

14 November 2016  
Australian Competition and Consumer Commission

By Online Submission

**RE: Submission: New Car Retailing**

The Commissioner,

Please find attached the submission of Bapcor Limited for the "New Car Retailing Industry Market Study" being completed by the ACCC.

We welcome the opportunity to provide a submission and we have framed our submission to be consistent with the questions raised by the ACCC and have provided responses only where we believe it is relevant for us to do so.

As the Nation's leading supplier of competitive aftermarket parts and equipment we believe it is critical that consumers be fully informed in relation to the ongoing maintenance, repair, warranty and servicing of their vehicle.

We believe that a consumer must have the right to repair their vehicle using any appropriately qualified party, and should not be disadvantaged as a result of exercising this right. This means full and unfettered access to information and tools to enable the service and repair of vehicles.

We submit there are still issues with access to information which is impacting a consumer's right to repair. Further we submit that the bundled new vehicle / services sales approach taken by manufacturers / dealers further restricts the ability for consumers to access a competitive independent service offering.

We remain ready to provide any assistance that may be sought to further validate any issues raised.

Yours Sincerely,








A handwritten signature in black ink, appearing to read "Darryl Abotomey".

Darryl Abotomey  
CEO  
Bapcor Limited

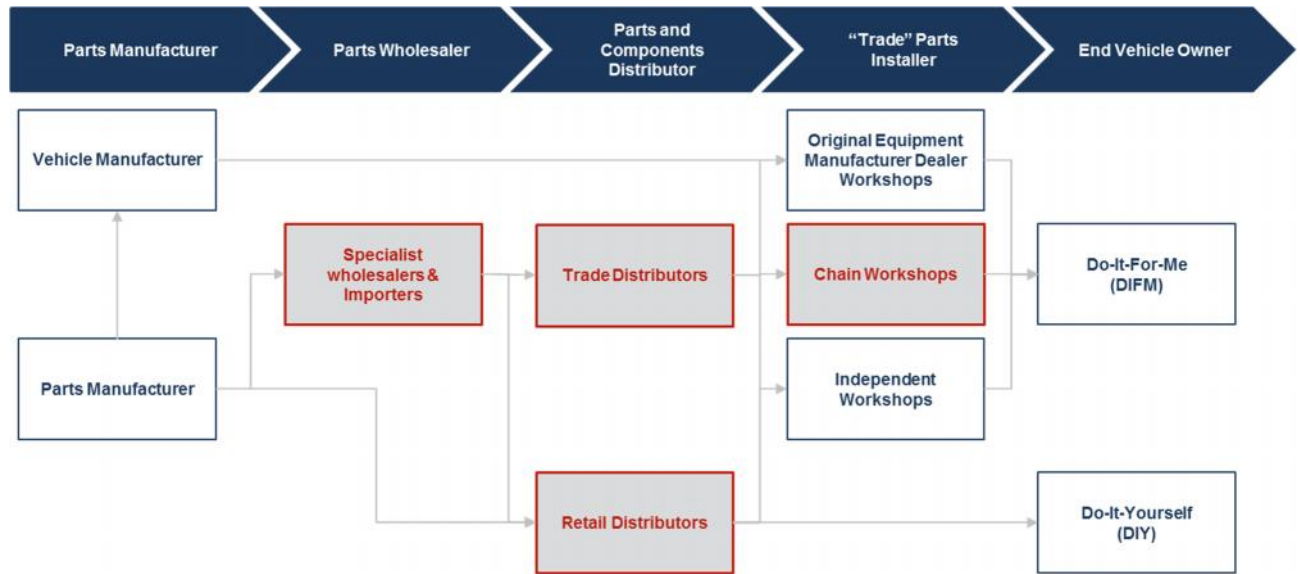
## Section 1: An Overview of Bapcor Limited

Bapcor Limited is Australia’s leading provider of automotive aftermarket parts, accessories, automotive equipment and services, and motor vehicle servicing, operating out of over 750 locations across Australia. The organisation is listed on the Australian Stock Exchange (ASX:BAP) and in the financial year 2016 had group revenues of \$685M.

Bapcor has the following business segments:

Sector	Main Operations	Businesses
Trade	Trade focussed “parts professionals” supplying workshops <ul style="list-style-type: none"> <li>Automotive Parts</li> <li>Workshop Equipment</li> </ul> Servicing 30,000 customers nationally	 
Retail	Premium Retailer of Automotive Accessories	 
Independent	Service the independent parts stores via the extensive supply chain capabilities and brand support	 
Specialist Wholesale	Target to be #1 or #2 Industry Category specialists in parts programs: <ul style="list-style-type: none"> <li>Brake</li> <li>Suspension</li> <li>Cooling</li> <li>Engine</li> <li>Bearings</li> <li>Gaskets</li> <li>Steering</li> <li>Diesel</li> </ul>	    
Service	Experts at scheduled car servicing at affordable prices	 

A diagrammatic representation of the Automotive Aftermarket industry as Bapcor understands it is as follows.



