

New car retailing industry market study.

My name is Ashton Wood and I run the Destroy My Jeep campaign.

I started this campaign as a warning-shot to Fiat Chrysler Australia that I would not put up with a \$50,000 lemon vehicle.

This campaign ended with the total destruction of the vehicle at an event that was attended by hundreds of Queenslanders and streamed on-line to millions of people around the world.

Fast-forward 2 years and I have been involved in three viral campaigns which each received worldwide attention.

I have been joined by others who have experienced similar concerns and we have spoken in parliament, run petitions and pressured the ACCC to investigate Fiat Chrysler Automobiles Australia (details of this investigation are at the end of this document).

We have been approached by countless consumers who are being misled on their consumer rights, so with no support offered through the formal channels, we have given guidance, contacted the media and given consumers a voice through direct coverage on the Destroy My Jeep Facebook page which has resulted in over \$900,000 of refunds to-date.

While we are proud of our achievements, we are very concerned that everyday consumers such as ourselves have to take these matters into our own hands.

We need an overhaul of the Australian Consumer Law and we need the ACCC to support the consumers who are left out in the cold when it comes to consumer protection.

Below are my responses to the market study in **RED**:

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?
The consumers are very unclear about the ACCC's definitions and responsibilities and it seems that the automotive industry are in no hurry to educate consumers on the supply chain or responsibilities of the manufacturers, dealer networks or after-market providers.
2. What search costs do consumers typically incur when buying a new car? Have online sales decreased these costs? **No Comment**

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? **No Comment**
 - (b) what are the common features of these contracts? **No Comment**
 - (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)?
During my escalation with my lemon Jeep, I asked for a copy of the contractual arrangement between Fiat Chrysler Automobiles Australia and the dealership (Cricks Noosa) and was denied my request on the basis that this agreement is confidential.
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?
No Comment
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?
Consumers build trust in a brand due to reliability and recommendations. In my case, I had owned a Jeep previously which had been flawless, so with that experience in mind, I purchased a more expensive model and expected the same reliability, only to discover that their build-quality process, complaints handling process and regard for consumer rights was non-existent.
6. What is the level of competition between participants in each sector of the market? For example between:
 - (a) authorised and independent dealers **No Comment**
 - (b) authorised and independent service and repairer operators **No Comment**
 - (c) authorised and independent parts distributors. **No Comment**
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? **No Comment**
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 Comment**
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 Comment**
10. What is the level of intra-brand competition (for example competition between retailers of the same branded product)? **No Comment**

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?

Consumer purchase of a new motor vehicle is a highly emotive purchase. The manufacturer does not "market" consumer guarantees and the dealer maintains all conversation on the customers' elated feeling of the purchase as well as the aftermarket extras available. The only discussions about consumer rights is when the salesperson is trying to sell the option of extended warranty, and obviously they encourage the person to take on the extended warranty as it's part of their remuneration reward.

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 Comment**

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?

Consumers do not expect problems with their new motor vehicle, so there is very little explanation and education given to people about their consumer rights.

When issues do arise, some dealers and manufacturers are known to mislead consumers on their rights, as has been proven time and time again with Fiat Chrysler Automobiles Australia and Ford Motor Company.

The ACCC launched an investigation on Fiat Chrysler Automobiles Australia (after many months of petitioning by myself and others) and put FCA on a "Redress" program, which is still in place today.

Ford are also under investigation for their handling of the transmission issues in some of their vehicles.

It is VERY clear that the Automotive industry cannot self-regulate, and currently the ACCC are doing a terrible job of holding the industry accountable.

I have personally been told by the ACCC that I will not receive updates of the ongoing FCA Redress Program as it is of "private nature".

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.

I have many examples of consumers being refused refunds and replacements, many of these cases have already been reported to the ACCC, so please check your records and use these as a reference in your investigation.

I also have cases of people being denied physical access into a dealership as they had reported so many issues of their vehicles.

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 Comment**

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.

Yes, in most cases, if the vehicle is out of warranty, the dealership will simply tell the customer they are not covered and will issue them with a quote for full payment for the repairs, I have seen this a LOT and there's not a lot the consumer can do about this with the ACL in its current state.

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?

Yes, this is normally the first thing a dealer will try with a consumer (a free service or reduced repair cost – just ask the Ford owners about that)

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 comment – the dealers can voice their opinion here.

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

I am unaware of what training the dealers are given, however it's very clear that limited information is given to the consumer at the point of sale.

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?

This is normally communicated quite well, with the intention of selling an extended warranty to the consumer!

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?

Many dealers now offer "fixed price servicing" in the hope to retain the customers' loyalty and the ability to charge for genuine parts that are required (at extra costs) during the servicing. Independent mechanics are doing a great job of informing consumers that their warranty is not void by getting their vehicles serviced outside of the dealer network, however if problems arise with the vehicle under warranty, the dealer is very quick to point the blame to the independent mechanic. I've seen a number of cases where the dealers claimed the incorrect oil or coolant was used. Upon investigation it was found that the correct products had been used, but the it was then up to the consumer to prove it.

