alternative. It therefore suggested that the MMC inquiry should encompass the following:

(a) If manufacturers were not required to make their technical manuals freely available they had the means to limit those approved to calibrate their equipment to their own staff or independents subcontracted by them.

(b) If on the other hand a free market existed for calibration, was this widely known among the MOT testing stations? If not, what should be done to make its availability more widely known? Could the VI publish a list of approved organizations?

(c) Prior to the introduction of gas testing into the MOT test the VI issued a list of machines approved for use in the test. What information did they make available regarding those organizations approved to calibrate equipment? Were any independents approved at that time?

In conclusion PG said that if the availability of independents was not widely known, then it was not surprising that the manufacturers capitalized on the opportunity to provide the service.

MOT stations

6.16. A number of MOT stations wrote to us to give their views.

6.17. *Anglian Vehicle Services* (AVS) (March) said that it had purchased an EGA from GEMCO. After three weeks it had started to malfunction. AVS had therefore intended to withhold payment until it was working. AVS said that knowing that no other company could look at the machine, GEMCO had insisted on full settlement before sending out an engineer to rectify the problem. AVS reluctantly paid, and seven visits later the machine still malfunctioned and had cost it four weeks' business in MOT testing. AVS said that despite this it had been told that the quarterly calibration fee had increased from £65 to £115, an increase of some 78 per cent in six months. AVS doubted whether its costs would have been a fraction of those it had incurred if an open market had prevailed.

6.18. In AVS's view there was no doubt that a monopoly situation existed, and that it was against the public interest. AVS supported any action to open up this market, thereby reducing service and calibration charges in line with those for other MOT test equipment.

6.19. *BDK Motor Services* of Coventry (BDK) told us that it had one Churchill EGA. It had carried out 4,000 tests in 1992. It said it had no choice of calibrator other than Churchill's `Mandatory Calibration Contract' costing £260 a year (four visits). On contacting its usual garage equipment repairers for advice it had been informed that it was highly unlikely that it would be able to find anybody to calibrate its equipment other than the manufacturer, as it was not cost-effective for small companies such as itself to seek NAMAS approval so that it could issue the NAMAS calibration certificate as required by the VI.

6.20. BDK considered that the calibration service was too expensive at £65 for a visit of approximately 20 minutes and strongly objected to having to pay a year in advance. It said that it only did so because like all MOT stations its hands were tied in so far as it had to have an EGA to carry out an MOT test and that machine could only be calibrated by the manufacturer.

6.21. *Cornish Ford* (CF) told us that it had two EGAs. For its petrol EGA it had a Bear testing contract which it considered good value at £70 a year. For its Churchill diesel EGA, it had no choice for servicing. CF said that it had been told that a three-day SIRA course leading to a NAMAS approval would cost £870. However, CF understood Churchill would not release information on its machines even to approved engineers. CF considered that manufacturers'/suppliers' manuals should be freely available so that any competent engineer could carry out EGA calibration. Alternatively the DOT, through the VI, should do the calibrating itself. CF also believed that the users should be allowed to employ any approved engineer.

6.22. *R C Edmondson (Spalding) Ltd* said that it had one Bosch EGA, calibrated by Bosch's distributor, which it had used in carrying out 1,169 MOT tests in 1992. The average calibration fee had been £88.13 including VAT. The company believed that at the time of purchase it had no choice of calibrator, but now that the EGA's warranty had run out it presumably had a choice.

6.23. *Hartnoll Motors* (Hartnoll) (Chard), a Renault specialist, explained that it was an authorized MOT station, and also serviced, repaired and tuned various makes of vehicles. Mr Blewer, its director, said that a machine which cost £3,500 should not need calibrating every three months. He believed that had been borne out by his Sun EGA, purchased in 1991, which although calibrated as required had needed no adjustment to date.

