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AMMSTAR  
MOTORS

RESPONSE TO NEW CAR RETAILING INDUSTRY —  
A MARKET STUDY BY THE ACCC DRAFT REPORT  
AUGUST 2017

Submission from Ammstar Motors | Anthony Mendola

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Subject:

New Car Retailing Industry – a market study by the ACCC Draft Report August 2017

New Car Retailing Industry market study: an independent retailer's guide to the draft report

New Car Retailing Industry market study: Consumers guide to the draft report

Thank you for undertaking this important market study of the new car retailing industry and for the opportunity to provide our view of the report and the findings, actions and draft recommendations.

Ammstar has limited feedback on the study report and recommendations to the areas that we believe directly impact upon our business, our relationship with our clients, our client's ability to receive value for money service and repair of their vehicles, and our view of the way in which a competitive open market should function in the retail vehicle service and repair market in Australia.

I am available to discuss this submission on [REDACTED] at your convenience and would enthusiastically accept any invitation to meet and discuss my own experience of 25 years in the auto industry.

Yours faithfully

Anthony Mendola

Ammstar Motors.

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## About us

Ammstar Motors is an independent service and repair business with workshops in Cheltenham, Fairfield and Moorabbin in metropolitan Melbourne. We are the largest independent Mercedes Benz specialist in metropolitan Melbourne, and Victoria. We also provide service and repairs to other cars our clients drive and all of these are European branded cars.

We opened in 2000 and are in our 17<sup>th</sup> year of operation.

We employ 30 people.

Most of our clients are household consumers, although we do serve some business clients. The majority of our clients purchase their vehicles from Mercedes Benz authorised dealers.

We focus our business on three key platforms and priorities:

1. Providing outstanding client service
2. Servicing and repairing vehicles correctly for a competitive price and
3. Buying and selling used Mercedes Benz vehicles

We must have our priorities right, because our business has grown year on year since inception and we currently service and repair more than 3200 vehicles annually.

We are proud of the high quality service and repair business that we run, the quality of the work we do, and our terrific team of technical specialists and we are passionate about cars, particularly the Mercedes Benz range.

The motor vehicle sales, service and repair industry in Australia is complex. Achieving outstanding client service, quality workmanship and sustainable business growth in this industry requires skills that extend beyond good customer service and competent service and repair skills, experience, training and equipment. It is not an industry that welcomes independent competition.

We welcome the Australian Competition and Consumer Commission (ACCC) draft report. It has identified the complexities of the industry and the impact that these complexities have on client buying, and spending power and on the ability of clients to achieve appropriate responses to failures in vehicles sold to them. We believe that this acknowledgement, action and it's consequent outcomes is likely to benefit our clients, and the motor vehicle sales, service and repair sector, and in

turn enable businesses like ours to compete on a more appropriately even playing field than is currently the case.

## **Ammstar feedback on Chapter 2 New car retailing industry characteristics**

We think it worth noting that in Australia car dealer networks can be privately owned, franchised, or owned by the manufacturer. Mercedes Benz dealerships have changed models a number of times in Australia. At present Mercedes Benz authorised car dealerships are, for the most part, owned by Australian and offshore investment companies and in the past many of these dealerships were owned by Mercedes Benz.

We find that the ownership model influences the operation of dealer networks, and in a competitive market this ownership and operation can tend to create an effective monopoly in the marketplace. Car dealerships that have ownership links to manufacturers or large corporations usually have standard processes, procedures and a corporate brand culture. From the market and the client point of view, this standardisation can be an advantage, as standardisation can provide predictable and consistent experiences. Standardisation can also cause market failure and weakness – potential weaknesses include:

1. A lack of responsiveness to the needs, rights and entitlements of the client
2. A lack of responsiveness to the independent service and repair market and
3. a failure to acknowledge, prioritise and address what is lawful practice as distinct from what is company policy (or in some cases to recognise that acting in accordance with company policy may not be lawful).

The draft report supports this view and further finds that models fail to achieve compliance with Australian Consumer Law and the Competition and Consumer Act. From an independent service and repair business perspective we welcome this acknowledgement. Our experience is that a combination of dealer agreements, culture and practices has the effect of misinforming clients and promoting anti-competitive behaviour. The end result is identified in the report, with 10% of new car service and repair occurring in the independent market, and ACCC taking action against Ford and Holden.

We support the recognition of the challenges experienced by consumers in receiving appropriate information to inform their purchasing decision. We welcome the recognition of decision fatigue and information overload in clients which can inhibit good decision making, and understanding warranties and guarantees. We encourage the ACCC to consider these challenges when seeking to develop standard information for Australian clients.

