



Australian
Competition &
Consumer
Commission

New car retailing industry market study: Industry participants' comments on the draft report

The Australian Competition and Consumer Commission (ACCC) is conducting a market study into the new car retailing industry in Australia. As part of the market study, we have been considering a number of issues which affect new car buyers, including issues relating to: consumer guarantees and new cars, fuel consumption and emissions performance, and access to repair and service information by independent repairers. On 10 August 2017 we released a [draft report](#) summarising our findings and recommendations.

As part of our consultation process, we invited the public, including industry participants, to provide either a submission or brief public comment through our online consultation hub on the draft report.

Included below are public comments from industry participants on the draft report, which had been received by 7 September 2017. Some responses may have been edited to remove information which we considered as potentially defamatory or libellous. We will take into account submissions and comments from industry participants when preparing our final report, which we expect to release in late 2017.

Where stakeholders provided submissions as a document, these are published on the [ACCC's new car retailing industry market study website](#).

Industry participants' comments

The comments received by the ACCC from industry participants are provided below.

Industry participant 1 — Owen Grace, Ritter Australia

I have been reading latest draft report, pleased to see the recommendations, by the ACCC. Particularly the recommendation that manufactures be required to share information to a dealer level,

Just a couple of points I would like to stress:

- 1- The importance of Independent workshops be able to access programming files, and "pass thru diagnostics". (Only repair manuals are currently available)
- 2- Access to service actions / recalls etc so the customer can be advised
- 3- The ability to update "online" service records if the car is service by a independent repairer
- 4- Access to Factory training (on a fee for service of course)

Industry participant 2 — Lindsay Chaffer, Warragul Automotive

I fully support the findings and of the recent ACCC report of the new car retailing industry market study. As an independent automotive repair business owner I face, often several times on a daily basis, the increasing challenges that have been highlighted in the aforementioned report. Having worked alongside the AAAA for some time now I must add here that by far the greatest frustration is the extent to which so many have had to collectively work to prove what has been an ongoing, global concern within the Automotive Industry for many, many years. I implore the ACCC to act as quickly as possible to mandate an industry-

wide code that provides commercial fairness for independent businesses. As it stands, the current behaviour of those being investigated, as identified in the report, expressly compromises legislation that exists to ensure competitive fairness is upheld. In the best interests of both independent businesses and the consumer there needs to be a swift, effective and comprehensive solution implemented.

Industry participant 3 — Jeffrey Kulik, Automotive Dealer Services

As a service provider for warranty administration services to over 80 motor dealer groups, we are often asked by dealers about their obligations under ACL that "the goods must be fit for purpose for a reasonable time" and about consumer rights for "refund or replacement for major failure or multiple minor defects". The main area of concern is what is considered a "reasonable time" - is it 12 months for a used car? Are minor defects that do not affect the vehicles operating performance such as Audio, Blue tooth, Sat Navigation and even door locks and electric windows considered minor defects?

Ideally, clearer definitions will result in better outcomes for consumers and dealers who in the majority of cases are trying to provide vehicles that are safe and fit for purpose. Almost all vehicles will require repair or replacement of some of the components sooner or later.

[In addition to this comment, a submission was uploaded. The submission can be found at www.accc.gov.au/newcars.]

Industry participant 4 — Stephen Campbell, Auto Parts Group Pty Ltd

I reference the draft report and request for further comments regard restriction of retail price lists by car manufacturers such as Holden. In my opinion the restriction of parts information and price information directly benefits the OE manufacturers and their dealer networks.

Lack of transparency as to price does not allow the consumer or repair to make an informed decision hence reducing competition and pushing up costs to the repairer.

I agree with the IAG submission in this regard. However IAG have a voluntary part trial whereby they are recommending a crash repairer use the OE dealers exclusively for parts supply. As part of driving business to the dealer supply chain IAG have negotiated greater discounts for their repairer networks. I find this trial at odds with a competitive market which will benefit the consumer or support a healthy aftermarket and choice.

Additionally, I note Toyota has prevented their dealer networks from selling OE parts to wholesale networks. The dealer networks can sell parts to repairers but not to wholesale channels. To my mind this also benefits the dealer network and reduces competition for the consumer. Historically the dealers would compete for these wholesale channels. These wholesale channels would purchase parts from the dealer networks and resell to the independent repair network and consumer. One would suggest if they had the ability to resell then their pricing was more competitive than the OE dealer. Now with the restriction on wholesale channel sales by Toyota the dealer is more certain who they are competing with (ie. another dealer) and less likely to be price aggressive.