Bapcor operates in all sectors that are shaded and in red font. These sectors are intrinsically connected to the sale of motor vehicles by vehicle manufacturers.

Bapcor procures and supplies more than 500,000 Stock Keeping Units (SKU's), both locally and globally from more than 1,000 suppliers.

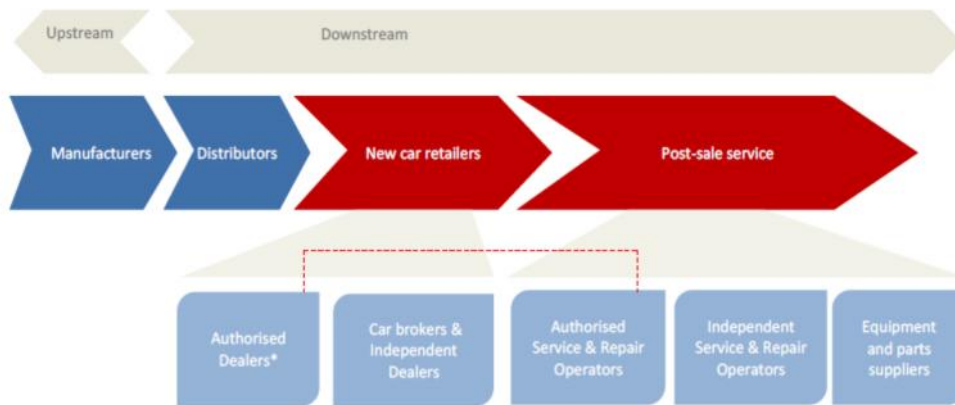
## Section 2: Responses to ACCC questions

### *Questions on the structure and operations of the new car retailing industry*

- 1. How well does the ACCC's understanding of the new car retailing industry supply chain reflect market participants' understanding of the supply chain? Which key market participants does it not capture? How could the ACCC's definitions be improved?***

We refer to Diagram 1: New car retailing industry supply chain, along with the definitions and make the following observations.

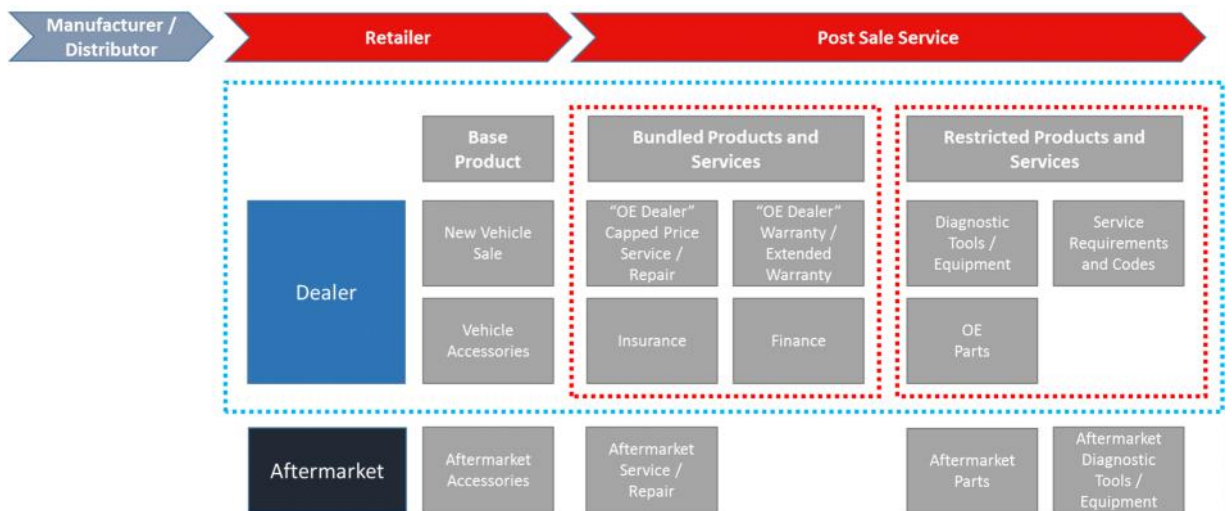
**Diagram 1: New car retailing industry supply chain**



\*Authorised dealers include single-brand and multi-brand dealers.