6.24. Mr Blewer considered that every garage owner or any senior technician would be quite capable of calibrating their analyser if they so wished. In his opinion one calibration per year by an outside agent should be sufficient bearing in mind that MOT stations would do a leak check every morning and that the machine was self-calibrating and therefore automatically indicated if a service was required.

6.25. Mr Blewer had timed the calibrator on three or four occasions. He said that the calibration took approximately 15 minutes at a cost of £65 + VAT-an hourly equivalent rate of £260 which seemed excessive.

6.26. Mr Blewer considered that some equipment manufacturers had persuaded the VI to agree to the three-month calibration interval knowing that this would enable them to make money for very little effort or investment. It was also his view that the price Hartnoll paid for its EGA in comparison with other highly technical equipment such as computers, videos, televisions, music systems etc was enormously high. Such everyday household items sold in the high street did not need checking every three months. Many of them were guaranteed for five years. Thus it seemed that the garage trade had to put up with high cost and lower value for money equipment that the general public would not tolerate.

6.27. Mr Blewer told us that in the run-up to the introduction of the emission test the EGA manufacturers or their agents had in his view acted in a disgraceful way, giving conflicting and misleading information about their machines and those of their competitors. Thus the description `up to Class I standard' did not mean that it was a Class I certified machine. Hartnoll had been caught out by this and was later told that it would have to spend another £150 and hire a gas cylinder from British Oxygen Company in order to bring its analyser up to the required Class I standard.

6.28. *Lou's Tyres & Exhausts* (Lou's) (Scunthorpe), having written to both its VI district manager and its local MP about what it considered to be the high cost of servicing and calibration of its MOT equipment, copied its correspondence with them to the MMC. Lou's explained that the cost of calibration had risen after the first year. Its FKI Transervice full cover annual contract on three pieces of equipment used in MOT tests cost over £1,000.

6.29. *Midway Motors* (Barnstaple), a small garage with an MOT bay, complained that the cost of calibrating and servicing EGAs was excessive. Including VAT it paid £82.25 a quarter for its calibrations, and £352.50 a year for its extended warranty.

6.30. *Peach's Garage* (Reading) had one Sun EGA. It carried out approximately 400 MOT tests a year. It said that it had chosen Kaltek to do its calibrations from a choice of three calibrators. Its average calibration charge was £100 plus £20 for spare parts.

6.31. *Pratt & Gelsthorpe* (Newark) sent us a copy of a letter which it had sent to Souriau (a manufacturer whose calibrator/agent was ATE). Mr Gelsthorpe considered that Souriau's calibration charge, which had risen from £65 + VAT, as charged by ATE in October 1992, to £110 + VAT some three months later, was excessive. Pratt & Gelsthorpe had reported this increase in fee to Peugeot.

6.32. *Rosary Garage* (Rosary) (Bramshaw) told us that it had an FKI Crypton EGA and carried out approximately 650 MOT tests a year. It was charged £250 + VAT a year for calibration. Rosary also told us that FKI Crypton specified that only FKI Transervice was approved to calibrate its machines. FKI Crypton had been unwilling to negotiate Rosary's calibration fee, and had referred to Ministry requirements regarding the frequency of `servicing'. Rosary said that although individual call- outs were permitted, they were less cost-effective than an annual arrangement. Although none of its calibrations had taken longer than 20 minutes, the engineer had been instructed to charge for a minimum of 1 hour and the hourly rate was over £30. FKI Crypton had told Rosary that no other calibrators had the required equipment. Rosary was concerned that it could not select its spares on the basis of the most competitive price. Rosary also considered that as it carried out so few MOT tests calibrating its machines four times a year was excessive, particularly in view of the reliability of FKI Crypton's machines.