Industry participant 5 — Graeme Harris, Land Rover Spares

I would like the ACCC to know of the practice of Land Rover to no longer provide a service record book with your vehicle. To access the service schedule of a vehicle you have to go to their online system be a member and enter the vehicle details. You have to have generate a job card number and the web site will allow you to print off the service the vehicle is due for. This means it's very difficult to quote on a service as you don't know what the vehicle is due for unless you have all the vehicle details and go through the process. It then makes it difficult to maintain the customers new car warranty status, because the manufacturer (when making a claim) require owner to present any servicing invoicing and any deviation from the

schedule means the owner is denied warranty. This is in my view an attempt to create a greater level of complexity to what should and has been in the past a very simple system. Provide a clear service schedule for the life of the warranty period and the owners can be sure they and the service agent is doing everything required to maintain the vehicle and the warranty status. It's very convenient for the manufacturer to assess a vehicle for a warranty claim, and knock back the claim on the basis of something not serviced at the right time, but at the same time make it very difficult to access the information required to do so. Very anti-competitive practice I believe when the manufacture holds the warranty status over the head of the vehicle owner, it's a very big carrot to be dangling out there. This creates fear which is usually enough for the owner to go oh well I'll take it back to the dealer as I can't afford to have my warranty status revoked because I prefer to get an independent repairer to look after my vehicle. This takes away the owners right to choose who they trust to maintain their vehicle.

Industry participant 6 — Gavin Paterson, Automotive Insight

My expectation would be to provide an even playing field for my business to trade in the Automotive industry. Any Data that is withheld by manufactures to the aftermarket does not allow us to service the publics needs for repairs and servicing vehicles daily.

I must provide an income for my family in the future with the skills I have.

Any solution must be foolproof - the car makers will exploit any gap or loophole that you leave. They will delay supplying the information, deny it on the basis of so called 'security' or say that is already there (when it is not). The solution should be designed so that the car makers cannot break the rules.

Please consider the consumers right to choose their repairer.

No exception.

Industry participant 7 — Angus Mitchell, Mitchell Auto Tech Pty Ltd

Dealerships appear to be refusing to release information to customers and people like myself. For example a new turbo wastegate actuator was bought through the local VW dealer, which was updated to a newer design. This newer design required a software update to the car and the local dealer was not forthcoming with help in this situation. Another example is a Mercedes ML320 which a gear box actuator failed and the car was stuck in park. Mercedes refuses to sell this part to a workshop and even refuses to supply information to the independent mechanic. There is no readily available information even to provide workshops with simple torque settings for suspension components or even wheel torque settings. I have concerns that there will be a serious accident because of this lack of information.

Aside from this, the genuine parts sold through a dealer are set at an "rrp" and in order to attempt to drive independent workshops away, small trade margins of 5% discounts apply. Then if a customer complains about the price at a dealer, they sell it below the "rrp" so it makes the dealer look good and independent workshops look bad.

Industry participant 8 — Brendan Jackson, Adelaide Automotive Locksmiths

As an Automotive Locksmith I regularly have to do repairs or replace parts on a car relating to the cars security. Whether it be the keys, locks or any physical or electrical part that helps prevent the car from being started without the correct key. The restriction of parts or access to security information on two of the car makes means that the works that need to be carried out are more complicated.

With Mercedes one of the more common jobs is having to replace the Electronic Steering Lock, these are considered a "Theft Relevant Part" and the dealer will not sell these to anyone but the vehicle owner and say that they have to fit and code the part. At the moment to get customers cars going I have to bypass the steering lock to get the car started which can be done within minutes, so the dealers reason of it being a "Theft Relevant part" is pointless and simply only restricting the sale.

The other main issue is with VAG cars replacing electronic components. A lot of newer VAG car components have what is called "Component Security" which lock the part to that specific car, so using used parts is not straight forward. To do this without access to the dealer network (GeKo) programming of these parts can still be done with specialist tools, however with access the work can be performed a lot safer, as well as then having the ability to apply any software upgrades to the parts. Parts from cars that have had the VIN recorded as a stolen car are also black listed, so without this dealer access it is not possible to know if the parts are from a stolen car.