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 Comment**

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.

Absolutely and on many occasions, CHOICE ran a story about this from the many "Gag Orders (NDA's) that consumers sent to them for review. The ACCC are already aware of NDA's being used as we have personally emailed many through to you. Please check your records and use these in your investigation.

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)? **No Comment**
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 Comment**
26. 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?
I'd suggest you review the Volkswagen emissions scandal that broke on September 18th 2015 and the EPA immediately investigated.
In December 2015 it was reported that the UK, Italy, France, South Korea, Canada and Germany had all opened investigations.
In September 2016 the ACCC finally instituted proceedings in the Australian Federal Court.

Questions on car performance

27. Other than those described above, are there any additional factors or measures that could be included in the term 'car performance'? **No Comment**
28. 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 Comment**
29. To what extent do claims relating to car performance affect consumer purchasing decisions? Please provide examples. **No Comment**
30. 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?
Yes, many of the Jeep ads show their vehicles being driven off-road with water above the door seals, however I have seen warranty claims void because mud was found under guards or under the carpets, with dealers citing that the warranty does not cover vehicles used under such conditions.
There needs to be a thorough investigation of advertising V's warranty cover for all vehicles... especially those marketed as all-terrain or 4WD.
31. Do you have suggestions of how claims made to consumers about car performance could be improved? **No Comment**

Questions on access to parts and tools:

32. 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? **No Comment**
33. What information is made available about different types of car parts to the market? Who makes this information available and when? **No Comment**

34. 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? **No Comment**
35. What issues, if any, have consumers and independent repairers had in accessing appropriate parts or tools to repair or service a new car? **No Comment**
36. 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 Comment**
37. 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 Comment**
38. 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 Comment**

Questions on logbooks, dealer stamps and online logbooks:

39. What is the purpose of a logbook? How is this communicated to consumers? What other uses are there for a logbook? **No Comment**
40. 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 Comment**
41. 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? **No Comment**

Questions on access to repair and service information and data

42. What repair and service information and data exists in relation to new cars? Who controls this information and data? **No Comment**
43. 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? **No Comment**
44. 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? **No Comment**
45. 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 Comment**
46. How is repair and service information and data accessed? What controls are there on accessing it? **No Comment**
47. What other methods exist for accessing repair and service information and data? What are the benefits or challenges of using such methods? **No Comment**
48. 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 Comment**
49. What issues have consumers experienced with accessing repair and service information? How do these issues impact them? **No Comment**

Questions on current Australian and international regulations

50. 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. **No Comment**
51. 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 Comment**
52. 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? **No Comment**
53. What other ways could repair and service information and data be shared or provided? Could or should the information and data be standardised? **No Comment**

Questions on new car dates

54. 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?
Consumers are REGULARLY misled on the manufacture date, compliance date and registration date of a vehicle. This happens on a regular basis with Jeeps, as there are many Jeeps sitting for months before a sale is made. I have examples of consumers who thought they were purchasing a 2016 model Jeep, only to find that it was built in 2015 but not registered until 2016. This affects the resale of the vehicle at a later date.

Questions on other issues

55. 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.

The current ACL is not clear enough with regard to the responsibility of the dealer and does not clearly state when a vehicle should be refunded or replaced.

In 2015, the Queensland government initiated a committee to review the current ACL. This committee recommended that the limit of the Queensland Civil and Administrative Tribunal be lifted or removed altogether.

The committee also recommended a review of the current Australian Consumer Law with the possible inclusion of a "lemon law" and the introduction of a register of lemon vehicles as they are identified.

These recommendations make it clear that there is a MAJOR GAP in the law as it stands today. Unfortunately, the ACCC have been very slow to act upon consumer complaints. When the ACCC have acted (through ongoing pressure), the resulting punishment made it very obvious that the ACCC are there to protect large corporates and not the safety and concerns of the Australian consumers.

This can be seen in two key cases:

Case one: A company was found to have used fake testimonials on their website – the ACCC investigated and fined this small company \$200,000

Case two: Hundreds of angry consumers lodged formal complaints with the ACCC about being misled by Fiat Chrysler Automobiles Australia with regard to their consumer rights and outright rejection of consumer rights (refunds or replacements) for vehicles that had major issues and safety concerns.

The ACCC reluctantly investigated and issued \$0 in fines and asked FCA to simply assign their own resource to contact unhappy customers as part of a redress program. The ACCC did not request the list of unhappy customers from FCA so there is no way the ACCC can monitor the success of this redress program. This has been very disappointing for all consumers and has been a national failure of the ACCC undertaking.

I approve the public release of this document and welcome further discussions.

Kind regards,

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