The draft report identifies capped price servicing as a price and profit pressure point for the dealer and independent market for new cars. We encourage the ACCC to satisfy itself if capped price servicing delivers value for money for clients in a competitive market. Our experience is that in some instances capped price servicing at a dealer can be more expensive for the client than that same servicing undertaken at an independent operator, so what is marketed as a consumer benefit and saving, may not be.

We support the recognition that independent service and repair businesses are blocked from having an appropriate level of access to data, information, factory tooling and parts and note that this is

certainly our experience We now routinely source data, information, tooling and parts off shore to achieve timely, reliable and cost effective supply.

We support acknowledgement of the limitations on consumer choice of repairer seemingly imposed on clients by the language of log books, service manuals, and dealership scripting. This is consistent with our experience.

We support acknowledgement of the anti-competitive effect of structures, agreements, manufacturer and dealer processes, procedures, protocols and information provided in the new car sector. This results in 90% of new car service and repair work occurring in the dealer market.

In taking action to effect change, we suggest the ACCC consider if the change in this effective monopoly over time is the key measure of success of the action ACCC takes.

### **Ammstar feedback on Chapter 3 Consumer guarantees and warranties**

In our experience when first working with new clients, most are not well informed with regards to their rights under

- Australian Consumer Law
- The Competition and Consumer Act
- New car warranty terms and conditions and
- Which of the above protects and supports clients and in what circumstances

We routinely work with clients to address problems with their vehicles that are covered by warranty or guarantee. In many instances the client has tried, and failed, to have problems resolved or addressed under the appropriate protection method by the dealer where the car was initially purchased. Addressing failures in dealer process to achieve appropriate outcomes for client guarantee is now a routine part of our business.

From an independent business perspective, these problems are usually positive client acquisition and loyalty building experiences for us, and many clients of long standing came to Ammstar with an unresolved warranty or guarantee problem or issue.

From an industry perspective we think it is undesirable that such a major investment by the client is accompanied by a poor understanding of the terms and conditions and protections that exist. Our experience is that our clients are not always well served by the car dealer sector in responding to problems and that processes and procedures used by the sector do not always focus on the most lawful and appropriate outcome for the client. We note the acknowledgement of this in the draft report which shows this experience is widespread across the industry.

Our view is that this is a failure on the part of the manufacturer and new car sales sector.

We acknowledge the ACCC has received an enforceable undertaking by Holden and has instituted proceedings against Ford, that the information and action to clients be honest, true and lawful. It is disappointing that litigation is required to force manufacturers and dealers to act honestly, truthfully and lawfully, but this is probably a fair reflection of where the new car industry in Australia is at the

moment in our experience, and a shift towards supporting empowered informed clients is desirable and does need to occur.

We urge the ACCC when working with manufacturers, dealers and consumers to develop consumer guarantee information that has a focus concise, simple and brief – and on recourse when things go wrong.

We note manufacturers and dealers claim that independent service and repair businesses do not undertake work to manufacturers standards. We strongly disagree with this. Manufacturers and dealers routinely advise customers that having their vehicle repaired by an independent repairer will void the manufacturers warranty. Ammstar has clear processes and procedures that are consistent with manufacturer standards, our equipment and tools are fit for purpose and our staff are competent, well trained, and appropriately skilled and experienced. We are one of many independent service and repair businesses in Australia that are competent and already work to standards that adhere to manufacturer standards and requirements. There is no evidence that supports the claim of manufacturers and dealers.

We note the ACCC finds that many logbooks and service manuals contain false information from the manufacturer and dealer network, and this is consistent with our experience.

We note the ACCC finds there is not an effective independent dispute resolution option available to clients. In our view it is important that any dispute resolution option is simple, timely, affordable for the client, and enforceable. We do not support voluntary conciliation models in our industry these do not provide effective client advocacy and protection.

We note the draft report identifies the complexity for clients in trying to have problems addressed when the dealer and the manufacturer are contractually (and often actually) linked, and have internal processes that support the agreements between them over and above the rights and entitlements of clients, and this is consistent with our experience.

We support the draft report findings that complaints handling systems, practices and policies do not comply with Australian law at dealer and manufacturer level, and certainly this is consistent with our experience.

## **Ammstar feedback on Chapter 4 Accessing technical information to repair and service new cars**

Ammstar needs timely real-time access to digital files, online information, and software to undertake the repair and service of client vehicles.

In Australia overseas car manufacturers control access to this information. Our experience is that manufacturers routinely delay and deny access to digital files, on line information and codes and this has the effect of providing a competitive advantage to dealer networks who do not experience the same routine of delay and denials.

