



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

August 2017



What we've been doing

Over the last year, we've been looking into competition and consumer issues in the new car retailing industry.

As part of the market study, we've 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
- access to repair and service information by independent repairers.

On 10 August 2017, we released a draft report summarising our findings and recommendations. We'll take into account further submissions and comments from consumers and industry when preparing our final report, which we expect to release in late 2017.

This guide provides a summary of the key draft findings and recommendations of our draft report that are relevant to new car buyers.

What we've found

Our investigation, consultation and research has identified the following issues.

Consumers are having a hard time enforcing their consumer guarantee rights under the Australian Consumer Law

Existing laws provide consumers with an extensive range of consumer rights to protect them from new cars that are defective or fail to perform as promised. In particular, the consumer guarantee provisions under the Australian Consumer Law (ACL) include the right to a refund, replacement or repair, regardless of whether the car is covered by a manufacturer's warranty or a dealer's extended warranty.

But when a new car is defective or fails to perform as promised, consumers often struggle to enforce their consumer guarantee rights. The biggest obstacle consumers face when trying to get a remedy is the failure of car manufacturers' complaints handling systems and policies across the new car industry to adequately take consumer guarantees into account.

Consumers are not receiving accurate information about the fuel consumption or emissions performance of new cars

Many consumers believe that advertised fuel consumption and emissions performance figures are what they will experience in real-world driving conditions. However, there is often a gap between advertised and real-world fuel consumption and emissions.

For example, we've seen research that indicates that real world fuel consumption is on average 25 per cent higher than official laboratory test results. This research also suggests that the gap between laboratory and real-world fuel consumption is not consistent across car types or brands, and has been increasing in recent years.

In some cases, manufacturers aren't appropriately qualifying the fuel consumption claims they make to consumers.

Independent repairers are experiencing issues gaining access to the technical information they need to repair and service new cars

We know that at least one in ten new car buyers use an independent repairer to repair or service their new car. However, we've discovered that some independent repairers are having problems accessing the technical information they need from car manufacturers to repair and service new cars.

We consider that independent repairers having access to this technical information is important to ensuring competition in the repair and service market, which ultimately benefits consumers. We have therefore proposed a mandatory scheme for car manufacturers to share technical information with independent repairers.

Recommendations and ACCC actions

In our draft report, we're recommending:

- The ACL be enhanced to:
 - provide consumers with additional clarity about when they are entitled to a refund or replacement under consumer guarantees
 - require specific forms of disclosure in relation to extended warranties.
- The introduction of more realistic laboratory tests for fuel consumption and emissions performance, and testing for vehicle emissions under real world conditions.
- Enhancing the quality of information that appears on mandatory fuel consumption labels, including the potential adoption of a star rating system to minimise consumer misunderstanding.
- A new mandatory scheme be introduced that sets out the rules for car manufacturers to share technical information with independent repairers. We suggest this should:
 - cover all car manufacturers operating in Australia
 - include real time access for independent repairers to the same technical information car manufacturers make available to dealers
 - provide a process for independent repairers to access security-related technical information.

We're also committed to:

- Working with manufacturers and dealers to develop a concise and simple explanation of consumer guarantee rights under the ACL, and their interaction with warranties, which should be provided to consumers when they buy a new car.
- Updating the *Motor vehicle sales and repairs - an industry guide to the Australian Consumer Law*, to ensure this publication provides additional guidance to consumers about consumer guarantees under the ACL. Guidance may also be designed for use by businesses, including dealers, regarding their rights and obligations under the ACL.



Enforcement

The ACCC has recently taken action against manufacturers in relation to consumer guarantees and emissions claims (see the case studies below).

Where appropriate, we'll continue to take enforcement action against new car manufacturers for conduct that is likely to mislead new car buyers, including in relation to consumer guarantees.

Recent actions connected with the ACCC's Enforcement activities

[Holden undertakes to comply with consumer guarantees](#)—2 August 2017

[ACCC takes action against Ford](#)—26 July 2017

[ACCC takes action against Audi over diesel emission claims](#)—8 March 2017

[ACCC takes action against Volkswagen over diesel emission claims](#)—1 September 2016

More information

For more information on the study, including to read the draft report and to find out how to make a submission, you can visit www.accc.gov.au/newcars.