6.33. Mr Teasdale, the proprietor of *St Cleer Motor Company*, sent us copies of a letter and enclosures he had sent to the OFT. He asked that we take into account his examples of unfair trading when conducting our inquiry into what he considered to be a monopoly arising from mandatory MOT requirements. He further considered that this would give rise to extortionate costs which would in due course be passed on to the general public. He made four complaints about Churchill:

(a) using advertising mailshots (to all UK MOT stations) which appeared to contravene the Trade Descriptions Act and were misleading (in particular claiming that a contract for the calibration/servicing of Churchill machines was VI mandatory);

(b) refusing to replace or refund unmerchantable goods;

(c) charging for two calibrations which were not carried out; and

(d) adopting `monopoly' tactics to extort payment for calibrations not carried out.

6.34. Mr Teasdale also pointed out that calibrations should take place `on site', ie at the MOT station where the equipment was used, not in Churchill's own workshop, since the environment, humidity etc could affect the calibration and the machine's accuracy. Mr Teasdale concluded by saying that a manufacturer such as Churchill was in a very strong position to insist on payment of a disputed `overdue' account, since the MOT station would otherwise not be given its next service and without the use of its EGA could not continue to offer MOT tests. Mr Teasdale said that he had been threatened with withdrawal of calibration, and had been `forced' to pay two disputed calibration charges while being refused further calibrations on a cash-on-delivery basis, pending agreement of the disputed amounts.

6.35. *Vauxhall Welch Limited* (Bristol) welcomed the investigation. It said that there was a monopoly in as much as MOT stations were restricted as to where they could go for their calibration service. One of its main concerns was that as the cost of the EGA services could not be negotiated by the MOT stations they could be forced to pay increased rates without being able to `shop around' for a better deal.

Trade associations

6.36. Some 14 trade associations were approached for their views.

6.37. *The Automotive Aftermarket Association* said that our deadline for views had not allowed it sufficient time to seek views from its 600 members. However, none of its members had in the past raised the question of a monopoly situation in this sector.

6.38. The *Retail Motor Industry Federation Limited* (RMIF) and the *Scottish Motor Trade Association* (SMTA) made joint representations and attended a joint hearing. The RMIF told us that it represented over 12,000 members involved in the motor industry, of which approximately 9,000 were involved in testing vehicles within the MOT scheme or preparing those vehicles for testing.

6.39. The RMIF said that while the initial MOT vehicle emission requirements only covered carbon monoxide and hydrocarbon emissions, the RMIF and SMTA advised their members that in deciding which equipment to purchase they needed to recognize the fact that from 1 July 1992 cars manufactured in the EC had to be equipped with catalytic exhaust gas converters and also that there had for some time previously been sales of vehicles equipped with catalytic converters in this country which would progressively come within the scope of the MOT scheme. Testing the emissions of such vehicles required a four-gas analyser capable of testing oxygen and carbon dioxide emissions in addition to carbon monoxide and hydrocarbons. The RMIF understood that the DOT was about to publish additional requirements for the compulsory testing of such vehicles from 1996.

6.40. The RMIF explained that one of the grounds for criticism and concern on the part of MOT stations was that the manufacturers of all the currently approved EGAs were insisting that external inspections could only be carried out by their own engineers. Each manufacturer claimed that its reason for this insistence was that third party engineers might fit parts not made by the equipment manufacturer and that these could alter the performance of the equipment and subsequently affect the integrity of the test readings.

6.41. We were told that RMIF and SMTA members recognized the importance of maintaining the integrity of the equipment and would have no objection to a requirement that only parts made by the equipment supplier must be used in connection with servicing or calibration. However, the same manufacturers had networks of distributors throughout the UK who regularly sold, serviced and calibrated a wide range of equipment. These distributors also had access to the genuine replacement parts made by or for the EGA manufacturers. The RMIF and the SMTA and their members had yet to receive a satisfactory explanation as to why distributors with experienced staff capable of qualifying as NAMAS-approved engineers were not allowed by the manufacturers to become EGA service engineers. The fact that in certain circumstances the staff of MOT stations who did not have specific qualifications could carry out two of the four required calibrations a year made the manufacturers' insistence that only their own employees carry out the remainder even more difficult to understand.

