

MANDATORY VEHICLE DATA SHARING A STEP CLOSER

Thursday the 10th of August was a landmark day for the aftermarket industry in Australia

After nearly a decade of tireless work from our Board, National Office team and the wider AAAA membership, Australia's competition watchdog, the ACCC, handed down the preliminary findings of an exhaustive 12-month investigation into the new car retailing industry.

The recommendations contained in this report are a potential game changer for our industry and are a vindication of the consistent and unequivocal position our association has taken on these important competition policy issues.

We've been telling the Government for years that the car companies and their franchise dealers don't play by the rules.

That they mislead their customers into thinking that their new car warranty will be voided if they use an aftermarket repairer or parts and the wording of log books and other consumer information reinforces this notion.

Extended warranties are used as a customer tying tool and in many cases these warranties offer nothing more than statutory consumer guarantees and often require the customer to forfeit their right to choose their preferred repairer.

We have maintained for the past two years that the voluntary agreement on vehicle data sharing wasn't working and the majority of car companies selling vehicles in Australia systemically withheld certain classes of repair and service information in direct contravention with the core principles of this agreement.

Our opposition, the slick Canberra-based lobbyists representing the car companies and new car dealers ran the line that there was 'nothing to see here'. Their main argument: there are cars on the road, so someone must be servicing them.

They said that the 'real' problem was that independent repairers weren't prepared to invest in the information, tools and training to work on modern vehicles. That the rapid pace of vehicle technology was making it impossible for the independent sector to keep up.

They said that the AAAA was grandstanding – that we were exaggerating the issue to suit our own purposes.

The ACCC had a team of people working on this market study for nearly 12 months and they took a 'deep dive' into the issues. And I'm very pleased to say that they discounted each and every one of our opponent's arguments in their preliminary findings. So, what did the ACCC find?

An 'alarming' level of non-compliance with Australian Consumer Law (ACL) by the new car industry which has resulted in nearly 20 percent of all enquires on Consumer Guarantee issues received by the ACCC this year relating to motor vehicles

and over 10,000 complaints received over the past two years.

"The cost to consumers from the problems we are uncovering here is...probably larger than anything we have ever dealt with," ACCC Chairman, Rod Sims, said.

They also found that car manufacturers' focus on warranty obligations to the exclusion of their consumer guarantee obligations.

They were also concerned about other potential Australian Consumer Law compliance issues including 'statements provided in logbooks and service manuals prepared by some car manufacturers that are likely to mislead new car buyers about their consumer guarantees when it comes to servicing and repairing their car'.

And most importantly, the ACCC found problems with the detail and timeliness of technical information given to independent repairers stating "This was despite a voluntary commitment made by car manufacturers in 2014 to provide independent repairers with the same information to repair and service new cars that they provide to their authorised dealers" and "these barriers ...preventing access to this technical information, impacts competition in the repair and servicing of new cars and enable dealers to generate an average 64 per cent profit margin on new cars they service."

ACCC Recommendations

As a result of these findings the ACCC has recommended a new mandatory scheme be introduced that sets out the rules for car manufacturers to share technical information with independent repairers.

The ACCC suggests that this should:

- cover all car manufacturers operating in Australia
- include real time access for independent repairers to the same technical information car manufacturers make available to dealers

The ACCC also committed to:

- working with manufacturers and dealers to develop a concise and simple explanation of consumer guarantee rights under the Australian Consumer Law (ACL), and their interaction with warranties, which should be provided to consumers when they buy a new car.
- updating the Motor vehicle sales and repairs—an industry guide to the Australian Consumer Law, to ensure this publication provides additional guidance to consumers about consumer guarantees under the ACL. Guidance may also be designed for use by businesses, including dealers, regarding their rights and obligations under the ACL.



Enforcement

The ACCC has committed to monitoring and addressing refusals by car manufacturers to supply security related parts for repair and service, including through enforcement action where appropriate. The ACCC will also target claims or conduct that may mislead or deceive consumers about their consumer guarantee rights, including statements that authorised dealers must carry out services and repairs, through enforcement and other actions, where appropriate.

The ACCC has already taken enforcement action against a number of car companies for alleged breaches of Australian Consumer Law including Ford, Holden, VW and Audi.

Next Steps

The ACCC report and recommendations are preliminary and there is still a number of steps that need to happen before the Government adopts these recommendations into regulation. We can expect a strong rear-guard action from the car industry who will attempt to discredit the ACCC process and findings.

While we are facing powerful opponents with very deep pockets, they don't have what we have. A dedicated, smart and determined independent sector, ready to stand up for our industry and our customers. We know that this is what carried us to this point. Determination, persistence and dedication.

We will be asking for your support and assistance over the coming months to keep the momentum going. It is vital that we stand together as one to ensure that the Government adopts these recommendations in full to support competition and choice for Australia's 17 million vehicle owners.

GRAHAM SCUDAMORE-SMITH
President

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