With both the above examples these are cars that I can still program the necessary parts as well as cut and program keys so the Australian Dealers reasoning for restricting access is moot, especially as getting access to this information outside of Australia is possible.

Industry participant 9 — Gary Haynes, Ultra Tune

The Capped price servicing programme being run by the dealers is often only a basic service. It often conflicts with the dealer supplied service schedule and due to items not being serviced consumers are being led into unnecessary and avoidable repairs later on.

Whilst the dealer often states "fixed price servicing " for the life of the car, there is often small print which reserves the right to increase prices. This is often not made apparent to the customer until they have arrived at the dealership to have their car serviced.

By then it is too late to change providers, inertia sets in and the consumer is charged more than expected.

Parts availability to aftermarket repairers is often a problem. For example and an axle seal for a 2012 Jeep Wrangler, this is a common consumable item, took one week to arrive. It was ordered from Jeep in Brisbane but had to be sourced by them from Jeep in Melbourne.

I am certain Jeep keeps its own supply of this part for its dealers, but by having aftermarket repairers wait a week it increases the likelihood of the consumer being driven towards the dealerships.

Many new vehicle logbooks contain a signature block on the service page for the servicing agent to sign and verify the service has been completed to an industry standard.

Most logbooks contain a phrase something like: by signing this you indicate you are an "authorised dealer ".

This is a subtle attempt to convince consumers ONLY dealerships are able to service cars and protect warranties.

This is in direct contravention with the Australian Consumer Law which asserts many consumer rights.

It seems the dealers have been very slow to accept the ACL and its ramifications.

Warranty is warranty and its extent is governed by how much I paid and what can I expect. I can buy a \$15 toaster and get a 12 month full exchange warranty - but when I buy a \$50 k car I get only a 12 month highly conditional warranty.

The latest attempt by a Korean manufacturer to introduce a 7 year warranty is laced with so many conditions and exclusions it is mostly worthless. We also have a situation where car makers will accept warranty claims based on "goodwill ". This means how many times have you had your car serviced with us.

This is discriminatory and borders on being illegal. Under ACL a warranty is not based on where you had your item serviced, as was demonstrated by the recent case involving Apple products.

Industry participant 10 — Bailey Nash, Ultra Tune Hamilton

Great work with most, but I don't see you talking about the dodgy dealer warranties. We all know they can come here for service, but they are no adding extended warranties to the vehicles.

They MUST have all services completed in the new car warranty at the dealer, or the extended warranty won't be honoured.

You've got to stop [redacted] finding loopholes in everything you do to help the industry.

Industry participant 11 — Col Harrison, Col Harrison Automotive

We recently had a 2012 Kia with a transmission problem, causing a lack of power and not changing gears.

We recommended that the people contact the dealer as the vehicle had only travelled 78,000ks and was only 1 month out of warranty. The dealer told them that the warranty started on the date of manufactures not the date of purchase and that the vehicle had only been service once by one of their dealerships, so the vehicle would not be covered under warranty.

Industry participant 12 — Chad Condipodero, Auto Response

The Draft Report shows that the ACCC knows what is happening to consumers and to independent repairers - good decision to recommend a mandatory solution - keep going, you are on the right track. Please don't forget about capped price servicing, these are not good for consumers as they are not getting a correct log book service done.

Industry participant 13 — Graeme McMullen, G-Mac Auto Centre Pty Ltd

During my 50 plus years in the automotive repair industry, I have witnessed & been subject to a dramatic decline in the supply & availability of spare parts & information in enabling my business to service our large customer base. My clients are also quite fed up with the supply issue of new genuine parts. We spend on average of 40% in time for each vehicle to source parts. With genuine parts we then find that none are, or very few items are carried in Western Australia, resulting in the having to be transported into the state, sometimes through several dealers.

Our clients are of the opinion that this is as a result of the dealer network restricting parts supply to the non-dealer network.

The capped price service scheme that the dealers are now trying to shove down the throats of the new car buyer is also a non-truth that should be addressed by the aftermarket network. The blatant misuse of this sort is costing the consumer more than ever.

I feel that the industry needs to be transparent to the end consumer. I am not in agreement with the franchise network as they appear to be 100% profit orientated rather than service

focused. This is also causing great concern to the end consumers who feel "ripped off" with every service /repair they need to have.

