



Australian
Competition &
Consumer
Commission

Summary of stakeholder forum - 13 December 2016

On 13 December 2016 the ACCC held a forum with invited stakeholders at the ACCC offices in Melbourne, Canberra, Sydney and Perth. The purpose of the forum was to provide stakeholders an opportunity to communicate with the ACCC's Commissioners about their key issues of interest in relation to the new car retailing industry market study.

The forum was chaired by ACCC Commissioner Sarah Court, with ACCC Chairman Rod Sims and Deputy Chairs Michael Schaper and Delia Rickard also in attendance. The forum agenda is at **attachment A** and a list of invited stakeholders is at **attachment B**.

The following is a summary of the issues discussed at the stakeholder forum.

Consumer guarantees and warranties

Awareness of consumer guarantee (CG) rights

Stakeholders discussed the level of understanding of consumers of their rights under the Australian Consumer Law (ACL), in particular, consumer guarantee rights. There were varied views on the level of consumer understanding and information provided to them about this. Some stakeholders stated that there was a low level of ACL understanding by consumers. Others stated that new car buyers may rely on a manufacturer's warranty in the first instance, and that statutory consumer guarantees were typically only discussed when a remedy under a warranty was not met.

Complaint handling/access to remedy

Stakeholders had varied views about the ease with which consumers could access a remedy. Some stakeholders identified issues including dealership/manufacture complaint handling processes, the inability of consumers to obtain a refund or replacement, and requirements that consumers sign non-disclosure agreements before obtaining a remedy. Other stakeholders suggested that overall consumer satisfaction with dealers was high, with complaints representing only a small proportion of new car sales.

A number of stakeholders raised that a complicating factor to providing remedies was determining the exact cause of a problem with a car, with causes ranging from technology, mechanical fault, poor consumer use, an unknown cause or an interaction of the above.

Some stakeholders claimed that consumer ability to access dispute resolution is limited. A number of stakeholders did not see a need for an additional tribunal or special ombudsman to address car-related disputes although it was noted that some state governments were considering this.

Stakeholders discussed compensation by manufacturers to dealers for repairs undertaken with some stakeholders arguing that the time used by manufacturers as a basis for paying a dealer to complete repairs is insufficient.

Major vs minor fault guidelines

Stakeholders suggested that more guidance (for consumers and/or industry) was needed on how the ACL applies to 'complex' products such as cars, and what constitutes a major/minor fault. Stakeholders however noted that if the ACCC were to develop guidelines on what constitutes a major/minor fault, it should do so in consultation with industry.

Access to parts and tools and access to repair and service information and data (including the Heads of Agreement and Voluntary Codes of Conduct)

Independent repairers — access to parts and tools and access to information and data

Stakeholders held varied views on the extent to which access to service and repair information and data was restricted for independent repairers.

Some stakeholders suggested that access to timely, accurate and useable information by independent repairers to make parts/tools work with Australian cars was the key issue (rather than access to parts and tools themselves). These stakeholders suggested that the lack of access to data affects the consumer experience and leads to increased repairer and consumer costs due to time spent searching for workarounds and alternative fixes. Some stakeholders also considered access to data issues to be more prevalent in Australia, noting that independent repairers in the United States (US) do not face similar issues.

Other stakeholders stated that information to assist repair is available from a number of sources online, albeit subject to a small subscription fee in some cases. These stakeholders suggested that this information is similar to that available to authorised dealers (e.g. repair manuals, service schedules). It was also raised that access to repair information had been reviewed by the Commonwealth Consumer Affairs Advisory Council in 2012, leading to the creation of the current industry Heads of Agreement.

Stakeholders identified the following as some information which manufacturers do not provide: security information (entry/theft deterrent systems); safety information (safety features); and environmental control information (e.g. emissions systems).

Heads of Agreement

Some stakeholders put the view that although the Heads of Agreement was intended to increase access to information, it had not done so, and this would contribute to further independent repair business closures as the level of technology and on board information used in cars continued to rise.

Other stakeholders suggested that given vehicles were getting serviced by independent repairers, this was an indication the market was working effectively. Some forum participants indicated that they were only aware of a small number of complaints, noting that few complaints had been raised through the Heads of Agreement's dispute resolution process. Other stakeholders responded that the lack of complaints from independent repairers reflected that many were small businesses and limited in time to document these issues. Some stakeholders proposed implementing an accreditation system, allowing access to security and safety related information for approved independent repairers.

Some stakeholders suggested that existing international information sharing models should be considered, noting the US and European Union regulations in particular. However, other stakeholders put the view that the existing Heads of Agreement should be used to facilitate access to information and that regulatory changes should be avoided, as additional regulation would increase compliance costs which would be passed onto consumers.

Fuel consumption and emissions

A number of stakeholders stated that the key issue in fuel consumption and emissions matters related to the standardised New European Driving Cycle (NEDC) laboratory test figures displayed on new cars differing from the actual fuel consumption/emissions of consumers. Some argued that they were therefore of limited value to consumers, even for comparative purposes and with appropriate disclaimers. Some stakeholders also claimed that the discrepancy between NEDC and real world fuel consumption/emissions has been

increasing over time as emissions restrictions have become stricter. However, other stakeholders stated that there were benefits to a standardised and repeatable test.

It was noted that the European Union is transitioning to real driving emissions testing. Stakeholders also suggested that noxious emissions, CO₂ and fuel quality standards need to be considered together, and that when Australia adopts Euro 6 emissions standards, the discrepancies may reduce.

Other issues

One stakeholder noted that there were currently a number of other government reviews into new cars and that the impact of these reviews (and regulatory impact of potential changes) should be taken into account by the ACCC.

