



## New car retailing industry market study: Guide

The Australian Competition and Consumer Commission (ACCC) has commenced a market study into the new car retailing industry in Australia.

This guide sets out the key issues the ACCC will be exploring as part of its market study.

This guide is also to assist you, as a consumer or small business, to decide if you want to [provide a submission or respond to our online questionnaire](#) to help inform the ACCC's market study. Responses are due **COB Monday 14 November 2016**.

You can read more about the issues the ACCC will be looking into as part of its study by referring to the [full Issues Paper](#). The Issues Paper provides an in-depth review of the issues and asks interested parties to respond to a detailed set of questions.

### What are we doing?

Consumer issues arising in the new car retailing industry are a priority for the ACCC. We have received a large number of complaints from consumers relating to new cars. Other government agencies also report a growing number of complaints from consumers and industry.

This market study will help us to better understand how the new car retailing industry works, while focusing on key issues that have come to the ACCC's attention.

Information collected during the market study may lead to:

- the ACCC taking further action to address any behaviour in the industry that raises concerns under the Australian Consumer Law (ACL) and the *Competition and Consumer Act 2010*
- recommendations for changes to address any identified competition or consumer law issues.

### What cars are we looking at?

The ACCC is focusing on markets related to 'new cars' rather than used cars. The types of new cars included in this study are: passenger vehicles, four wheel drive vehicles and vans.<sup>1</sup>

For this study, we will consider a 'new car' as a car purchased by an Australian consumer that has not been previously registered.

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<sup>1</sup> This market study excludes: direct or parallel imports of new cars by individuals; car financing and insurance products; product safety; capped price servicing matters and demonstrator vehicles. This market study will also exclude vehicle types such as motorcycles, trucks, buses, plant and equipment, unpowered vehicles, trailers, farm equipment (e.g. tractors), limousines, demonstrator cars, and parallel imported cars (e.g. cars bought by consumers overseas and imported into Australia) as well as new cars purchased for the purpose of re-supply, and new cars purchased for using them or transforming them in trade or commerce.

## What are the key issues we are seeking views on?

This market study will look at the operation of the new car retailing market including whether it operates competitively and the impact it may have on consumers. We are therefore seeking views from the public, including consumers,<sup>2</sup> as well as small businesses that operate in the new car retailing industry (such as dealers, repairers and mechanics).

There are four (4) key issues related to new cars that the ACCC is particularly interested in getting views on. These key issues are:

1. The operation of consumer guarantees and warranties in relation to new cars
2. Fuel consumption, carbon dioxide (CO<sub>2</sub>) and noxious emissions, and car performance of new cars
3. Post-sale service arrangements for new cars
4. Access to repair and service information and data for new cars

More information about these issues is below and we have posed some questions about matters we would like more information about.

### **1. Operation of consumer guarantees and warranties**

The ACL is the national law for fair trading and consumer protection. The ACL sets out consumer rights that are called consumer guarantees. These include your rights to a repair, replacement or refund as well as compensation for damages and loss and being able to cancel a faulty service.

Consumer guarantees apply automatically to goods, such as a new car, purchased for personal, domestic or household use. Consumer guarantees also apply to new car purchases by businesses where the car was less than \$40,000 or was bought to use in the transport of goods on public roads.

In addition, a consumer may purchase or be provided with a warranty when they buy a new car. There are two main types of warranty:

- *A manufacturer's warranty* – this promises that a car will be free from defects for a period and that the manufacturer will fix any defects at no cost to the consumer.
- *A dealer's extended warranty* – this is a service provided by a dealer that may extend the coverage provided in the manufacturer's warranty.

Consumers have made complaints to us about faults and defects in their cars and the responses from manufacturers and/or dealers to requests to remedy these issues. The complaints reveal that many consumers are having difficulty enforcing their consumer guarantee rights. Consumers may also have difficulties with warranty claims.

We are also aware of examples of consumers being asked to sign confidentiality or non-disclosure agreements about the remedy they obtained for a faulty or defective new car, which may raise concerns under the misleading and deceptive provisions of the ACL.

**Question: What information were you given about your consumer guarantee rights in the ACL, the manufacturer's warranty or the dealer's extended warranty when you bought a new car? What information were you given about how these interact?**

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<sup>2</sup> For this study, this may also include a small business who has bought a new car. For this study, we will define a small business as one which employs fewer than 20 employees.