We would submit that the level of integration and interaction in the new vehicle sale and customer capture process is far more integrated than the current diagram depicts.

Taking the base ACCC diagram – we would submit the following adaptation as depicting the new car retailing supply chain:



Key things to note:

- The Distributor / Dealer relationship is far more involved than simply new vehicle sales and accessory sales. We have depicted the broad reach of the relationship by the blue box, encompassing the base product, bundled products and services and restricted products and services
- “OE Dealer” Capped Price Service / Repair is currently bundled by many manufacturers/dealers in the sale of a new vehicle without the option to remove it. This is then further bundled with the ability to finance the underlying cost of this capped price service / repair at the time of purchase

- “OE Dealer” Warranty / Extended Warranty – historically warranty periods were more restrictive in time. Whilst the underlying motivations of the automotive manufacturers would be for them to clarify, we would submit that the extension of warranty has the impact of extending the relationship with the new vehicle purchaser such that they are more likely (and in some cases compelled) to return to the dealership to have works completed on their vehicle
- Insurance options sold in dealership will often have a feature as the use of “OE Genuine” parts in any repairs completed
- OE Diagnostic and specialist repair tools and equipment are restricted in their sale and distribution to the broader market
- Service, fault condition alert reset codes, and PIN codes are not readily made available in all cases to independent repairers
- Genuine and OEM Parts are restricted in their wholesale distribution based upon the Dealer contractual relationships
- The Aftermarket is outside this Manufacturer/Distributor/Dealer relationship and whilst in many cases able to provide a more cost competitive option to a customer is restricted from doing so due to the bundled sales approach taken by the Manufacturer/Distributor/Dealer and the restrictions on sharing pertinent product information more broadly.
- The use of vehicle telematics, whilst in its early days, is another method the vehicle manufacturers are attempting to control vehicles after sales and restrict customer service options.
- The move to electronic service logbooks by vehicle manufacturers that only they can access, and are not accessible by the aftermarket are yet another restrictive practice.

We would also make the following observations in relation to the Global Automotive Manufacturing industry.

More frequently we are seeing the globalisation of vehicles. Ostensibly the same vehicle sold in multiple jurisdictions, under multiple brands, and in multiple body styles. The base platform is common, but adjustments are made for brand definition and local homologation.

These vehicles share parts, technologies and service requirements. Whilst in many cases they are common, local homologation and brand definition changes mean that there will be some differencing in part specification and servicing requirements. We would submit that this drives an even higher level of importance on the disclosure and sharing of data so as to ensure that data from other jurisdictions is not wrongly applied to domestic vehicles.

**2. *What search costs do consumers typically incur when buying a new car? Have online sales decreased these costs?***

No Submission

**3. What are the key factors determining vertical relationships and contractual arrangements in the car industry? In particular:**

- a. what is the contractual relationship between manufacturers, and authorised dealers and authorised repairers?**
- b. what are the common features of these contracts?**
- c. to what extent do contractual relationships raise barriers to entry and exit and/or reduce the degree of competition in the car market (or specific submarkets)**

We cannot comment as to the direct contractual relationships and features as we are not party to these contracts. We do make the following practical observations as a result of our interaction with Dealers in the distribution of Automotive Parts and Accessories:

- Manufacturers/Distributors impose restrictions on Dealers that prevent the sale of non-genuine parts and accessories at the time of new vehicle sale;
- Manufactures/Distributors impose restrictions on Dealers that prevent the display of non-genuine parts and accessories in dealership;
- Manufacturers/Distributors require the use of Genuine parts in the servicing of vehicles in the Capped Price Service/repair period; and
- Manufacturers/Distributors require the use of OE approved diagnostic and service equipment.
- Some manufacturers, such as Toyota, are restricting the sale of the OE parts to the aftermarket.

**4. What is the nature of the business model applying to new car dealers? To what extent does the sale of new cars, service and repairs, finance and insurance and used car (purchases) and sales each underpin gross profit margin of dealers? Is there variability between dealers in the market?**

We cannot comment on the business model or profitability of the dealer business model, but would reiterate the information provided in response to question 1 of our submission that there is active bundling of products and services at the time of new vehicle sale – which has the effect of increasing the price paid by consumers and restricting access by the aftermarket to provision of these products and services.