6.42. RMIF and SMTA members involved in MOT testing considered that the resulting lack of competition must be contributing to what it considered to be the present relatively high costs for calibration services. We were told that in 1992 calibration fees ranged from £60 to £85 payable on or after calibration. The RMIF and the SMTA said that in 1993 the costs had increased, in some cases by as much as 40 per cent, and manufacturers were demanding payment for the entire year in advance. MOT stations which refused to pay would not be able to obtain the calibration service and would therefore lose their authority to test. The RMIF and the SMTA set out the following considerations in order to put the cost implications into perspective:

- the average capital outlay on equipment required by an MOT station was now around £30,000 which, if written down over a period of five years, gave an essential overhead cost of around £120 per week;

- in addition to the equipment cost, the test station had to provide premises, some 45 minutes of qualified mechanic time and some 18 minutes of less qualified assistant time per test;

- the service and calibration costs for MOT stations now totalled over £1,000 per annum, adding a further £20 to weekly costs; and

- for a test station averaging 1,000 MOT tests a year, the equipment-related costs were in the region of £7 to £8 a test.

6.43. The RMIF and SMTA considered that as the scope of the MOT tests extended towards a fully comprehensive safety and performance check, which the RMIF and the SMTA were urging should be truly annual (ie from the first anniversary of a vehicle's registration onwards, not from the third), it would be vitally important that the service and calibration market for all items of equipment essential to the test should be as competitive as was consistent with maintaining the integrity of the equipment in use.

6.44. In this context both associations considered it relevant that, in contrast to the environment-related emission tests, the equipment prescribed for use in connection with the safety-related aspects of the MOT test, ie brake testers, and headlamp beam setters, could be calibrated and serviced by third party engineers. They said that for this reason too it was difficult to see any justification for the manufacturers' insistence on use of their own engineers, other than an attempt to retain the service and calibration work and related pricing for exhaust emission testing equipment within their own direct control.

6.45. The RMIF also said that information it had received from distributors suggested that EGA calibration charges could be reduced by up to 50 per cent if distributors were allowed to compete for this work. Such a price change would reduce MOT station costs and help RMIF and SMTA members to maintain a cost-effective service to their customers. Both parties said that they were strongly opposed to the idea of calibrating EGAs four times a year. They felt that it was excessive and once or possibly twice a year would be sufficient. They did not agree with the market-place being so tightly controlled.

6.46. In terms of changes envisaged for the emission test in 1996/97 the RMIF told us that it had recently received a paper from the DOT which it was discussing with the Department and the VI. In general, it was in agreement with the proposals so far. When smoke meters were introduced for testing diesel-engined vehicles its concerns had been listened to as only one calibration a year was required, although the first would be six months after installation of the equipment. It acknowledged, however, that smoke meters were less complex than EGAs. Both parties considered that one calibration a year for Class I EGAs and two for Class II would be ideal.

6.47. The *Society of Motor Manufacturers and Traders* (SMMT) and the *Garage Equipment Association* (GEA) attended a joint hearing with the MMC. The SMMT also submitted the results of a survey compiled from the responses of eight of its relevant members. The SMMT had 49 members who were franchised vehicle distributors, the majority of which carried out MOT tests. The GEA, a specialist trade section of the SMMT, had 14 member companies involved in the supply, calibration or servicing of EGAs.

6.48. Both organizations considered it of vital importance to all MOT stations, vehicle owners, the DOT and the environment generally that EGAs functioned correctly at all times, were accurate and that the public's confidence was maintained in the MOT test results. They believed this could be ensured by servicing and calibrating the EGAs within the scheduled intervals, by the use of correct short-life parts such as sample probes, hoses and filters, and by employing approved, well-trained engineers to carry out the work. They asked that these important considerations concerning the operation of the current system should play a significant part in the inquiry and that these issues should be taken into account by the MMC if they were to make any recommendations for change to the current accreditation and approval procedures.

