

TOYOTA

TOYOTA MOTOR CORPORATION AUSTRALIA LIMITED

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Dear Ms Abdulioglu

RE: Toyota Motor Corporation Australia Limited submission – ACCC New Car Retailing Industry Market Study Issues Paper

Key points:

- The new car retailing market is highly competitive and competition is increasing.
- Toyota Australia (through both the Toyota and Lexus brands) is responding to this competition through continuously improving its product range/features/innovation, dealer retail offers and consumer experience.
- The consumer experience covers search, comparison (intra- and cross-brand), purchasing, owning, servicing and, if applicable, repairing and trading-in a vehicle. Toyota Australia strives to provide an outstanding consumer experience across all areas.
- Transparency about vehicle characteristics, parts, accessories, tools, Toyota warranties, consumer guarantees, and repair and service information and data are important aspects of the way that Toyota Australia competes with other brands.
- There are some industry business models and practices that are not in the best interests of consumers (eg. vertical integration of insurers and vehicle repairers, counterfeit parts, independent repairers not using manufacturer repair and service information, independent repairers not carrying out repairs according to manufacturers' specifications or recommendations).
- There needs to be mandatory requirements that independent repairers: (i) disclose the source of parts used in performing service/repairs for consumers, (ii) demonstrate that they are qualified to work on vehicles, and (iii) have secured appropriate access to and have used manufacturers' service and repair information for relevant models and servicing/repair tasks.

1. This submission is made by Toyota Motor Corporation Australia Limited (**Toyota Australia**). In this submission, "Toyota Australia" includes Lexus Australia unless the context otherwise requires. Lexus Australia is a division of Toyota Motor Corporation Australia Limited.

(A) Background

2. 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 pursuant to a Distribution Agreement with Toyota Australia. Toyota Australia distributes Lexus branded vehicles in Western Australia.
3. Toyota Australia is a wholly-owned subsidiary of Japan's Toyota Motor Corporation. The Authorised Toyota Dealer Network sells vehicles that are either imported into Australia or manufactured in Australia, to both private buyers and to private and government fleets. Our customers are serviced by the extensive Authorised Toyota Dealer Network which operates over 290 Toyota Service Centre branches across Australia.

(B) New car retailing market

4. Toyota Australia agrees with the Issues Paper's statements at section 1.1 that the new car market in Australia is diverse and growing, and is experiencing a high level of import penetration and increased competition.
5. There is a high level of consumer substitution between brands in this market. The average loyalty rate at present for the mass car market is approximately 40%, meaning that 60% of consumers switch brands when buying a new car.
6. The increased competition and availability of diverse brands has given consumers a great range of choice.

(C) Manufacturer warranties and new cars

7. Toyota Australia's website provides details on the Toyota New Vehicle Warranty to all consumers.
8. At purchase, the purchaser is provided a copy of the Warranty and Service book (or logbook). This informs the purchaser of their rights and the consumer guarantees under the Australian Consumer Law – see paragraph 17(b) below for excerpt. The Warranty and Service Book also provides the purchaser information about when each of the Toyota New Vehicle Warranty, Corrosion Perforation Warranty and Toyota Genuine Accessories Warranty commence and expire, and their scope of coverage. This book is provided by Toyota Australia in all new vehicles, details of which are explained to the customer by the dealer during the purchase process.
9. Toyota Australia does not state or suggest to customers that their Toyota 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 Toyota New Vehicle Warranty will continue to be valid and apply in accordance with its terms. Toyota Australia agrees with the statement in the Issues Paper that "provided independent repairers are qualified, use appropriate quality parts and repair according to manufacturer specifications, the manufacturer's warranty [in this context, the Toyota New Vehicle Warranty] will remain valid." (section 2.4, Issues Paper).
10. However, there are significant practical difficulties in establishing whether an independent repairer has used appropriate quality parts for vehicle servicing or repair, or whether repairs have been carried out according to manufacturer specifications. Those difficulties are outlined in sections (E) and (F) below. Because of those difficulties, Toyota Australia clearly communicates to its customers that non-genuine parts and any damage caused by the use

of a non-genuine part will not be covered by a Toyota warranty. However, as noted above in paragraph 9, the Toyota New Vehicle Warranty will remain valid in accordance with its terms.

