

ACCC NEW CAR RETAILING INQUIRY RECOMMENDATIONS – WHAT NEXT?

On December 14th last year, after an extensive 18-month investigation, the ACCC released its final report and recommendations on the steps it believes are required to address a range of anti-competitive behavior by the car industry relating to the sale, service and repair of vehicles in Australia

The report recommendations that are relevant to our industry can be divided into two broad categories - those that the ACCC can address with their existing powers under Australian Consumer Law and the Competition and Consumer Act and those that require Government intervention in the form of new laws or regulations.

Warranties and Consumer Guarantees

In relation to the first category, ACCC action is already underway. On the 8th of February the ACCC announced that Hyundai had signed a court-enforceable undertaking to improve compliance with consumer guarantee obligations under the Australian Consumer Law. As part of this undertaking Hyundai has committed to:

- notify all new customers of their rights in relation to the statutory consumer guarantees.
- review relevant complaints received in the last 12 months.
- review its complaint handling system to ensure consumer rights are accurately considered, and consumers are provided with written reasons when a remedy is declined; and
- provide consumers with the ability to obtain information online about any technical and/or safety issues with their vehicle and any available remedies.

A copy of the full undertaking can be viewed at: www.accc.gov.au/media-release/hyundai-to-improve-consumer-guarantees-approach

This action follows on from a court enforceable undertaking signed by Holden on the 3rd of August 2017 and Federal Court proceedings launched against Ford last year. Both of these actions are the result of conduct identified during the investigation. It should be noted that Ford is defending the ACCC allegations and the Federal Court action is ongoing.

Misleading Log Books

The final report of the market study also made mention of the widespread practice of car companies including explicit or implicit misrepresentations in logbooks and service manuals that state that authorised dealers must carry out services or repairs to maintain warranty coverage on the vehicle. The report correctly noted that logbooks are a key source of consumer misunderstanding and confusion about their rights in relation to servicing and repairs.

As a result, the ACCC committed to target, including enforcement action where appropriate, “instances of misleading or deceptive conduct, or misrepresentations, in relation to the use of independent repairers or non-OE spare parts.”

Over the past few weeks, we have asked AAAA members to provide examples of misleading logbooks and we were inundated with examples from a range of different car companies. The most common scenario is where the logbook states that it can only be stamped by an authorised dealership or repairer and only when ‘genuine’ parts are used in the service. While we have been advised previously by the ACCC that independent repairers can stamp these logbooks when they complete a scheduled service, putting a repairer in this position reinforces the myth perpetuated by the car industry that consumers do not have a choice of service provider during the warranty period. Rather than continue this confusing practice, we are of the view that the best option would be for the ACCC to take steps to ensure that any misleading or ambiguous language is removed from all logbooks completely.

I have written to ACCC Chairman Rod Sims providing him with the examples of misleading logbooks received from AAAA members and asked for his views on what steps the ACCC can take to address this behavior. I will provide you with an update once I receive a response.

Mandatory Data Sharing Code

The ACCC in its findings also found that car manufacturers had been systemically denying independent repairers access to vehicle repair and service information which has resulted in detriment to businesses and to consumers: particularly increased cost and labour due to lack of sharing of technical information and data.

The ACCC recommended that a mandatory code be implemented to ensure car manufacturers make crucial repair and service data available to independent repairers on fair and reasonable terms. This is one recommendation that the ACCC needs Government to act on via the introduction of a new regulation which would compel all car companies selling vehicles in Australia to share full dealer level information with all repairers. This recommendation is now with Treasurer Scott Morrison for his consideration.

To show our support for the ACCC report findings,



and to encourage the Treasurer to move forward urgently on the development and implementation of a mandatory data sharing industry code, we have launched #MAKEITMANDATORY – a targeted campaign aiming to demonstrate the grass roots support for a mandatory code to be implemented as soon as possible. In addition, we want to show all Federal MPs that we are still here, it still matters and that small businesses in their electorate are paying attention to this issue and want to see an outcome.

The response from our industry to this campaign is nothing short of remarkable with hundreds of repairers right around the country taking a photo of their team out the front of their workshop with the #MAKEITMANDATORY sign and then sending it on to their local member of Parliament with an invitation to visit their workshop. A huge number of MPs from all political parties have accepted these invitations and taken the opportunity to hear directly from repair businesses in their electorate about the issues they are facing and the impact that this has on their business and their customers. I would urge you to take a look at the #MAKEITMANDATORY video (www.youtube.com/watch?v=RiQ-0aLiU0c) as it carries a powerful message about the growing urgency and our collective resolve to see this issue fixed once and for all.

To those workshops that have supported this and other Choice of Repairer initiatives, we would like to express our sincere thanks to you – it is making a massive difference! If you want to find out how you can get involved, contact Elyse Keyser in the AAAA National Office on 03 9545 3333 or via email at elyse@aaaa.com.au

We will provide a further update as soon as we get advice from the Treasurer on the process, timelines and next steps in the development of a mandatory data sharing code.

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