6.49. The SMMT and the GEA welcomed the MMC's inquiry, since they considered that the OFT's press release at the time of the reference made it clear that it extended to related issues which could affect competition in the market such as technical and procedural requirements and the accreditation process. The two organizations considered that due regard should be given by independent operators within the market to the intellectual property rights of those manufacturers which had generated computer programs and manuals to control their calibration and servicing procedures. The two parties said that access to an equipment manufacturer's computer program, procedure manual or both was often required in order to carry out the calibration and servicing of EGAs. In their view the EGA manufacturers had the exclusive right, under the provisions of the Copyright, Designs and Patents Act 1988, to copy this work, to decide whether or not to issue copies of the work to the public, or to make an adaptation of the work either in relation to the work as a whole or any substantial part of it and to do so either directly or indirectly. The SMMT said that the creation and development of this intellectual property had resulted in the SMMT's members incurring a large and continuing financial cost.

6.50. The SMMT also told us that most manufacturers had produced EGAs for annual testing requirements in Europe and the USA for some 20 years. These programmes were very carefully controlled. The UK emissions programme had been defined in January 1991 for introduction in September 1991 for testing HGVs and November 1991 for all other MOT tests. The manufacturers themselves had set out the methodology and protocol for calibrating their own equipment. These had then been discussed with NAMAS and agreed as the methodology for each and every manufacturer. The SMMT considered that at that time there had been little discussion between the UK manufacturers and NAMAS and there was no agreed approval standard for Great Britain. The VI had subsequently adopted a specification based on an existing European standard but, in the SMMT's view, the equipment manufactured for the UK market was unique and not acceptable within the rest of Europe.

6.51. The SMMT considered that the provision of a nation-wide comprehensive calibration and servicing network offered by all manufacturers and suppliers of this equipment was vital to ensure that all EGA users had access to high-quality, reasonably priced calibration and servicing options for their equipment. Manufacturers and suppliers each had the support of a comprehensive database which logged their own EGAs together with their calibration and servicing histories and the equipment's location. This would allow each manufacturer to rationalize its calibration and service operations and reduce costs to users. The SMMT also believed that accurate and up-to-date information on the location of every analyser and its calibration status was vital to ensure that updates and modifications to equipment were incorporated and that correct calibration and servicing were carried out by a fully trained engineer. Efficient scheduling of site visits by engineers reduced costs to users to a minimum and ensured that EGAs always had a valid certificate of calibration enabling their continuous use.

6.52. In the SMMT's view incorrect calibration of equipment might cause inaccurate readings resulting in vehicles wrongly failing their MOT emission test, and if procedures for servicing and calibration were not adhered to then damage to EGAs could easily result. In addition, if a unit could not be successfully calibrated then the garage using it was required to stop its MOT testing programme, thereby inconveniencing vehicle owners and resulting in a substantial loss of revenue to the garage. The SMMT considered its survey to show that service and calibration charges for EGAs were by no means unreasonable. Most manufacturers reported in the survey that updates to equipment were frequently introduced and independent operators would be unable to provide this service adequately.

6.53. Both the SMMT and the GEA submitted that the market in relation to both the manufacture and sale of the EGAs themselves, and their calibration and servicing, was highly competitive. A wide choice of equipment was offered by manufacturers at different prices and with a full range of servicing options. The manufacturers competed strongly with each other for the business of selling the equipment to garage users and this included a variety of provisions for servicing and calibration. These were relevant considerations for all equipment purchasers when they were setting up and operating their own MOT stations. The manufacturers had no doubt that as the garage trade accumulated experience in the reliability and running costs of the various manufacturers' equipment these factors would be taken into account in making purchasing decisions.

6.54. The SMMT considered that any EGA calibration system had to maintain and safeguard the reputation and goodwill of the equipment manufacturers as well as the functioning and reliability of their equipment in the context of the statutory testing requirements. The monitoring carried out by the VI and NAMAS was not, in the SMMT's view, sufficient to ensure this; it needed to prevent any element of reduced reliability or accuracy in equipment. This was something the SMMT felt should be considered were the MMC to recommend any changes in this market.