(D) Fuel consumption and CO2 emissions

11. Competition in new car retailing has many dimensions, including brand, price and performance. Transparency about each of these dimensions is an important aspect of the way in which Toyota and Lexus compete with other brands. 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 dealer staff about the fuel consumption and emissions characteristics of new Toyota/Lexus vehicles, in addition to providing technical training to dealer staff. Toyota Australia sets franchise requirements on our dealer network to ensure that the dealer network is extremely well educated in: (i) our products, and (ii) Toyota's/Lexus' expectations of high standards of customer experience.
12. Toyota Australia is transparent with consumers in stating that fuel consumption values are provided for comparative purposes only. Our references to fuel consumption make it clear that values were achieved in test conditions, are provided for comparison purposes only, and that actual fuel consumption may vary depending on driving conditions and style, vehicle condition, and options or accessories fitted to the vehicle.

(E) Post-sale service markets

13. Toyota Australia actively works with individual dealers to encourage the maintenance of a balanced business model that is not overly reliant on any particular aspect of the total value chain, including post-sale service.
14. There is substantial competition in the automotive service industry between authorised Toyota repairers and all other repairers. Toyota parts centres face competition from sellers of non-genuine parts, parallel imports of genuine parts, second-hand (or used or 'green' parts – see paragraph 26(e) below) as well as counterfeit parts.
15. The Issues Paper raises the important issue of the interaction between servicing, manufacturer's warranties and choice of repairers.
16. As noted above (paragraph 8), all new Toyota vehicles include a copy of the Warranty and Service Book which contains clear statements about the consumer's rights under the Australian Consumer Law as well as the Toyota New Vehicle Warranty.
17. The Warranty and Service Book (or logbook) includes the following:
 - (a) Vehicle information (eg. VIN, Warranty Start Date);
 - (b) Consumer rights information as follows:

Important Notice

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

No Toyota Warranty and nothing in this Warranty and Service Book limits the consumer guarantees under the Australian Consumer Law in any way. In some circumstances your rights under those guarantees may be greater than your rights under the applicable Toyota Warranty, in which case Toyota will always honour your rights under the guarantees.

- (c) Toyota warranty policies and information;
 - (d) Maintenance requirements ; and
 - (e) Maintenance record-keeping forms.
18. The Issues Paper states that "provided independent repairers are qualified, use appropriate quality parts and repair according to manufacturer specifications, the manufacturer's warranty will remain valid." [see section 2.4]. However, there are very significant practical difficulties to establish whether an independent repairer has used appropriate quality parts in vehicle servicing or repairs, or whether service and repairs have been carried out according to manufacturer specifications. Demonstrating qualifications and service/repairs according to manufacturer specifications is addressed in sections **(F) Access to parts and tools** and **(G) Access to repair and service information and data** below.
19. Some independent repairers do not disclose the source of parts to consumers so determining whether an independent repairer has used appropriate quality parts can be very difficult. There needs to be a requirement for independent repairers to disclose the source of the parts that they use. See paragraphs 40 – 42 for more detail.
20. In addition, over the years, we have increasingly seen more examples of counterfeit parts for sale in Australia. These potentially present serious safety risks. We cannot guarantee the safety of any parts other than those sold by the Toyota/Lexus dealer network. As a consequence, Toyota's New Vehicle Warranty expressly excludes damage caused by fitment of non-genuine parts (see paragraph 23 for example).
21. Recent examples of counterfeit parts and the safety risks they raise include:
- Counterfeit airbag spiral cables being sold in Australia by two retailers. Following Federal Court action by Toyota against these retailers, a raid was conducted by Chinese authorities of the facility in China where the counterfeit products were sourced. Over 33,000 counterfeit Toyota parts were seized in this raid.
 - Counterfeit Toyota brake pads sold by another Australian retailer which, when tested, were found to contain asbestos. It should also be noted that brake pads containing asbestos pose significant health risks to technicians who may be exposed to the harmful substance when servicing vehicles fitted with these dangerous counterfeit parts. A voluntary recall was conducted of these brake pads. The same retailer was also selling counterfeit spiral cables, water pumps and wheel bearings.
 - Australian Border Force has seized many counterfeit Toyota parts including oil filters, hubcap covers, engine mounts and grilles.
22. As a consequence, Toyota Australia recommends that new Toyota vehicles are serviced at Toyota Authorised Service Centres (which only use Toyota Genuine Parts), including the following recommendation in the Warranty and Service Book:

Who should service my Toyota?