Attachment A: Forum agenda

ACCC New Car Retailing Industry Market Study Forum

12.00pm – 4.30pm | Tuesday 13 December 2016

ACCC | Melbourne | Canberra | Sydney | Perth

Agenda

Time	Agenda item
12:00pm – 12:15pm	Welcome and introductory comments <ul style="list-style-type: none">• Purpose of the forum and the market study• ACCC's role in market studies• Scope and exclusions to the market study
12:15pm – 1:15pm	Consumer guarantees, warranties and new cars <ul style="list-style-type: none">• Information available to consumers about rights and warranties• Handling of consumer complaints by manufacturers and dealers• Enforcement and consumer access to remedies• Role of manufacturers and dealers in relation to warranties and consumer rights
1:15pm – 1:45pm	Break — light lunch will be served in Melbourne
1:45pm – 2:30pm	Access to parts and tools and access to repair and service information and data <ul style="list-style-type: none">• Reasons for control of access to parts and tools and associated information and data• Clarification of security, safety and environmental systems related components• Service and logbooks• Risks and mechanisms for sharing repair and service information and data
2:30pm – 3:15pm	Heads of agreement and voluntary codes of practice <ul style="list-style-type: none">• Impact on consumers and competition• Alternative regulatory approaches
3:15pm – 3:30pm	Break
3:30pm – 4:15pm	Fuel consumption, carbon dioxide and noxious emissions, and car performance <ul style="list-style-type: none">• Fuel consumption and emissions representations• Car performance representations
4:15pm – 4:25pm	Other business/issues <ul style="list-style-type: none">• Questions
4:25pm – 4:30pm	Concluding comments and close <ul style="list-style-type: none">• Next steps

Attachment B: Forum attendees

Chair

Commissioner Sarah Court (Melbourne)

ACCC Commissioners attending:

Chairman Rod Sims (Melbourne), Deputy Chair Delia Rickard (Sydney), Deputy Chair Dr Michael Schaper (Canberra)

ACCC staff attending:

David Salisbury, Joelle Leggett, Anthony Weir, Eti Abdulioglu, Christian Taylor, Jabulani Bulle, Michael Drake (CCEU)

Stakeholders participating in forum (attending in Melbourne unless otherwise indicated)

Organisation	Attendee(s)
Australian Automobile Association	Michael Bradley (CEO); Katrina Wotton (Director – Policy and Research); David Colmer (Senior Adviser National Policy)
Australian Automotive Aftermarket Association	Stuart Charity (Executive Director); Lesley Yates (Senior Manager - Government Relations and Advocacy)
Australian Automotive Dealers Association	David Blackhall (CEO), Stefanee Lovett (Managing Director Capital Hill Advisory)
Federal Chamber of Automotive Industries	Tony Weber (CEO), Tony McDonald (Director, Industry Operations)
Motor Traders Association of Australia	Richard Dudley (CEO)
Motor Traders Association of WA	Stephen Moir (CEO)
Victorian Automobile Chamber of Commerce	Leyla Yilmaz (Deputy Executive Director, General Manager Policy); Michael McKenna (Automotive Industry Policy Advisor); John Khoury (Automotive Industry Policy Advisor)
CHOICE	Sarah Agar (Policy and Campaigns Advisor)
Consumer Action Law Centre	Susan Quinn (Senior Policy Officer)
Bob Aldons (Car Business)	Bob Aldons (Car Business) (CEO)
Ford	Jenny Linsten (General Counsel); Greg Davidson (General Sales Manager), Elly Haug
GM Holden	David Magill (Director - Government Relations and Public Policy); Paula Hilditch (Retail Channel Manager); Kristen Hooke (Senior Manager & Counsel)
Hyundai	Scott Grant (COO); Sarah Edwards (General Manager - Legal)*
Mazda	Michael Robins (Legal Counsel); Shaun Anthony; Chooi Han
Mercedes-Benz	Ben Lee (General Counsel)

Nissan	Richard Emery (CEO); Simon Taylor (GM Legal);
Toyota	Mike Rausa (Executive Director Corporate Services); Rob Langridge (Divisional Manager National Service); Simone Zerial (Legal Manager)
Fennessey's dealership	Ray Mounthey (Fennessey's Dealership)***
AP Eagers	Martin Ward (CEO)
Bapcor	Mathew Cooper (Executive General Manager)
UltraTune	Sean Buckley (Chief Executive)
Kmart Tyre & Auto	Adam Pay (Managing Director)
GPC/Repcor	John Moller (Managing Director), Wayne Byrant (Executive General Manager, Sales), Cary Lavery (Executive General Manager, Legal)
ABMARC	Natalie Roberts
National Motor Vehicle Theft Reduction Council	Geoff Hughes (Director, Strategy and Programming)
Australian Securities and Investment Commission	Madeline Pryor
Department of Infrastructure and Regional Development (Cth)	Jeremy Thomas (Associate Administrator of Vehicle Standards)**
Department of Industry, Innovation and Science (Cth)	Matthew Comb
Treasury (Cth)	Peta Dixon (Analyst, Consumer Policy Unit)
Consumer Affairs Victoria	Amel Masinovic (Policy advisor-Policy and Regulation)
NSW Fair Trading	Sue Honeybrook (Operations Manager-Consumer Protection Unit- Compliance and Enforcement) Craig Rorie* (Senior Automotive Inspector)
Office of the New South Wales Small Business Commissioner	Robyn Hobbs (Commissioner)
Office of the South Australian Small Business Commissioner	John Chapman (Commissioner)
Victorian Small Business Commissioner	Fiona Lawson
Western Australian Small Business Commissioner	Martin Hasselbacher (Director Policy and Advocacy)***

* Attending in Sydney

** Attending in Canberra

*** Attending in Perth