6.55. The two organizations said that it was important for the MMC to ensure that the number of out-of-calibration EGAs did not increase as a result of any reduced level of expertise operating within the market and that the fitting of parts and components which were substandard and not approved by the manufacturer did not result in increased failure and inaccuracy. They also said that it had to be recognized that any financial or technical failure by an independent operator would affect the reputation of the manufacturers and importers of the equipment he serviced.

6.56. The SMMT said that its survey demonstrated overwhelming support for the equipment manufacturers' general practice of charging a standard nation-wide fee for their calibration and servicing operations which were conducted through their national networks of engineers.

6.57. Both the SMMT and the GEA said that as the requirement to undergo an MOT test was mandatory, manufacturers and suppliers of MOT test equipment had both a legal obligation to ensure that the equipment supplied was of the highest quality and a commercial obligation to ensure that it was then serviced and calibrated with complete accuracy and consistency to cover the full period of use that occurred between the calibration and servicing intervals laid down by the VI.

Consumer and other associations

6.58. We wrote to seven organizations representing consumers or other automobile interests outside the garage or garage equipment field.

6.59. The *Automobile Association* considered that the service and supply agreements in the industry did not create a damaging monopoly, and that there was no serious adverse effect on the public interest.

6.60. *RAC Motoring Services Limited* (RAC) said that it was aware that costs for calibration and servicing were not minor. Such work did, however, have to be carried out by competent and accredited organizations. The RAC's concern centred on the costs of exhaust gas analysis to the motorist. It assumed that these costs were in part based upon the capital cost of the equipment and part upon its running costs, including servicing and calibration. It considered that any measures which would lead to greater competition among service providers, which might in turn be expected to lead to lower vehicle servicing charges, would be welcome, provided technical competence continued to be guaranteed by an appropriate form of accreditation.

Car manufacturers

6.61. We approached eight major car manufacturers.

6.62. *Honda (UK)* (Honda) said that it approved the use of only one of Sun's EGAs by its dealers and strongly advised them to have the equipment calibrated by Sun which, it considered, offered a standard which was consistent throughout the UK whereas independent companies might vary from area to area. Honda also said that the costs of calibration must be carefully monitored but, to date, it was not aware of costs being a problem.

6.63. *Ford Motor Company Limited* said that it had little direct knowledge of the reference market. The company's principal concern was that its dealers should have suitable arrangements in place to ensure that their analysers, in line with all their other workshop equipment, were properly maintained. Had there been a significant concern among Ford dealers about conditions in the market, it would normally expect to have been told about it, but no such concern had come to its attention.

6.64. *Renault UK Ltd* (Renault) considered that the practices of certain suppliers of EGA equipment together with the rules for approval of calibrators had prevented a number of independent service companies from supplying service and calibration for such equipment.

6.65. Renault said that this restriction of the role of independent service companies had reduced the choice of service supplier available to its dealer network and had resulted in higher servicing costs than would be the case if service and calibration could have been obtained from independent service companies.

6.66. The majority of Renault's authorized dealers were approved MOT stations. As such they needed an approved EGA which (in accordance with the DOT requirements and with quality standards set by Renault for its authorized dealer network) had to be serviced and calibrated at regular intervals. To obtain better terms on their dealers' behalf, Renault had negotiated a servicing package with an independent servicing company which, for a fixed fee, serviced and calibrated all the dealer's measuring equipment. Its dealers had been able to benefit from advantageous terms negotiated by Renault and to obtain servicing for all measuring equipment at one time, instead of facing the administrative complexities of dealing with a series of different companies. The dealers had remained free to take up the package arranged by Renault, or to make their own arrangements. Renault told us that it estimated that obtaining servicing for EGAs from an

independent servicing company would provide dealers with a cost saving of approximately £30 to £50 per year or 6 to 10 per cent, depending on the make of EGA involved.