One of over 290 Toyota Authorised Service Centres, that's who. After all, every Toyota Authorised Service Centre offers specialist Toyota trained Technicians who work on Toyotas day in and day out. They understand what makes your Toyota "tick", delivering quick and accurate diagnosis of your vehicles health. Toyota Authorised service centres have access to the latest diagnostic equipment and specialist service tools along with receiving regular updates from Toyota. And because Toyota Authorised Service Centres only use Toyota Genuine Parts which are covered by a 12 month warranty, you'll keep your Toyota, and your warranty, in far better condition. Not to forget that a full service history from a Toyota Authorised Service Centre may also enhance the resale value of your vehicle.*

** All Toyota Genuine Parts carry a 12 month Toyota Warranty. Conditions apply. The Toyota Genuine Parts Warranty does not limit and may not necessarily exceed your rights under the Competition and Consumer Act 2010.*

23. Toyota Australia clearly informs consumers about the interaction between different types of car parts and Toyota's express warranties. The Warranty and Service Book states:

In order to help protect yourself and your Toyota, non-genuine parts are not covered by your Toyota New Vehicle Warranty. In fact if a non-genuine part is fitted to your vehicle, and that item causes any damage, the damage will not be covered by your Toyota New Vehicle Warranty.

Toyota does not approve of the fitment of non-genuine performance enhancing products such as power chips, forced induction products, suspension components, etc. as these products typically impart forces / loads greater than the original design intent and may compromise the vehicles longevity and durability.

24. Despite the competitiveness between authorised Toyota repairers and other repairers (paragraph 14), other areas of the post-sale service market do not appear to be as competitive. The vertical integration of the insurance and body repair industries (which is not permitted in other markets such as Japan and USA) results in some repair practices that are not necessarily in the consumer's best interest. Such integration tends to result in those insurers referring insured claimants to their vertically integrated repairer, and the repairer engaging in practices to reduce cost at the expense of quality, for example, using second hand parts, or not all of the necessary parts being replaced. In many cases the consumer is totally unaware of the types of parts being utilised in the repair or the variance in repair practice from the manufacturer's recommendations. Such cost/quality minimisation is not in the consumer's interest and stifles competition by excluding other repairers.

(F) Access to parts and tools

25. The definitions adopted by Toyota Australia of genuine, Original Equipment Manufacturer (OEM), parallel and aftermarket parts differ slightly from those set out in section 4.2 of the Issues Paper.
26. Toyota Australia adopts the following terminology:

- (a) 'OEM parts' means those parts included with the vehicle at the time of manufacture.

- (b) Genuine parts are those parts that are designed, developed and tested by Toyota and sold under the Toyota brand.
- Toyota Australia generally refers to genuine parts and OEM parts interchangeably as both are Toyota branded parts and comply with Toyota's stringent engineering standards. In most cases, genuine parts and OEM parts (as defined above) are the same.
- (c) Parallel parts are genuine parts which enter Australia via unauthorised supply channels. In some cases, parallel parts are made for vehicles in different countries and therefore have different specifications to the Australian equivalent. Toyota Australia cannot guarantee that the specification of a parallel part is the same as that intended for an Australian vehicle.
- (d) Aftermarket parts are produced by sources other than Toyota as an alternative to a genuine or parallel part. These aftermarket parts are marketed under different brands and have no association with the Genuine Toyota brand.
- (e) In addition to the parts described above, there are also second-hand parts (also referred to as used or 'green' parts) which are parts salvaged from a used vehicle.
27. In the interests of customers, Toyota recommends the use of new, genuine parts when repairing or servicing Toyota vehicles as these parts were designed specifically for the vehicle and will ensure that the vehicle continues to function with optimum safety and reliability (see paragraph 23 for example).
28. In relation to all other parts described above, Toyota cannot guarantee the performance, safety or reliability of the part.
29. Toyota provides customers with information about the benefits of genuine parts through a range of materials including the Toyota website. See for example, <https://www.toyota.com.au/owners/parts>.
30. Toyota dealers at Authorised Toyota Service Centres around Australia also offer customers information about the benefits of genuine parts, for example through brochures.
31. The FCAI's *Genuine is Best* campaign also offers information on its website about the different types of car parts available to the market.
32. All Toyota Genuine Parts are available for sale from any Authorised Toyota Dealer. As a manufacturer, we do not sell parts and tools directly to consumers; our activities are conducted through the Authorised Toyota Dealer network. A large portion of Toyota's after sales parts supply is to trade customers via Toyota Dealer parts centres. Toyota is not aware of consumers or independent repairers having issues with accessing Toyota Genuine Parts.
33. Toyota makes all efforts to ensure that Genuine Parts are available for at least 10 years from the initial sale of a new vehicle in Australia. In many cases, parts are available for longer than 10 years.
34. Toyota Genuine Parts, tools, repair and service information and data are readily available to consumers and to the aftermarket.
35. Special Service Tools can be purchased from any Authorised Toyota Dealer. The part number is contained within the repair manual and the Special Service Tools can be ordered from any Toyota Dealer just as you would order a spare part.

