

# TOYOTA

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## TOYOTA MOTOR CORPORATION AUSTRALIA LIMITED

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Ms Eti Abdulioglu  
Assistant Director, Consumer Markets Analysis  
Consumer & Small Business Strategies Branch  
Australian Competition & Consumer Commission  
GPO Box 520 | Melbourne 3001

18 September 2017

BY EMAIL: [eti.abdulioglu@acc.gov.au](mailto:eti.abdulioglu@acc.gov.au), CC [newcars@acc.gov.au](mailto:newcars@acc.gov.au)

Dear Ms Abdulioglu,

**RE: Toyota Motor Corporation Australia Limited submission – ACCC New Car Retailing Industry Market Study Draft Report**

**Key points:**

- Toyota Australia acknowledges the importance of consumer protection and the role of the Australian Consumer Law (**ACL**).
- Toyota Australia is committed to compliance with the ACL to ensure, among other things, that consumers maintain trust in Toyota products.
- Toyota Australia is of the view that our robust systems and processes adequately address current ACL and other legal requirements as identified in the Draft Report (as defined below).
- In line with our core business principle of continuous improvement, Toyota Australia believes that consumer awareness, access and protection measures should also be subject to reflection and adjustment or clarification as required.

1. This submission is made by Toyota Motor Corporation Australia Limited (**Toyota Australia**) in response to the New Car Retailing Industry - a market study by the ACCC Draft Report released on 10 August 2017 (**Draft Report**). In this submission, "Toyota Australia" includes Lexus Australia unless the context otherwise requires or indicates. Lexus Australia is a division of Toyota Motor Corporation Australia Limited.
2. Further, we refer to the ACCC New Car Retailing Industry Market Study Issues Paper (**Issues Paper**) released on 17 October 2016. Toyota Australia has not restated its submission to the Issues Paper dated 18 November 2016 (**Issues Paper Submission**) below. Toyota Australia advises that this submission should be read incorporating the positions and views of Toyota Australia made in the Issues Paper Submission.
3. Unless otherwise defined herein, capitalized terms in this response are as referenced in the Draft Report.

## (A) Background

4. Toyota Australia is a leading manufacturer, distributor and exporter of vehicles, operating under the Toyota and Lexus brands. Toyota Australia has offices Australia-wide with the exception of Western Australia, where an independent company distributes Toyota branded vehicles on our behalf. Toyota Australia distributes Lexus branded vehicles in Western Australia.
5. Toyota Australia is a wholly-owned subsidiary of Japan's Toyota Motor Corporation (**Toyota Japan**). We sell motor vehicles that are either imported to Australia or manufactured in Australia, to both private buyers and to private and government fleets. Consumers across the country are serviced by one of the most extensive dealer networks in Australia, comprising 297 dealerships (**Authorised Toyota Dealer Network**).
6. Established in 1937, Toyota Japan is one of the world's largest vehicle manufacturers. Toyota Japan conducts its business worldwide with 50 overseas manufacturing companies in 26 countries and regions. Toyota Japan's vehicles are sold in more than 170 countries and regions under the Toyota, Lexus, Daihatsu and Hino brands.
7. Toyota Japan is a leader in the automotive industry in environmental technologies with the success of its hybrid technology in a range of Toyota and Lexus vehicles. Fuel cell vehicles are also in development.
8. As Toyota Australia transitions to its future business model following the end of local manufacturing in 2017, we are focused on respecting and supporting all our stakeholders including employees, consumers and the supply chain.

## (B) Consumer Guarantees and Warranties

9. Toyota Australia believes that its current processes for monitoring and handling compliance with consumer guarantees and warranties relating to its products meet the standards set by the ACL. We see this adherence as vitally important to ensure that consumers maintain trust in Toyota products. The Toyota and Lexus products, and therefore our brands are synonymous with reliability and quality. With more Toyota and Lexus vehicles on the road in Australia than any other brand, the whole community is a key stakeholder for us, and crucial to our social licence to operate.
10. Toyota Australia supports the ACCC's proposed actions 3.1 and 3.2 of the Draft Report, being:
  - (a) proposed action 3.1: ACCC will work with manufacturers and dealers to develop a concise and simple explanation of consumer guarantees and their interaction with warranties to be provided to consumers at point of sale.
  - (b) proposed action 3.2: ACCC will work with other ACL regulators to publish an updated version of *Motor Vehicle Sales and Repairs - an Industry Guide to the ACL*.

11. As regards proposed actions 3.3 and 3.4, Toyota Australia is of the firm view that constructive dialogue and a co-operative approach between vehicle manufacturers and the ACCC/other relevant stakeholders should form the basis of our joint effort to ensure consumers are adequately protected. To this end, a measured approach should be taken when considering any future regulatory intervention, taking into account the complexities of modern motor vehicles, the industry and the general efficacy of current processes.

12. Toyota Australia otherwise reiterates its position as stated in the Issues Paper Submission and more specifically the following: Toyota Australia does not state or suggest to consumers that their New Vehicle Warranty will be 'void' or will no longer apply simply because a non-genuine part has been used or because a repair/service has been performed by an independent (non-Toyota) repairer. The New Vehicle Warranty will continue to be valid and apply in accordance with its terms.

**(C) Providing access to technical information to repair and service new cars**

13. Toyota Australia is satisfied that it provides access to its technical information for the purposes of repairs and services to new vehicles in accordance with legal requirements. We remain committed to our observance of our responsibilities under the *Agreement on Access to Service and Repair Information for Motor Vehicles 2014* (the **Agreement**).