**5. To what extent do consumers substitute between brands and models, particularly responding to price differences? Do consumers show loyalty to particular brands of cars and dealerships, particularly for the aftercare of their new cars and for future car purchases?**

No submission

- 6. What is the level of competition between participants in each sector of the market? For example between:**
- a. authorised and independent dealers**
  - b. authorised and independent service and repairer operators**
  - c. authorised and independent parts distributors.**

The independent service and repairer operators do not have the same access to information and parts that the authorised repairers do, so hence they are at a competitive disadvantage. The availability of information and parts by the manufacturers are not made freely and competitively available to the independents. The same point is relevant to authorised and independent parts distributors. Note the information provided above.

As outlined previously the lack of availability of service information, error codes, telematics, all affect the competitive position for the independent service and repair networks.

The restricted availability of original manufacturers parts to the aftermarket independent parts distributors such as Bapcor, makes it less competitive in supply the full range of parts for some vehicles (eg Toyota).

- 7. Has competition increased in the new car industry over time and, if so, what is driving this change and how have dealers/manufacturers responded?**

The Global Financial Crisis (GFC) was a turning point for changes to the new vehicle sales industry. Prior to the GFC, dealer profitability was largely contingent upon having a successful Finance and Insurance portion of the dealership. New vehicles were often sold with little or no margin, with profitability coming from commissions and the like, paid by finance and insurance companies for the writing of contracts.

With the GFC came the return to more rigorous lending standards, the lowering of interest rates, and the reduced capacity to profit from this finance and insurance space.

In addition, the number of competitive marques continued to increase with entries from both China and India, and Korean marques improved styling and quality

There have been two major changes in recent time that result in the dealers/manufacturers seeking to capture the consumer for a longer period:

- Warranty Extension – the extension of warranty coverage from 3 years; 50,000 km to 5 years; 100,000 km.
- Service Bundling – Capped Price for up to 3 years

Both of these initiatives have the impact of increasing the entry cost of the vehicle to the consumer and restricting / perceived restriction of the ability of the consumer to choose a vehicle repairer.

We note that these areas are specific exclusions from the scope of the review. We comment further in item 57 as to the reasons for these items to be included in this review. Should the scope of the review be appropriately adjusted to include these items, we would be pleased to provide further information at that time.

8. *What are the main drivers of the increase in new car sales? E.g. import tariff reductions, competition from used cars, lower prices due to increased competition.*

No submission

9. *Are there other trends developing in the new car retailing industry in Australia? For example, has there been any consolidation in the dealership segment? What impact might these trends and changes have on consumers?*

No submission

10. *What is the level of intra-brand competition (for example competition between retailers of the same branded product)?*

No Submission

#### Questions on consumer guarantees, warranties and new cars

11. *When purchasing a new car, what information is given to consumers about their consumer guarantee rights? What information are consumers given about the terms and conditions of the manufacturers' warranties or the dealers' extended warranties? Who provides this information? How is this communicated?*

We are not directly engaged in the communication of these matters at the time of vehicle sale.

We would observe that there is a lack of understanding by consumers that they can have their vehicle serviced by an independent service outlet and **not void their warranty** provided the repairer:

- Uses quality spare parts from reputable suppliers;
- Service in accordance with manufacturers instructions;
- Staff are trained, supervised and qualified; and
- Fluids and lubricants meet manufacturers specification

Anecdotal evidence suggests that some dealers still infer to customers that they need to have their car serviced at the dealership to ensure they maintain their new car warranty

We would recommend that given the consumer is currently under informed of their options that a positive obligation for Dealers/Manufacturers to advise consumers in relation to their vehicle servicing that:

- Servicing at a location other than the Dealer/Manufacturer does not void warranty
- Servicing at a location other than the Dealer/Manufacturer may be more cost competitive



To be able to exercise the right to repair through an independent service outlet, the correct and complete data must be made available by the Manufacturers/Dealers to enable independent service.

- 12. What information is given to consumers about the interaction between their consumer guarantee rights, the manufacturer's warranty and, where relevant, the dealer's extended warranty? Who provides this information? How is this communicated?**

No Submission

- 13. What are consumer perceptions of consumer guarantees, manufacturers' warranties and dealers' extended warranties? How do these influence a consumer's decision to buy a new car?**

No submission

- 14. Have consumers relied on consumer guarantee rights to seek a refund, repair or replacement for a new car that had a major fault and been denied? Please provide examples.**

No submission

- 15. What issues, if any, have consumers experienced in having their manufacturer's warranty or dealer's extended warranty claims accepted? Please provide examples.**

No submission

- 16. Are there examples of consumers being advised that rights to a repair, replacement or refund are limited because a vehicle is outside the manufacturer's warranty? If so, does this arise when dealing with a dealer or a manufacturer? Please provide details.**