I feel we need to try to go back to the service situation that existed back in the 1970 s & 1980s. The customers & end consumers would have trust in the "My Mechanic" repair system back then & the dealers were also there to help & advise in spare parts & technical information. Greed seems to have taken over.

Industry participant 14 — Cameron Virtue, CMR Leichhardt

Jeep makes vehicles that do not have a transmission dipstick and they will not sell us the service dipstick. So it is impossible to check something as basic as oil level.

VW release all there control units requiring a security access pin to code it to the vehicle and refuse to release the code. So we cannot even use the new part we have purchased.

We need access to online coding to properly repair and diagnose most faults on modern vehicles. In America workshops can log online and pay a subscription for an hour and source all the information they need.

Most vehicles we see leave the dealer network from fixed price servicing have never had anything actually done and we repeatedly see vehicles with 80,000 kms that require complete engine rebuilds.

It is totally against Australian consumer law to conduct actions like this.

Industry participant 15— Graham Cooper, Jackmans Garage P/L

I'm concerned by the persistent "Capped Price Service" campaign by Franchised Dealers.

It is both dishonest and anti-competitive. Dishonest in that the consumer is led to believe that the service is in full accordance with Manufacturer's Log Book, whereas little more than the oil and filter are changed and a check of lights and wipers. This practice has the potential to reduce the life and the effectiveness of the consumer's asset that he bought and trusted the Dealer in good faith.

Anti-competitive because the price charged is much less than an Independent Workshop can meet when doing the full service the Manufacturer recommends. Continuation of this predatory pricing is likely to lead to the reduction of choices of workshops available to consumers.

Industry participant 16— Geoff Whitehead, The 4WD Workshop

We are often unable to obtain any information on vehicles from the dealerships as they say they are not allowed to share information with our company as we are not genuine dealers. This stops us from competing with the dealerships.

Industry participant 17 — Brett Lee, Future Auto Service Centres Pty Ltd

This submission is a great step forward to achieving a sustainable automotive repair industry.

As a single body operating with fair guidelines, this industry can not only survive but thrive.

The importance of these submissions is not only for our staff today but for all technicians in the future

Industry participant 18 — Ben Hansen, Eyre Radiators

Car manufacturers 'hide' the information, it could be there, but it is almost impossible to find it - any mandatory solution must make sure that the car retail industry is fined if they don't make a reasonable effort to make the system clear and easy to use.

Industry participant 19 — Evan Borland, Epping Motors P/L

The draft report appears to be a great step in the right direction. For too long new car dealers have been allowed to monopolise the new car servicing industry with underhanded tactics which include the wording of service books, withholding of important vehicle information to the independent workshops, the use of electronic service books only accessible to the dealer, "fixed price servicing contracts" and many more. Australia appears to be lagging behind in this area as the USA and Europe have already enforced a fair playing field. Please keep up the good work already being done.

If a person buys a new car don't they then own the car and all it's workings and therefore should have the option to use either the car dealer or an independent if they choose.

As a small business I rely on close customer relationships and they should be able to continue even if they choose to buy a new car.

Industry participant 20 — Michael Weber, Michael Weber Prestige and Performance

Further to my earlier submission we have encountered more situations requiring us to take vehicles to the manufacturer for coding programming, also parts issues.

VW golf 2014 transmission (DSG) control unit replacement, car must be taken to dealer to code new module or it will not shift past 2nd gear.(component protection)

Audi A6 2015 transmission shifting fault requires software update, dealer only.

Audi A4 burning oil requires updated pistons/rings, was told by audi parts they could not supply me the updated parts but they would sell me the original ones ie. the faulty parts that are the problem in the first place.

VW golf R 2012 required replacement ecu, towed to dealer for immobiliser coding.

Audi A3 2014 Faulty engine control unit, towed to dealer for coding of new ecu.

We now regularly see vehicles that have been doing the capped price service since new and none of them have been serviced to the manufacturers specifications. So we are competing with dealers who claim they are doing log book servicing when in fact they are doing the bare minimum to undercut us while convincing the customer that they are doing what is required by the logbook.

I have had two reports recently from customers who went to purchase new cars and asked where they could get them serviced and if it was ok to get them serviced outside the dealer while they were in warranty. Both were told that it is "illegal" to get a car serviced by anyone but the dealer while it is in warranty.