(G) Access to repair and service information and data

36. Toyota Australia has always fully complied with the *Agreement on Access to Service and Repair Information for Motor Vehicles 2014 (Heads of Agreement)*¹, and since 2013 has made service and repair information easily obtainable online.
37. Toyota Australia makes available from www.toyotamanuals.com.au a number of current guides for free and Toyota manuals on a subscription basis (see paragraph 38 for examples). Subscriptions are available on daily/weekly/monthly/yearly access from as low as \$5.42/day for an annual subscription. The information provided is the same as that provided to Toyota Dealers. .
38. The documents available at www.toyotamanuals.com.au include (but are not limited to):
- (a) Towing Guide – free access
 - (b) Multimedia Guide – free access
 - (c) Emergency Responder Guides – free access
 - (d) Service and Repair Manuals – paid access
 - (i) General Repair
 - (ii) Diagnostics
 - (iii) Electrical Repair
 - (iv) Body Repair (Accident)
 - (v) New Car Features
 - (vi) Service Specifications
 - (vii) General Maintenance
 - (e) Warranty and Service Books – paid access
 - (f) Owner's Manuals – paid access
39. Toyota Australia has advertised the availability of the information on that site. Numerous consumers have accessed the site. Our latest data shows that we have 8 times more Toyota vehicle owners (consumers) accessing repair manuals from the site than independent repairers.
40. Some independent repairers also access the repair manual site, however, their access and usage is very low compared with access and usage by Toyota vehicle owners (consumers). The "Choice of Repairer – Code of Practice" implemented by the AAAA has no requirement for their members to obtain access even if it is provided. This might explain the low access rates to the extensive and comprehensive information provided.

¹ FCAI, AAA, AAAA, AADA, AMIF, [Agreement on Access to Service and Repair Information, 2014](#).

41. Toyota Australia does not support any mandatory requirement to provide access to this information unless there is a corresponding mandatory requirement for aftermarket repairers to access and use this information. Given the low take up rates on aftermarket repairers accessing the information provided by manufacturers, a mandatory requirement would typically just add costs to manufacturers which are eventually passed on to consumers through higher prices. Voluntary compliance has resulted in the majority of manufacturers providing service and repair information to the aftermarket.
42. There needs to be a requirement for aftermarket repairers to demonstrate that they are qualified to work on the vehicles and have secured appropriate access to and have used manufacturers' service and repair information for relevant models and servicing/repair tasks.

(H) Other remarks

43. These are some of the major issues that we think will affect competition and consumers:
- (a) The growth of the internet as a source of information and the role of third-party sites to help consumers be more informed (subject to credibility and reliability of online information). This encourages competition and cross shopping.
 - (b) Emergence of other channels for new vehicle sales (eg. online).
 - (c) Government policy/rules around imported second-hand cars. Overseas models differ to models sold in and designed for the Australian market. For instance, the emission and safety features of overseas models are often different and may not meet Australian standards. Overseas imports may lack warranties, service manuals and defined recall processes that vehicles intended for the Australian market would ordinarily offer to consumers.

Yours sincerely

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