

7 October 2020

TO WHOM IT MAY CONCERN

**The Mitsubishi 10 Year Extended Warranty
ACCC Notification Number N10000534**

Submission to the ACCC

We object to the proposal by Mitsubishi Motors Australia Limited (**MMAL**) which lodged an exclusive dealing notification with the ACCC to extend the vehicle warranty period to ten (10) years or 200,000 kms (whichever occurs first) to purchasers of new Mitsubishi vehicles on condition that **the purchaser exclusively acquires aftermarket servicing from a Mitsubishi dealer.**

The current consumer law allows independent repairers, such as this business, to complete scheduled servicing or “book servicing” without voiding the manufacturer’s warranty. The new proposal by MMAL reverses the current arrangement by effectively “locking-in” consumers to dealer servicing from the moment they purchase a new vehicle for a period of ten (10) years should the consumer wish MMAL to honour the “Extended Warranty” period.

This is problematic on several levels:

1. The aftermarket industry has spent many years educating consumers of their right to independent servicing of vehicles while they are still under manufacturer’s warranty. The “Extended Warranty” will suggest to consumers that they must have ALL servicing done by the Dealer from the moment they purchase a new vehicle.
2. The aftermarket industry has also fought hard for our “right to repair” including access to repair and servicing data from manufacturers.

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3. It is highly unlikely that MMAL will explain to the consumer that for the first five (5) years (or during any Statutory Warranty period) they are entitled to have their vehicle serviced by an independent repairer.
4. MMAL is unlikely to honour the service record of an independent repairer for the first five (5) years to guarantee a further five (5) year warranty regardless of whether or not the consumer decides to return to the Dealer for servicing.
5. A consumer will be told by MMAL that using an independent repairer will void the further five (5) year "Extended Warranty" on their vehicle.
6. MMAL will present the vehicle warranty to the consumer as being for ten (10) years with ALL servicing required to be carried out by a Dealer.
7. Although any repairs required during the Statutory Warranty Period and "Extended Warranty" Period should be carried out at no cost to the consumer, there is no guarantee on servicing costs and "extras" that are always required at service time. This is NOT an offer of "capped price" servicing which perhaps might offer consumers some protection from exorbitant service costs and price gouging by Dealerships.
8. If approved by the ACCC, most brands will follow suit, and this will have a dramatic impact on the aftermarket service and repair industry in Australia. It will almost certainly lead to many closures and fewer employment and training opportunities.
9. The independent aftermarket will be deprived of being able to work on the latest technology in motor vehicles, across many makes and models, and will therefore also have no access to servicing and repair data for a least the first ten years. This places independent repairers at a distinct disadvantage in the service and repair industry.
10. Many surveys and industry analysts including the Australian Automotive Aftermarket Association (AAAA) have collated data which confirms that the aftermarket scores higher on every metric of customer service and pricing. Competition between Dealers and independent repairs is good for the consumer.
11. The overall suggestion to the consumer is that Dealer servicing is in some way superior to independent servicing and that is why MMAL is offering an "Extended Warranty" period of five years if they return exclusively to the Dealer for all servicing.

12. Having operated a business in the Automotive Aftermarket for over 25 years, I have observed (and even employed) many incompetent Automotive Technicians from Dealerships. I can state unequivocally, that these Technicians' skills are not in any way superior to those employed in the aftermarket industry, from my experience.
13. I regularly receive complaints from customers about poor vehicle servicing and poor customer service from Dealerships. Many say they "can't wait" for the warranty period to finish, so they can bring their vehicle to us for servicing. I cannot imagine how unhappy some customers will be after ten years.
14. This business regularly does "warranty inspections" on vehicles. Dealerships prefer not to draw attention to non-urgent repairs during the warranty period because the repairs must be done free of charge for the consumer. Dealerships will turn a "blind eye" to non-urgent repairs until the vehicle is out of warranty. A ten year warranty period will almost certainly mean repairs will be required to the vehicle and waiting ten years until the warranty has expired could lead to some very costly repairs for the consumer if they are not completed in a timely manner by the Dealership.
15. This is yet another attempt by Dealerships to erode the market share of independent repairers. If Dealerships were able to offer a more competitive and superior service, there would be no need to force consumers to return for vehicle servicing.
16. In an act of total hypocrisy, the MMAL submission states at paragraph 3.2 (b) (i) *"MMA Dealers and Service Centres will continue to be able to service other makes and models following the introduction of the ten year Warranty"*. MMAL considers it perfectly acceptable if their dealers or service centres carry out servicing to makes and models other than Mitsubishi.
17. MMAL admits at paragraph 3.2 (c) (i) that *"independent service centres may service fewer Mitsubishi Vehicles as a result of the notified conduct"*. This puts the automotive aftermarket at risk of this behaviour from every manufacturer in Australia.
18. Paragraph 3.2 (c) (ii) states that MMAL *"is open to independent service centres to apply to become an MMAL Service Centre"*. This can only be an attempt to take over independent repairers using excessive market force and will give MMAL the superior negotiating position since independents will no longer be able to carry out servicing of motor vehicles for the first ten years.