I did ask them both to make a submission to the ACCC but not sure if they followed through.

These are situations that have occurred in the previous fortnight and they repeat themselves many times over.

I would also like to note that we were recently given access to the BMW AOS online portal which we were told would have all the information we needed.

Upon logging in it became apparent that it is a missing most of the content.

None of the options for coding or programming are present as well as most of the advanced information that is actually useful. Upon checking the help section of the site it became apparent that of the twelve sub sections in the program we only have access to seven. The useful ones have been blocked. It would also appear that this help section has now been modified so as not to show up this disparity.

Finally in the ACCC report it seems to show that VW offers pass through programming in this country, which it does not. I did notice that in the reference section in the end of the report it does say not in this country, but not in the main body of the report.

Thank you for reading this submission, I cannot overstate how much pressure the manufacturers are putting on the independent repairers through their various tactics of withholding information, capped price servicing and blatantly misleading customers about where they can get their new vehicles serviced.

Industry participant 21 — Michael Smith, Ultra Tune Perth

Excessive over pricing of genuine spare parts. There are manufactures importing parts into this country and putting mark ups of over 400% for example a Jeep Engine Mount (part number 68252518AA) is \$86 retail in the USA and \$393 in Australia. The importers than put pressure on dealerships to try and move parts with there highly inflated pricing onto consumers who end paying a lot more in servicing and repairs than a consumer in the USA.

Car Security

I have been programming Holden vehicles for several years and they have already addressed the security issues by using the following;

1. You need to register your details including email and credit card data.
2. They have in some cases either security numbers or 10-30 time outs before you can finish the programming.

For all other brands, I suggest if you are licenced in NSW or WA you be given automatic access by virtue that you have already passed vetting by the state authorities including police checks.

For the states that don't have licencing I suggest a police check be required.

Industry participant 22 — Nathan Ditchburn, Autofix Mechanical

Great work keep it up, the voluntary code did not work I cannot wait until we have a fair and even playing field with a mandatory code

Industry participant 23— Nigel Osborne, First Class Automotives

Although the mandatory data sharing proposal is a great step forward for our industry, finalization is urgent to minimise loss of client's income and Jobs in the independent repairers industry.

This also goes for the withholding of security parts eg. Mercedes steering lock and door lock actuator.

Industry participant 24 — Ray White, Kakinga Holdings Pty Ltd T/A Ultra Tune North Ryde

The report covers a lot of areas which are disadvantageous to the consumer.

Further matters of concern are;

1. The impact on servicing competitiveness of the use of increased capital costs of a motor vehicle purchase. The extra money is deposited in a trust fund enabling the Dealer network to market unrealistically low service costs for early services and claim from the trust extra money for the service which has been carried out. Consumers are not given the option of having their vehicle purchase price reduced if they do not wish to service the vehicle through the dealer network. At the end of the period of low priced services if the vehicle has not been serviced through the dealer network, all the money charged for this ability is returned to the dealer as clear profit. This acts as a barrier to the free choice of repairer by the consumer.
2. There is a developing tendency in the dealer network for dealers to download information from a motor vehicle with a problem and send the information to an overseas parent company. The overseas parent company analyses the material and advises the local dealer what components to replace or what procedures to carry out to enable the repair of the vehicle problem. If this tendency became entrenched there could be a denial of availability of information claiming that the information was not local information.
3. Some few years ago ACCC ruled that Menu Board pricing by Ultra Tune was a Breach of Trade Practices Legislation. One would wonder how Fixed Price Servicing by Dealer Networks is similarly not uncompetitive, and therefore against Trade Practices Legislation. Different dealerships have different cost structures and therefore should be able to offer different service costs. Set price servicing is a Restraint of Trade and therefore outside Trade Practices Legislation.
4. The components of a fixed price service are not clearly explained to consumers in a manner that is easy for them to understand. The non-included components for the service are not explained clearly to the consumer. For example time dependent items, coolant changes and brake fluid changes, are not included when they should be and not explained to consumers when quotes are requested. If you are lucky you are advised that these extra services should be carried out whilst the vehicle is in service, otherwise the first you hear about it is when you are presented with the extra costs at the end of the day when you collect your vehicle. This failure to include these costs results in consumers not being able to make the best informed decisions when deciding here to service their vehicles.