The Heads of Agreement is not universally supported by all manufacturers, and does not stop routine delay and denial practices. For us this means the Heads of Agreement is ineffective. This is not surprising. The ACCC finds the manufacturer and dealer sector in Australia does not operate

effectively in areas where it is required to by law, so there is no real expectation that the same sector will comply or cooperate with a voluntary scheme.

To ensure our business is able to operate competitively and provide service and repair to our clients, we now access many digital files, online information, tooling and some software off shore.

In most instances we believe legislative and regulatory intervention in a competitive marketplace is undesirable as a competitive market should be able to self-regulate. In the Australian service and repair market there is no ability for the market to self-regulate, power is held by manufacturers and dealers, and to promote competition to benefit clients, we support legislative and regulatory intervention by government. The industry has tried voluntary self-regulation, and other options, and none of these have proven effective to promote competition.

We do not accept claims by some manufacturers that some information is restricted for the benefit of clients and their vehicles. There is no evidence to support this. There is significant evidence that restricting access to information, data, codes and files provides benefit to dealers.

Ammstar takes pride in our operational integrity, client service ethic, and competence of our technicians, and processes. Every delay and denial of data, information, codes, tools and parts impacts on our ability to provide a competitive client focused service to our clients and their vehicles. If we are not able to source what we need locally, we go off-shore to source it elsewhere. This takes time, however addresses local market failures for us most of the time. Our experience mirrors that provided by other independent operations around Australia which in the draft report suggests manufacturers and dealers restrict access to data, codes, information and parts to undermine consumer confidence in the independent service and repair market in Australia, and over time these restrictions will have the effect of doing this. We note the CarTech case study in the draft report as being the operational norm for an independent service and repair business in Australia.

We support mandatory requirements for manufacturers to share with independent service and repair businesses on commercially fair and reasonable terms. We have no expectation that manufacturers will meet requirements that are not supported by an appropriate legislative and regulatory regime.

## **Ammstar feedback on Chapter 5 Parts needed to repair and service new cars**

Similarly to our feedback on Chapter 4, our experience is that car manufacturers and dealers in Australia routinely delay and restrict parts supplies to independent dealers. This has the effect of causing delays in our ability to provide service and repairs to our clients.

Where there are no delays and restrictions in the supply of parts, the authorised dealer pricing to supply parts to us is very expensive, and clearly this is a very lucrative business for authorised dealers in Australia.

As an independent service and repair business, to improve the timeliness and reliability of our parts supply chain at competitive pricing, we often source parts off-shore.



We use original equipment to provide service and repairs to our clients. Most of our clients and their vehicles are European, and most are Mercedes Benz. We routinely experience limitations on access to parts for reasons that purport to be security related. This significantly impacts our ability to provide service and repairs to our clients. In most instances our response to these restrictions is to source parts off-shore. Ammstar is of the view that as a professional service and repair business, security related restrictions on the sale of parts in Australia is just another way for manufacturers and dealers in Australia to limit the ability of independent service and repair businesses to compete in the market. The draft report appears to support this view.

Ammstar is of the view that claimed concerns by manufacturers and dealers relating to the potential of car theft as the reason for withholding the supply of some parts are not supported by evidence. We purchase many withheld parts off-shore, where clearly other countries do not experience the same concerns. Given that our clients expect and require us to provide service and repair to their whole vehicle, and we are able to source parts to do this from off-shore, there appears to be no sound justification for any manufacturer or dealer in Australia to withhold the supply of parts to an independent service and repair business on fair and reasonable terms. We support the draft recommendation and ACCC's stated intent to monitor and prosecute this as with Chapter 4.

Our experience is that there is no fair and reasonable consideration of the price of parts we are able to source in Australia. We pay what we are charged for parts, and pass these charges on to clients directly. We do note that there are routinely instances where we are charged significantly higher prices for parts than client invoices suggest they have been charged previously for the same parts at the dealership. We have little to no control over the pricing of parts, however we routinely screen off-shore prices for regularly used parts, and often find that it is cheaper for us to freight parts in from overseas than it is to source these same parts on shore and where we are able to do this, our client achieves benefit in the form of reduced prices passed on.

We are of the view that high parts prices are another way that manufacturers support dealers to reduce competition in the independent service and repair market in Australia. The parts market is effectively a monopoly for Mercedes Benz, they are the only manufacturer and distributor of genuine parts, and where we are not able to buy cheaper off-shore, we have no option but to purchase at inflated rates from dealer/distributors. We pass on these prices to clients.