No submission

- 17. Are there examples of consumers being offered alternative remedies, such as a free service, in response to a request that a new vehicle be repaired, replaced or refunded?**

No submission

- 18. Are dealers constrained in their ability to provide remedies to consumers by, for example, contractual clauses requiring prior manufacturer's approval to provide a specific remedy or reliance on manufacturer's expertise in diagnosing issues?**

No submission

- 19. What training are dealers given in explaining consumer guarantees, the manufacturer's or dealer's extended warranty? What information is provided at the point of sale and after sales?**

No submission

- 20. What information is given to consumers about when their manufacturer's warranty and/or dealer's extended warranty commences and expires? What information are consumers given about how the manufacturer's warranty and dealer's extended warranty interact? How is this communicated?**

No submission

- 21. What information are consumers given about who can service their new car without affecting either the manufacturer's warranty or dealer's extended warranty? Who provides this information? How is this communicated?**

Please refer to our response in item 11.

Also we note that the Australian Automotive Aftermarket Association ('AAAA') has published a guide to explaining to consumers the ability to service the new car outside the Dealership without impacting warranty. A link to that publication is below.

<https://www.aaaa.com.au/wp-content/uploads/2016/08/AAAA-New-Car-Servicing-Brochure-Digital.pdf>

- 22. What issues have consumers experienced in having a dealer's extended warranty claim accepted where the car has been previously repaired with used parts? How does this interact with the terms and conditions of a consumer's insurance policy?**

No Submission

- 23. Are there examples of consumers being required to sign a confidentiality agreement in order to resolve a complaint about a new car? If so, does this arise when dealing with a dealer or a manufacturer? Please provide details.**

No submission

#### Questions on fuel consumption, CO2 emissions and noxious emissions

- 24. What information is communicated to consumers about the fuel consumption, CO2 emissions and noxious emissions of cars they purchase (i.e. from manufacturers, dealers, government guides, labels etc.)? How is this information provided to consumers (other than through mandatory labelling)?**

We would make the observation that such labelling is only relevant to the extent that a vehicle is properly maintained. Any restriction on the availability of information for the consumer to properly service, maintain and repair their vehicle effectively and in accordance with the manufacturers specifications will impact the performance of the vehicle.

- 25. Are consumers aware that fuel consumption and CO2 emissions values are designed to be comparative? Is this made clear to consumers at the point of sale or elsewhere? Are there any ways in which consumer understanding could be improved?**

No submission

**26. What information is communicated to consumers about the fuel consumption, CO2 emissions and noxious emissions of cars they purchase (i.e. from manufacturers, dealers, government guides, labels etc.)? How is this information provided to consumers (other than through mandatory labelling)?**

No submission

**27. Are consumers aware that fuel consumption and CO2 emissions values are designed to be comparative? Is this made clear to consumers at the point of sale or elsewhere? Are there any ways in which consumer understanding could be improved?**

No submission

**28. What processes (e.g. training or education) are in place to ensure that dealers or sales staff are knowledgeable about, and don't mislead consumers about, the fuel consumption and emissions characteristics of a new car?**

No submission

**29. Other than those described above, are there any additional factors or measures that could be included in the term 'car performance'?**

No submission

**30. To what extent do manufacturers and dealers seek to differentiate their products and services, and on what basis? To what extent do perceptions of quality and reliability account for price differences?**

No submission

**31. To what extent do claims relating to car performance affect consumer purchasing decisions? Please provide examples.**

No submission

**32. Are you aware of any examples of claims by dealers or manufacturers (through websites, TV, print etc.) that are made to consumers about car performance that are potentially false, misleading or deceptive?**

No submission

**33. Do you have suggestions of how claims made to consumers about car performance could be improved?**

No submission

**Questions on access to parts and tools:**

**34. What are the differences between genuine, OEM, parallel import and aftermarket parts? When and why are these parts used? When and why are second-hand parts used in repairing or servicing new cars?**

We would submit that there are sometimes differences in the quality and performance of parts used in vehicles. This may not however be consistent with the source of these parts (eg. Genuine, OEM, or aftermarket) but has more to do with the specification for the product and targeted performance of that product. For example, a production set of rotors for a vehicle may be engineered and manufactured with an expected life of only 20,000 KMs and certain performance aspects. An aftermarket application of rotors for the same vehicle may be engineered and manufactured to higher standards and therefore have both a different life expectancy and performance aspects. The opposite may also be true, where the aftermarket is targeting a lower performance and quality standard.