6.67. As far as Renault was aware, none of the four independent companies which to its knowledge offered servicing and calibration for measuring equipment in the UK were able to offer calibration or servicing of EGAs as part of their service. It understood that this was principally due to the difficulties faced by such companies in obtaining the necessary technical data on EGAs to satisfy the VI's approval requirements. Renault understood that persons seeking approval had to have access to the calibration procedures manual which was produced by the manufacturer and approved by SIRA. Such manuals contained the technical specifications necessary for the engineer to demonstrate that he was able to calibrate and service the equipment. Renault said that to its knowledge, at least two suppliers of gas analysing equipment, Tecalemit and Churchill, had refused to supply the relevant calibration manuals to independent service companies.

6.68. Renault considered that the refusal of EGA manufacturers to make available the information necessary for independent servicing companies to obtain NAMAS approval prevented such companies from satisfying DOT requirements, and therefore from providing calibration and servicing for EGAs to authorized Renault dealers and other potential customers. Dealers were therefore restricted in their choice of service suppliers and could not benefit from the competition between such suppliers which would take place if the necessary information were made available.

6.69. Renault suggested that such a restriction could be removed by requiring manufacturers of EGAs to release the technical information necessary for independent servicing companies to obtain NAMAS approval, thereby enabling them to carry out calibration and servicing of such equipment.

Car fleet operators

6.70. Five of the largest fleet operators were approached.

6.71. The *Meteor Group plc* (Meteor) made a consolidated group response on behalf of its motor dealership subsidiaries Meteor Ford, Drayton of Stoke Ltd (Mercedes), Guy Salmon Jaguar Ltd (Jaguar and Land Rover) and Guy Salmon Honda Ltd. The group used a variety of EGAs in its workshops, but mainly those manufactured by Sun and Hermann.

6.72. The equipment had been recalibrated as often as once a month and not less than every six months. Calibration in some cases had been carried out by its own staff using specialist equipment and sample gases. Meteor said that once its equipment was past warranty it did not have a problem in using independent repairers for calibration service at reasonable prices. In some cases it had an annual maintenance agreement. For its Hermann EGAs the cost was about £600 per annum including a biannual calibration.

6.73. For Sun equipment the maintenance agreement cost £500 per annum, but did not include calibration which was £60 extra per occasion. However, it understood that to have Sun equipment calibrated by Sun (when the EGA was not already covered by a Sun maintenance agreement) could cost £320 a visit for a calibration taking less than 1 hour. Meteor said that whilst it was not directly affected, it would seem that a registered MOT station that needed calibration by Sun of equipment not covered by one of Sun's maintenance contracts was likely to suffer excessive costs for the work involved.

6.74. Meteor considered that the MMC's investigation might well be in the best interests of the trade and customers.

Filter suppliers

6.75. *Headline Filters Ltd* (HFL) said that it had a vital interest, being the only UK or indeed European manufacturer of disposable microfibre filter elements for this market. HFL wished to draw the MMC's attention to the fact that HFL had been blacklisted as a supplier to Sun Electric companies throughout the world, as a result of supplying HFL products to independent servicing companies in the UK.

6.76. HFL explained that disposable microfibre filter elements were manufactured by just four companies, Balston Inc, Finite Filters Inc, and Porous Media Inc, all US corporations, and HFL, a private British company. HFL sold its filter elements throughout the world in competition with the three US manufacturers and had established a substantial market share, especially in the US, UK, French and German markets. In France and Germany, Souriau and Bosch were important customers, whilst in the UK it supplied Churchill, FKI Crypton, Oliver, Bear, and several independents, notably Kaltek and Prosol. Between 1986 and 1992 HFL had also supplied Sun, Sun Electric Europe in Holland and other Sun companies in Germany, Austria and France. Its total sales to all Sun companies had been about £60,000 a year and increasing.

