

20 October 2017

**By email: [mark.rakers@accc.gov.au](mailto:mark.rakers@accc.gov.au)**

Mark Rakers  
Consumer and Small Business Strategies  
Australian Competition & Consumer Commission  
Level 17, 2 Lonsdale Street  
Melbourne VIC 3000

Dear Mr Rakers

### **Supplementary submission – ACCC New Car Retailing Inquiry**

Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to make a supplementary submission to the Australian Competition and Consumer Commission (**ACCC**) New Car Retailing Inquiry. Our supplementary submission provides additional information about the volume and proportion of complaints our legal advice service receives about motor vehicles.

In the 2016-17 financial year, our Legal Practice received 1098 calls about car problems from consumers and community workers in Victoria. This amounts to 20.7% of the total calls received by our Legal Practice. Our Legal Practice received more calls about motor vehicles than any other consumer product category.

The volume of complaints relating to motor vehicles not only reflects systemic problems with the quality of motor vehicles and servicing in Victoria, but also the critical importance of motor vehicles to consumers. For many of the people who call us, their car is their most significant asset and is essential to their day-to-day lives. The number of complaints is also an indicator of the difficulties consumers face in resolving motor vehicle disputes.

As set out in our previous submission, often it can be difficult for individuals to resolve these disputes with dealers, manufacturers and mechanics. Motor vehicle disputes often involve highly technical questions regarding the state of the vehicle, whether the vehicle can be repaired and the cost of repair. If the consumer is unable to resolve their dispute directly with the trader, they must take their dispute to a court or tribunal for resolution.

Neither consumers nor decision-makers typically have the technical expertise required for court or tribunal proceedings relating to motor vehicles, so consumers will usually have to obtain a report from a third-party specialist. Our casework experience suggests that obtaining necessary independent technical assessments of defects is prohibitively expensive.

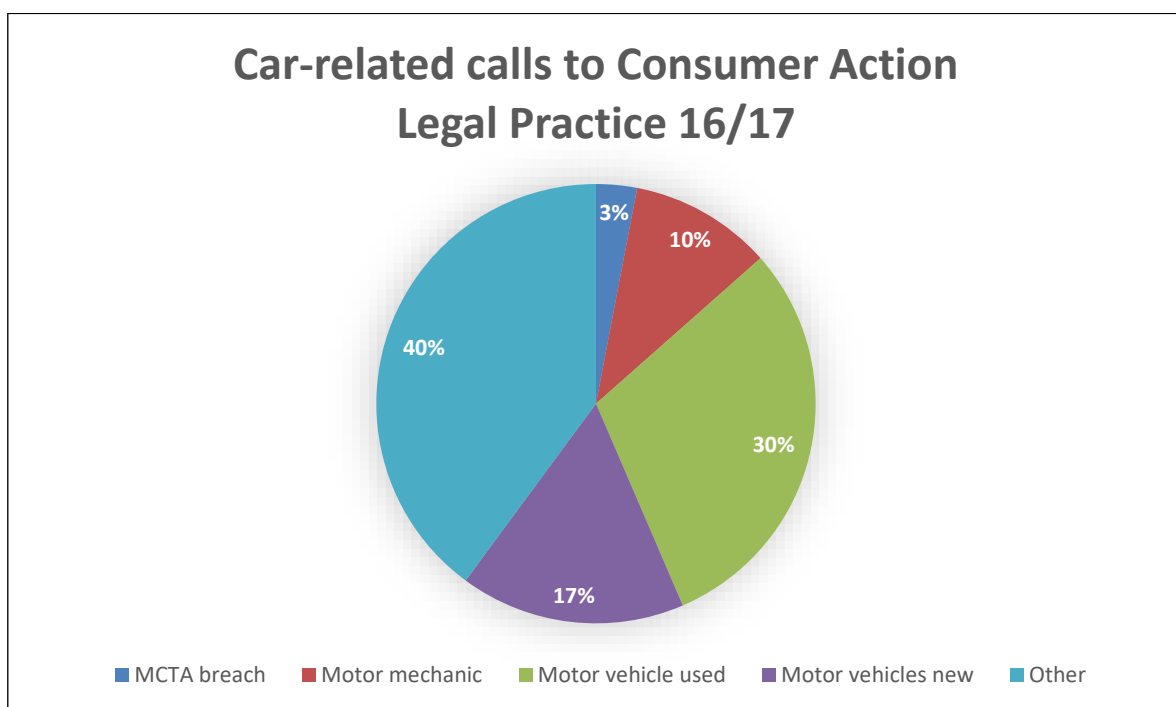
#### **Consumer Action Law Centre**

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Further, many consumers do not have the resources, expertise or time available to successfully pursue a claim under the Australian Consumer Law (**ACL**) in a court or tribunal. The consumer guarantee provisions of the ACL often fail to adequately protect the consumer, and this can have a profoundly negative impact on the consumer's life – particularly if it leaves them without transport to attend employment.

We have provided a breakdown of the car-related calls to our Legal Practice below. The 'Other' category includes calls relating to car loans, motor vehicle repossessions, car hire and motor vehicle insurance. Most of the calls categorised as 'Motor mechanic', 'MCTA breach',<sup>1</sup> 'Motor vehicle new' and 'Motor vehicle used' related to defective cars or car servicing.



It is important that motor vehicle dealers, manufacturers and mechanics have complaints handling systems to appropriately resolve these disputes. However, ultimately there needs to be an accessible external dispute resolution forum for consumers to provide an incentive for traders to resolve disputes internally, and to provide access to justice to those consumers who are unable to resolve their dispute with the trader.

We strongly support the amendments proposed by Consumer Affairs Australian and New Zealand (**CAANZ**) in the recent ACL Review. We particularly support Proposal 1, which would effectively introduce an economy-wide 'lemon law' and reduce the legal complexity of applying consumer guarantees to motor vehicles.

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<sup>1</sup> 'MCTA breach' refers to *Motor Car Traders Act 1986* (Vic) complaints.

Please contact Katherine Temple, Senior Policy Officer on [katherine@consumeraction.org.au](mailto:katherine@consumeraction.org.au) or 03 9670 5088 at any time for more information.

Yours faithfully

**CONSUMER ACTION LAW CENTRE**

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Gerard Brody  
Chief Executive Officer

A handwritten signature in black ink, appearing to read "K Temple". The signature is cursive and somewhat stylized, with the first name "Katherine" being more prominent than the last name "Temple".

Katherine Temple  
Senior Policy Officer