We would offer the following in defining these terms:

**Genuine** – these are branded vehicle manufacturer parts that are sourced directly by the manufacturer, and are generally also the production version of the parts.

**OEM (Original Equipment Manufacturers)** – these are parts that are manufactured by parties who also supply the vehicle manufacturer or by the vehicle manufacturer directly. Often these suppliers will package the same or substantially similar parts for production, genuine and aftermarket sectors. Often the manufacturer will control the production and distribution of these parts by maintaining ownership of tools and dies required to produce the parts.

**Parallel Import** – are Genuine and OEM parts that are sourced in foreign countries but have application to domestic vehicles.

**Aftermarket Parts** – are parts sourced from expert manufacturers (who may or may not be direct vehicle program OEM suppliers) which have an appropriate vehicle application.

Importantly here the parts in all sectors are **fit for purpose**. Of note, many of the Bapcor Group suppliers of aftermarket parts are OEM part suppliers and Genuine part suppliers. Differences in quality may be perceived, actual, or generated through marketing information. The differences in quality may also be deliberate enabling different price points to be targeted. General Motors for example positions Genuine Holden product differently to AC Delco product, and yet many part numbers will be a substantially similar product, simply packaged and marketed differently.

In relation to when each of these types of parts are used we would submit that this is a consequence of a number of factors:

- **Contractual Control** – this relates the use of Genuine parts. It is our understanding that dealers are contractually required to use genuine parts in the servicing and warranty repairs of vehicles. Aftermarket parts of the same or higher quality, which may have a lower price point may not be used.
- **Bundling Control** – through the sale bundling that is completed at the time of new vehicle sale, the customer may have service, warranty and insurance commitments with the dealer. Some insurance products will indicate/mandate the use of “Genuine” parts in the completion of repair works. The manufacturer/distributor

ensures the use of Genuine parts through these types of bundled services and through their exertion of contractual control on the dealer network. Aftermarket parts of the same or higher quality, which may have a lower price point may not be used.

- **Quality Perception** – there is a notion of marketing through the use of “Genuine” – a term which implies an attributed character, quality or origin, and indeed is not counterfeit. This applies in many industries as it does here in automotive. The customer perception of this quality through the use of this term may build on the inherent messaging from the Manufacturers/Dealers/Distributors that their product is superior in quality when indeed it may not be.
- **Access / Convenience / Availability** – in many cases the use of a given part is driven by the availability. When servicing or repairing a vehicle, the part required is generally required within 30 minutes to enable fitment. Restrictions on the sale and availability of parts results in the consumer being disadvantaged both in terms of time taken to repair and cost of repair.

There should not be any restriction on the use of parts in a vehicle so long as they comply with the minimum specifications of the vehicle manufacturer. To restrict to a brand or source limits competition.

**35. What information is made available about different types of car parts to the market? Who makes this information available and when?**

The “market” here needs to be defined. If the question relates to car owners, we would submit very little information is available to them regarding the various quality of parts used in vehicle repairs and servicing.

In relation to information provided to mechanics, this is generally provided by the supplier of the parts via an electronic catalogue system. Bapcor and other suppliers of parts have these catalogue systems that are available to their customers.

The collation of information to populate the catalogue systems is a very difficult one, as many manufacturers or suppliers of parts do not provide the adequate information to populate the catalogues. It is a major task of distributors to obtain this information.

**36. What information are consumers given about using different types of car parts and its effect on their manufacturer’s or dealer’s extended warranties? How is this communicated?**

We communicate the following through our ABS / Midas service networks. This is displayed in store.

**New Vehicle Servicing  
Statutory Warranty**

In relation to general servicing, vehicles with new car Statutory Warranty must be serviced by qualified staff according to the manufacturer’s specifications, using genuine or appropriate quality parts.

Where parts used are non-genuine but interchangeable with the genuine part, they must be fit or appropriate for that purpose.

Provided these conditions are met your new car Statutory Warranty will remain intact.

#### **Express Warranties**

In addition to a Statutory Warranty, some vehicles may be offered with a voluntary or extended warranty, also called an Express Warranty. These are usually specified under agreement with the dealer and may state a specific time period, maximum liability and limitations or conditions offered.

Express Warranties operate in addition to your Statutory Warranty.

Some dealers place conditions on Express Warranties excluding the use of non-genuine parts or servicing by alternative repairers.

If your vehicle is under warranty, please review your warranty conditions with the ABS Service Centre, prior to proceeding with your handbook service.

As mentioned previously we do not believe adequate information is provided to vehicle buyers to inform them of their service and repair options and the impact the options may have on their warranty. It needs to be clearly and comprehensively informed at the time of purchase of the options for repair and service.