These are only a few of the ways in which consumers are misled.

Industry participant 25 — Leonie Brown, Future Auto Service Centres Pty Ltd

It is ridiculous that we are unable to access information for all vehicles. I don't care if we have to pay for it. We are in a rural town and not all dealerships are here. We repair all types of vehicles.

Recently had a Mitsubishi Triton having issues, phoned dealerships for a wiring diagram. they can't give it out, only internal. That means that the customer has to drive 1.5 hrs each way and a day off work to have their vehicle looked at because we are unable to access information. It is unfair to the customers.

VW and Audi have come to the party, yes we have to pay for it but at least we have access.

Industry participant 26 — Kevin Redfern, Future Auto Service Centres Pty Ltd

Preamble

In responding to the study, it is noted that the ACCC will, as a threshold issue recommend that a mandatory scheme be introduced that sets out the rules for car manufacturers to share technical information with independent repairers.

The recommendation will cover all car manufacturers operating in Australia and will provide for real time access for independent repairers manufacturers make available to dealers.

While this move is to be commended, on the basis that it will enable independent repairers to compete with dealer service operations on a more equitable basis, it is respectfully submitted that independents and dealers both operate within the automotive repair services and retail motor industry.

Accordingly, it is hoped that mandatory provisions relating to information access will encourage open, transparent and harmonious relationships between dealers and independents who collectively employ tens of thousands of employees and who make a significant contribution to Australia's economy, rather than set them in conflict.\

Response to draft report

Draft recommendation 4.1

In addition to giving independents real time access to digital files, codes and software updates made available to dealers, information contained in technical bulletins and training DVDs should also be provided to independents.

The report places heavy emphasis on providing electronic data, software and initialisation codes to independents; it is submitted that access to special tooling is also a necessity.

While information relating to diagnostics is critical, there are repair operations that require both data and special mechanical tooling in order to be successfully carried out. Components such as braking systems, suspensions and engines fit these criteria; replacement of a VW Jetta rear main oil seal is a typical example, as the replacement of this part necessitates the use of a special tool to properly align the crank position sensor.

While some tooling is available from specialist suppliers, it is essential that manufacturers are obliged to inform independents when special tooling is needed to properly carry out a repair, particularly when only dealers have access to such tooling.

It is also submitted that access to training to dealer level training should also be made available to independents at commercially acceptable rates, 'hands on training' the like of which is part and parcel of dealer service operations, particularly on the introduction of new models, will allow independents to effectively offer a range of competitive services to consumers.

In Victoria, TAFE automotive training providers do offer brand specific training to auto apprentices employed within dealer networks. While these training offerings do have a commercial aspect, funding, provision of vehicles and components, it is suggested that this training should not be to the exclusion of other employees in the industry either as apprentices, or qualified trades workers. Again, this training should be widely available on the basis of commercially acceptable rates to applicable to manufacturers, TAFE networks and independent repairers.

General commentary on the Report and recommendations

Dealer position

The report acknowledges that the current Heads of Agreement has significant shortcomings, and, it is difficult to understand why global car manufacturers who provide information access to independent repairers and consumers in the UK and USA, fail to do so in an Australian context. Intellectual property rights usually being advanced by manufacturers as a reason that technical information cannot be shared.

This issue may best be addressed by reputable organisations, already signatories to the current Heads of Agreement, such as VACC, entering into arrangements with manufacturers to provide an information conduit to independent repairers. Specifically those who undertake to meet appropriate standards pay an agreed fee and abide by any copyright limitations in terms of on-selling the information.

Reference is made in the draft report to a reluctance by franchise dealers to pass on information to independent repairers or consumers. This reluctance might be based on the level of substantial control that vehicle manufacturers exert over franchised dealers and their service operations. In this context, manufacturers require dealers to adhere to strict standards in terms of PMA sales, service, warranty claims, parts stock etc. contained in the franchise agreement.

It needs to be understood, that while dealers may not readily provide access to information to independents, the fear of offending the manufacturer/franchisor by providing technical information to independents could lead to the loss of a valuable franchise. Industry associations representing new car dealers can attest to the harsh terms contained in franchise agreements between manufacturers and dealers. These franchise agreements are extremely one sided, and a manufacturer is able to cancel franchise agreements on a whim, if it chooses to do so.