14. With specific reference to the ACCC's draft recommendation 4.1, Toyota Australia conditionally supports the mandatory requirement to provide independent repairers with adequate access to technical information, on commercially fair and reasonable terms, to enable them to service and repair Toyota vehicles. Our support is subject to the introduction of corresponding mandatory requirements about the qualifications of aftermarket repairers, the parts they use, and their use of the technical information provided under any mandatory scheme in accordance with the Agreement.

15. In addition, if a mandatory scheme is introduced, then Toyota Australia would support consideration of a model for sharing technical information similar to the models used in other jurisdictions, if they are adapted to suit the Australian unique market conditions. Such a model would need to incorporate accreditation and authorisation processes to ameliorate the risks associated with sharing security-related technical information. Toyota Australia also notes that the Agreement recognises the importance of information protection and refers to intellectual property safeguards and security measures such as accreditation of users.

16. Toyota Australia otherwise reiterates its position as stated in the Issues Paper Submission.

**(D) Parts needed to repair and service new cars**

17. Toyota Australia is of the view that it fully complies with the relevant legal obligations in relation to the supply of parts to repair and service new vehicles. We believe this is supported by the consistently significant sales of parts by the Authorised Toyota Dealer Network to independent repairers.
18. Toyota Australia conditionally supports the ACCC's draft recommendation 5.1 and is willing to work with the ACCC and other relevant stakeholders on the development of a detailed classification system for 'security-related' parts in accordance with this draft recommendation.
19. Toyota Australia otherwise reiterates its position as stated in the Issues Paper Submission.

**(E) Fuel consumption, emissions and the ACL**

20. Toyota Australia considers that it currently discloses all relevant fuel consumption and emissions information to consumers in accordance with legal requirements.
21. Toyota Australia conditionally supports draft recommendations 6.1 and 6.2, that is:
- (a) changes to fuel consumption labels to improve the comparative use of the information supplied;
  - (b) introduction of a star rating system or estimate of annual operating costs may minimise the extent to which consumers interpret as absolute fuel consumption/emissions value as equivalent to real world driving conditions;
  - (c) measures to enhance the quality of information supplied to consumers directly being considered by the Ministerial Forum into Vehicle Emissions, including the replacement of the current emissions testing regime and introduction of an on-road "real driving emissions" (RDE) test.
22. Toyota Australia's support for these draft recommendations and proposed action is subject to the following comments:
- (a) The fuel consumption labels could be changed to improve the comparative use of the information supplied, however it should be noted that such information is already available on the internet;
  - (b) The introduction of a star rating system might assist consumers' understanding of the comparative values of test results across different vehicles, however:
    - (i) Toyota Australia would prefer if the system is developed so it is straightforward for manufacturers to use, thereby minimising any increases in compliance costs; and

- (ii) in Toyota Australia's view the efficacy of a star rating system is open to debate because it would still be based on a standard that might not represent the driving habits of all drivers.
- (c) Toyota Australia acknowledges that RDE testing is more representative of real driving conditions and therefore provides more relevant information for consumers, however:
  - (i) Toyota Australia again notes that the results would still be open to question because they might not represent the driving habits of all drivers;
  - (ii) The added costs to manufacturers should be considered in the development of any RDE testing scheme. It is understood that the RDE testing would be in addition to, and not instead of, the current laboratory testing, and therefore would result in an increase to manufacturers' compliance costs; and
  - (iii) The logistics of the additional testing should also be considered. It is understood that the RDE testing could not be conducted until after the launch of a vehicle, so the RDE testing facilities would have to be efficient enough to enable vehicles to be tested, labelled and ready for sale with minimum delay after launch. Also relevant to logistics is whether each state will have its own RDE testing circuit.
- 23. Toyota Australia regularly educates Authorised Toyota Dealer Network staff and provides technical training to ensure consumers are given accurate information on fuel consumption. Toyota Australia sets high franchise requirements for our Authorised Toyota Dealer Network to ensure that the entire Authorised Toyota Dealer Network is extremely well educated in our products as well as our expectations of high standards of consumer experience.
- 24. In particular, Toyota Australia provides comprehensive information about the characteristics of new Toyota and Lexus vehicles, including information about fuel consumption and CO2 emissions. We issue 'Dealer Bulletins' on this subject to educate Authorised Toyota Dealer Network staff about the fuel consumption and emissions characteristics of new Toyota/Lexus vehicles and in addition to providing technical training courses to our Authorised Toyota Dealer Network.
- 25. Toyota Australia welcomes the new emissions standards in Euro 6d, which will replace the current drive cycle testing regime (the NEDC) with the new Worldwide Harmonised Light Vehicles Test Procedure (WLTP).
- 26. Toyota Australia otherwise reiterates its position as stated in the Issues Paper Submission.

**(F) Other issues - Telematics**

27. Toyota Australia recognises that telematics technology is a developing area that raises issues of data use and privacy for motor vehicle manufacturers and consumers. Toyota Australia's current approach is to continue to handle all consumer information in accordance with applicable legislation and our privacy policies. Whilst Toyota Australia intends to maintain that position as telematics technology becomes more prevalent, it holds the view that draft recommendation 7.1 is too onerous in its proposal for a comprehensive right for consumers to access digitally held data about themselves, including the right to direct data custodians to provide copies of the data to a nominated third party. Toyota Australia would, however, be willing to work with relevant stakeholders to develop a suitable solution to this emerging issue.

Yours sincerely

**TOYOTA MOTOR CORPORATION LIMITED**



**Simone Zerial**  
**Senior Solicitor / Legal Manager**