### **37. What issues, if any, have consumers and independent repairers had in accessing appropriate parts or tools to repair or service a new car?**

#### **Access to Parts**

Independent repairers are treated as retail customers for the purchase of genuine parts and are significantly disadvantaged in paying a higher price for the parts that are required to service the vehicle. These parts are sold independently from any Codes / PINS or other electronic data that may be required to operationalise fitment.

There are other barriers that sometime exist other than price. As the independent repairer is servicing a wide variety of makes and models of vehicles, they require access to a wider range of product than a manufacturer affiliated service centre would. Supply of some things, such as oil where only 5-10 litres may be required in a service interval, in a single 205 ltr size results in a restricted ability for the independent operator to service such vehicles.

#### **Access to Tools**

Independent repairers have experienced issues accessing tools by manufacturers/dealers:

- Not making available certain tools to independent repairers
- Pricing available tools in a manner which makes it uneconomical for the independent repairer to invest and recoup that investment through the service of vehicles; and
- Not providing information on what specific tool may be required for a certain repair or service activity.

#### **Access to Technical Information**

As we noted, the vehicle is becoming increasingly technical, with a high level of integrated electronics. Some issues of access include:

- PIN codes are being applied to many vehicle components requiring the entry of these codes to replace or repair components. The restricted access to these pin codes is restricting the ability of independent repairers to complete certain works.
- Functions such as turning off a service light for some brands is blocked and can only be performed at dealership
- ECU software updates are blocked and can only be performed at dealerships
- Access to vehicle manufacturer installed telematics is not available to any repairers other than dealerships.
- Electronic service log books cannot be accessed other than by dealerships.
- Independent repairers cannot generally access OE parts from their normal parts distributors as the vehicle manufacturers restrict the availability of OE parts to dealerships.

**38. What types of parts and tools do manufacturers sell to consumers and independent repairers? Do these differ from what is made available to dealers? What explains the difference?**

No submission

**39. What types of parts and tools do dealers sell to consumers and independent repairers? How does this differ from what manufacturers sell? Are dealers put at a competitive disadvantage for selling these parts and tools?**

No submission

**40. Where a common platform is used by manufacturers (e.g. Volvo S40, Ford Focus and Mazda 3 are built on a common platform, with different features/trim), does this make it easier to access parts and tools?**

No submission

**Questions on logbooks, dealer stamps and online logbooks:**

**41. What is the purpose of a logbook? How is this communicated to consumers? What other uses are there for a logbook?**

No submission

**42. What are the industry trends for providing online logbooks, rather than a paper copy? What other record keeping methods are available? What are the benefits or challenges of using such methods?**

No submission

**43. What level of access do consumers or others have to online logbooks? Who can update the online logbook? What barriers, if any, are there to do so?**

Online logbooks require the dealers to access them to update them. This puts the independents at a distinct disadvantage to dealers. Independents should have equal access to the log books.

#### **Questions on access to repair and service information and data**

**44. *What repair and service information and data exists in relation to new cars? Who controls this information and data?***

Service and Repair information is limited to vehicles supported by various aftermarket sources. Examples of these suppliers are Boyce, Repco, Autodata, and Infomedia.

Service information is generally available through these services 6-12 months post vehicle launch.

Repair information is generally available through these services 12-36 months post vehicle launch.

The Manufacturers control the release of this data, and make it available to their respective dealer networks at vehicle launch.

**45. *What repair and service information and data is shared by manufacturers? How is it shared? With whom is it shared? What conditions are on sharing this information and data?***

Refer to the AAAA submissions re choice of repairer and the voluntary code of the manufacturers to provide all such information to the aftermarket/independents that is not working effectively and requires regulation rather than being voluntary.

**46. *What is the effect of not having some level of access to repair and service information and data? On what basis might repair and service information not be shared? Why?***

The failure to share information surrounding repair and service information is of concern as it will:

- Restrict the consumer from making informed choices as to the type of parts utilized through service and repair;
- Restrict the ability of the consumer from completing routine maintenance activities;
- Potentially result in the incorrect part being fitted to a vehicle – where a part may have changed through different model year applications for example; and
- Restrict the ability of remote and regional consumers from appropriately servicing their vehicles, or onerously require them to travel to Dealer locations to service their vehicle.

There is often an argument raised about safety when data sharing and access is sought to be restricted. For example that the brake sensor warnings are there to detect when there is an issue with braking and that the reset of these warnings should be restricted to authorised technicians. We would support the view that works should be carried out by the appropriately trained persons. We would reject the notion which follows that the Dealer network of technicians are the only ones appropriately trained.