Hence, any mandatory requirement to provide information to independent repairers should not place dealers in a position where a manufacturer is minded to remove a franchise on the basis of a dealer supplying information to a consumer or independent.

2/ Standards

If a mandatory requirement requiring manufacturers to share information to independents is introduced, then appropriate minimum standards of equipment levels; training required and sufficient qualified staff, must be applied to independent mechanical and body repairers if they are to acquire access to information that will place them on a similar footing to a dealer service operations.

There will be little benefit to a consumer, if, in allowing an independent to service their new vehicle, appropriate repair standards are not met. If, as a consequence of information share, independents are able to offer service to new vehicles, then the provision of high quality parts, lubricants, appropriate diagnostic equipment, tooling and competent staff must be a specific requirement.

It is acknowledged there are many independents that can currently offer a quality of service and repair equal to dealer standards. However, allowing independents who are not accredited by an appropriate industry association, or, who do not have qualified staff and adequate equipment, will inevitably lead to high levels of consumer dissatisfaction.

Industry associations representing independent repairers will have a key role to play in working with manufacturers to ensure that standards are met, agreements are adhered to and that disputes on information sharing are dealt with appropriately.

Manufacturers must be given confidence that information sharing will not lead to a diminution of consumer faith in their product.

Body Repairers

In terms of consumer safety, the provision of adequate information, correct materials and repair methods to independent body repairers is critical. While some manufacturers have made efforts to provide this information, a mandatory requirement must be placed on every manufacturer offering vehicles on the Australian market.

In addition to passenger safety, a poorly repaired vehicle can reduce the value of a vehicle by thousands of dollars, particularly when offered as a trade-in.

As many body repairers are aligned to insurers by preferred insurer networks equipment levels and standards of repair are already a requirement. Consequently, there are no valid reasons for manufacturers to withhold information available to body repairers. Dimensions, correct methods of repair, specified materials, together with relevant mechanical and electronic component information must be made available to this sector.

While insurers have made submissions to the draft report, particularly on the issue of spare parts, insurers have not provided significant support to body repairers in terms of accessing manufacturer information, or assisting repairers by their own investigations.

3/ Unlike the UK, where the Thatcham Research Centre is funded by insurers to work with manufacturers on appropriate methods of repair and to provide a resource to body repairers, nothing on a similar scale exists in Australia. In the context of safe and use of appropriate repair methods, Australian insurers are too often focused on achieving the cheapest possible repair.

As part of any mandatory system of technical information sharing from manufacturers to body repairers, insurers must not be permitted to compromise safe systems of repair by forcing repairers to use repair methods in conflict with manufacturer information provided to repairers.

Similarly, manufacturer information on the use of correct parts should not allow insurers to force repairers to use non-standard or second-hand parts where this conflicts with manufacturer information.

Access to information generally

The introduction of a mandatory system of information share should be based on transparency, fair pricing, and the removal of artificial constraints such as requiring independents to be members of a Trade Club, which requires them to buy O/E parts.

There will need to be a balance in terms of consumer benefit, a more competitive repair market and the necessity to maintain high standards of repair and service to new vehicles by independent repairers, both mechanical and body.

Major industry associations representing manufactures and independent repairers must be given a role in the context of developing a system of information share which benefits consumers, and, which at the same time, does not harm either manufacturer or independent repairer interests by unintended consequences.

The intellectual property rights of component manufacturers who supply car producers with components must also be a consideration. Unlike earlier times when car producers effectively designed, developed and manufactured all major components that went into a build, external supply of many vehicle components is now the norm, and manufacturers have also used this issue as a reason for limiting information access. However, unless there are issues of passing off, the provision of service and repair specifications on these supplied components should not reduce the IP rights of component suppliers.

The draft report highlights that the current system of so-called information share based on the current Heads of Agreement does not work, and that a mandatory system of information share is the way forward. Hence, any future refusal by manufacturers to provide information must be based on consumer benefit rather than the reverse.

Industry participant 27 — Peter Rogers, Inspired Automotive Marketing

I have worked very closely with non-dealership workshops over many years. This is a very heartening report, containing highly considered, accurate and pertinent observations and most importantly, appropriate recommendations.

If the proposed outcomes are followed, I believe it will help to ensure a level playing field for tens of thousands of small business owners across the country.