6.77. In 1992 HFL had begun selling to Kaltek and Prosol elements which were identical to those which HFL supplied to Sun. The two elements in question were standard catalogue items sold to hundreds of customers throughout the world. HFL told us that in May 1992 it was informed by Sun that unless HFL stopped supplying elements to the independents, or direct to garages, Sun would no longer use HFL as a supplier. HFL told us that Sun subsequently switched to imported Finite Filter elements and requested all other Sun companies by letter not to purchase from HFL. HFL had subsequently received no further orders from Sun companies.

6.78. HFL resented Sun's action against it, since Sun had thereby excluded the only European manufacturer from a major portion of the European market, and Sun's attempts to restrict HFL's sales of filter elements through independents, if successful, would further damage HFL.

6.79. *Prosol UK*, primarily involved with mail order supplies to the automotive trade, made representations and attended a hearing. It said that its main concern was that the EGA manufacturers were trying to prevent the supply of filters by third parties implying that they were of inferior quality, though it was highly probable that the manufactured source might be identical to theirs. Prosol said that this had resulted in the EGA manufacturers retaining at least a 90 per cent share of the relevant filters market. Prosol also considered that the leading manufacturers were charging the EGA users far more for their filters, it estimated up to 700 per cent more, than Prosol. Prosol gave some examples of the price differences; in one case Sun, having first supplied filter elements prior to Prosol's market entry at £4.97 per filter, more than twice Prosol's current £2.40 price, now charged 97p for the same filter.

6.80. Prosol told us that the filters used in the EGAs were technically more sophisticated than necessary; for example, they would even remove bacteria from an air sample. It understood the filters removed particles down to 0.1 of a micron; and they would remove on average about 98 to 99 per cent depending on the filter grade. This efficiency should be set against exhaust gas contaminants of 5 microns or more. Prosol considered that the filters from all three principal UK sources were of comparable efficiency and it made little practical difference from which company they were obtained.

Other companies

6.81. *Esso Petroleum Company Limited* told us that EGAs were used at its Research Centre. No concerns or difficulties had arisen in the servicing of this equipment.

6.82. *Hickley Valtone* (HV) (Taunton), a motor factor, told us that it considered calibration and servicing were directly connected with the sale of EGAs to the garage or workshop. It said that at the selling stage there was considerable competition between manufacturers and their agents against a large range of motor factors. Once a sale was made, the independent sector of the market was unable to offer to service and calibrate the equipment they had sold but customers had to be directed to the manufacturer for future servicing at whatever charge the manufacturer cared to make, knowing that no competition existed.

6.83. HV was of the opinion that the competence needed for such servicing, although specialized, was not such that service engineers already employed within the independent factor sector could not achieve it with proper training, either through a technical college or through the training facilities of the equipment manufacturers themselves. HV considered that an alternative range of competent servicing personnel nation-wide would introduce the element of price competition; equally the service itself, in terms of time that a machine would be out of use, would be considerably shortened. HV said that the user needed to get the

instrument running again within an hour or so, so that the previously booked flow of work was not interrupted.

6.84. HV also considered the present monopoly unfair in that once a manufacturer's agent was regularly calling on a garage, there were opportunities for further equipment sales and servicing of other types of equipment. Were it not for the introduction by the independent motor factor, at the time of the original sale, the customer's venue would not even be known to the servicing firm.

6.85. *Wincanton Ltd* (part of Unigate plc) said that after an in-depth survey it had decided to buy its EGAs from a single manufacturer, which was one of the market leaders. It considered that as correct equipment calibration was vital, and since specialist skills were required, it would certainly utilize the equipment supplier for calibration and servicing. In view of the small sums involved it preferred not to risk incorrect servicing as use of another repairer/calibrator could not yield much of a saving. It considered it reasonable that only manufacturer-trained engineers should undertake servicing without adverse effect on the warranty. It also said that it was normal for most suppliers of equipment to limit warranty cover to equipment serviced by them or their appointed agents.