In each of the States there are various standards of Mechanical Repairers Licenses. These exist to regulate the repair industry. Whilst not standard, and having a consistent national approach would be a positive initiative, the standards are there to ensure risks of unskilled repairers is mitigated.

By manufacturers restricting information, there is the potential for unsafe situations to arise. For example, the repair of brakes where repairs require the reset of warning sensors – but the codes are not available. This could lead to the situation where works are completed in one location and the vehicle is driven without reset of those warnings sensors to another to be reset. Such a situation is easily avoided by merely providing access to the correct technical data to enable the reset of such sensors.

We would submit that there should be full disclosure of service and repair information by the Manufacturers / Dealers. This should extend to diagnostic information and full access to proprietary tools to support the service and repair activity. Consumers must have the ability to maintain a “Right to Repair” ensuring strong competition in the market for repair and service work and reducing the restrictive impact of the sales bundling that occurs at the point of sale.

In the event that data is not shared over time, the independent repairer network will be destroyed. Consumers will be subject to the ultimate pricing control of the Distributor/Manufacturer – who will be determining who sells the product, at what price the product is supplied, what the ‘standard’ labour hours to install/repair should be and by this level of direct contractual control, ultimately resulting in a monopolistic service and repair relationship for consumers who purchase a new vehicle.

We would point to the example of the USA as a positive and necessary regulatory framework, where a national agreement requires:

- Manufacturers to make available the same tools, software and repair information as they do to their dealers; and
- Maintain software and service information electronically and allow full access to it.

In the era of the global vehicle, it is nonsensical that information from the manufacturers would be available in some jurisdictions (eg. United States and Europe) and highly restricted in others.

***47. Is repair and service information and data presented in a standardised way across manufacturers? How consistent is repair and service information and data in terms of availability and how it is presented across brands?***

No submission

***48. How is repair and service information and data accessed? What controls are there on accessing it?***

No submission

***49. What other methods exist for accessing repair and service information and data? What are the benefits or challenges of using such methods?***

No submission

**50. Where a common platform is used by manufacturers (e.g. Volvo S40, Ford Focus and Mazda 3 are built on a common platform, with different features/trim), does this make it easier to access repair and service information and data?**

No submission

**51. What issues have consumers experienced with accessing repair and service information? How do these issues impact them?**

No submission

#### Questions on current Australian and international regulations

**52. What impact have the Heads of Agreement and/or voluntary codes of practice had on access to repair and service information and data? Provide examples.**

We understand that the information is not being made available by all manufacturers in accordance with the code. The AAAA will provide further information.

**53. What effect have the Heads of Agreement and/or voluntary codes of practice had on competition in the repair and service sector? How has this affected consumers?**

No submission

**54. How effective are the Canadian, US and EU approaches? Are there any concerns with a mandatory system, such as in the EU and Massachusetts, being introduced in Australia? What are the risks and benefits of similar regulation (voluntary or mandatory) in the Australian context?**

We believe a mandatory system as operates in the USA to be essential to ensure information is available in a timely and thorough manner to the aftermarket.

**55. What other ways could repair and service information and data be shared or provided? Could or should the information and data be standardised?**

No submission

#### Questions on new car dates

**56. Are consumers aware of the differences between the build date, model year and compliance date of a car? How are consumers informed of these differences? Do these dates align with consumer expectations, and if not, how might consumers be affected?**

No submission

#### Questions on other issues

**57. Are you aware of any other issues in the new car retailing industry which affect competition and consumers? If so, outline and provide specific examples.**

We would submit the following additional items that we believe are pertinent for examination in the new car retailing industry:

- a. **Capped Price Servicing** – we note the ACCC guidelines specifically exclude review and coverage of this item. We would submit that this issue is intrinsically linked to the issue of new car retailing and the service/offer bundling that occurs as the point of new car selling. It drives to the heart of the Manufacturer/Distributor attempts to maintain control over the servicing of the vehicle in a bid to minimise competition and maximise Manufacturer/Distributor part sales and Dealer service revenues. We would submit that any review of the new vehicle sales must include review of this area.
- b. **Dealer sold insurance products** – we note the ACCC guidelines specifically exclude review and coverage of this item. We would submit that this issue is intrinsically linked to the issue of new car retailing and the service/offer bundling that occurs as the point of new car selling. In this case the Manufacturer/Distributor seeks to maximise part sales by such policies utilising genuine parts in all repair works. We would submit that any review of the new vehicle sales must include review of this area.