19. The claim by MMAL in paragraph 4.3 is completely false and deliberately misleading. MMAL claims that *"The effect of the above is that the ability of any participant in the above markets to raise prices, reduce quality of choice, reduce innovation, or coordinate rather than compete vigorously is severely limited"*. Allowing MMAL to introduce a conditional ten year warranty will actually achieve all of these things and subvert consumer rights.
20. Paragraph 5.1 (b) (i) is laughable. It states, *"Given the significant maximum potential duration of the Warranty, it is necessary for MMAL to ensure that it is able to control servicing quality in order to be able to offer the ten year Warranty"*. All Light Vehicle Technicians in Australia are certified to the same standard whether they are employed in a dealership or by an independent repairer. Independent repairers are usually small business people who care about their customers and will never do anything to damage their reputation. Most dealerships are no longer family owned, but many are now owned by big corporates, many are overseas entities, including China. In fact, many apprentices are poorly supervised and poorly trained because dealerships simply cannot attract experienced technicians. The proposal by MMAL will gut the aftermarket and "free up" some talent who will have no choice but to move over to work for the monopoly dealerships.
21. MMAL cannot possibly be serious in paragraph 6.1 which states *"There are no public detriments associated with the notified conduct. The conduct is very unlikely to harm competition..."*
22. Paragraph 6.11 (c) is totally incorrect in its claim: *"This in turn reduces the likelihood that MMAL, or its Dealers or Service Centres, will be able to use the ten year Warranty to profitably increase prices. Independent service centres will continue to exert price pressure on MMAL Dealers and Service Centres, even if the ten year Warranty is implemented."* It will be impossible for independent repairers to compete with any MMAL dealership for the simple fact that we will be excluded from being able to service any Mitsubishi vehicle during the first ten years of ownership.
23. The automotive aftermarket has already had to contend with longer and longer warranties being offered on new motor vehicles. However, it has always been the case (unless otherwise expressly agreed between the buyer and the dealership) that the automotive aftermarket had a "right of repair" and could service any vehicle in accordance with the manufacturer's service schedule. We simply had to compete on price and quality. The proposal by MMAL goes further in that it requires an "express warranty" to automatically exist between the buyer and the dealership to guarantee a further five year "Extended Warranty" (or ten years in total). Extended, or "express warranties" have always existed and consumers have had to be very wary of such offers which were often misrepresented. Consumers often signed "express warranties" not understanding that they would be required to return to the dealer for servicing. This "Extended Warranty" by MMAL is simply the same offer by a different name.

24. Dealerships have demonstrated they are unable to cope with large volumes of servicing and repairs. For example, during the air-bag recall many vehicle owners had to wait months and even years to book in for repairs. If manufacturers take over all servicing of vehicles, the consumer is likely to find they are put on long waiting lists with no alternatives. In fact, we have already experienced this problem locally, with a customer complaining they could not book their vehicle in at a local dealership for a scheduled service at the correct interval. The customer was told by the dealership that they were booked out. When the customer did arrive at the dealership for the scheduled service, she was informed that she had voided her warranty and could not have her warranty repairs done.

25. The "Extended Warranty" proposal by MMAL is an anti-consumer initiative that would take choice away. It is also likely to be copied by other industries.

I strongly urge the ACCC to reject this application by MMAL and to continue to offer Australian consumers a choice of repairer as they are currently entitled to under the law.

Yours faithfully



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