**Question: What are your experiences with obtaining repair, replacement or refund for a new car under your consumer guarantee rights, manufacturer's warranty or dealer's extended warranty?**

## ***2. Fuel consumption, CO<sub>2</sub> and noxious emissions, and car performance***

The ACCC is interested in exploring how information is given to consumers about how much fuel a car may consume, how much CO<sub>2</sub> and noxious emissions a car may emit and its overall car performance (e.g. speed, engine power).

There has recently been considerable Australian and international media coverage of consumer experiences of higher than expected fuel consumption and emissions. The ACCC has received a number of complaints from consumers who have experienced higher fuel consumption than their new car's labelled or advertised values.

The ACCC is also concerned about potentially false or misleading claims made to consumers about a new car's performance.

**Question: Could you tell us about:**

- **the information you were given when buying a new car on its fuel consumption, CO<sub>2</sub> and noxious emissions, and car performance**
- **the importance of this information to you when choosing your new car**
- **whether you found there were differences between what you were told and what your car consumed or emitted or how your car performed?**

## ***3. Post-sale service arrangements***

The ACCC is exploring issues that may occur after the purchase of a new car. These issues relate to access to parts and tools and online logbooks.

The ACCC has received complaints that:

- Some car manufacturers may be restricting access to car parts, with certain parts only supplied to dealers and authorised resellers.
- Some manufacturers may restrict access to tools required for repairs or servicing.
- In relation to some new cars, only dealers or authorised repairers are able to access online logbooks while independent repairers cannot.

**Question: The ACCC is interested to hear about your experiences accessing:**

- **parts and tools for repairing or servicing a new car, and**
- **paper-based and online logbooks and whether repairers can also access it.**

## ***4. Access to repair and service information and data***

The ACCC has received complaints about access to repair and service information including on the sharing of reset codes to switch off warning and error lights, access to repair and service manuals, access to electronic log books, coding for electronic keys and software problems. The ACCC notes that there is a consumer and industry interest, however, in protecting car security and safety systems in the broader context of reducing car thefts.

**Question: The ACCC is interested to hear from you about your experiences with access to repair and service information and data issues in new cars.**

## 5. Other issues

The ACCC welcomes further information about other issues that may be emerging in the new car retailing industry. However, we note that this market study will not be exploring used cars, direct or parallel imports of new cars by individuals, car financing and insurance products, product safety, capped price servicing matters and demonstrator vehicles. These may be subject to research in future.

**Question: Are there any other issues you may have identified in the new car retailing industry that you think the ACCC should look at?**

## How to give your views

If you would like to participate in the market study, we encourage you to respond to the online questionnaire or provide a submission via the ACCC's [consultation hub](#) by **COB Monday 14 November 2016**.

### Online questionnaire

The ACCC invites your views by completing our online questionnaire which will seek your responses to the questions above.

Responses to the questionnaire are welcome by **COB Monday 14 November 2016** and can be made on the [consultation hub](#). Responses will be compiled and published on the ACCC's website. You can respond anonymously and are not required to respond to all the questions.

### Submissions

Alternatively, you can make a written submission in response to the Issues Paper by **COB Monday 14 November 2016**. Submissions can be made online at the [consultation hub](#). Submissions will be published on the ACCC's website.

## Key dates for the study

The dates below provide some indicative timeframes for when we intend on releasing our findings. As the market study progresses, we will publish further information with confirmed dates on our website: [www.accc.gov.au/newcars](http://www.accc.gov.au/newcars).

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<b>17 October 2016</b>	Issues paper released. Submissions invited.
<b>14 November 2016</b>	Issues paper submissions close.
<b>Mid-year 2017</b>	Draft report released for comment.
<b>Late 2017</b>	Final report released.

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## Further information

If you would like to be kept up to date on the market study's findings, please send us an email at [newcars@accc.gov.au](mailto:newcars@accc.gov.au).

If you have a complaint or enquiry about a specific new car related issue or product, please contact the [ACCC Infocentre](#).

You can also follow the ACCC on [Twitter](#) and [LinkedIn](#) for updates.