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Our ref: RN10000433
Contact officer: Andrew Mahony
Contact phone: (03) 9290 1983

17/09/2020

adjudication@acc.gov.au

www.acc.gov.au

Via email

Dear Sir / Madam

**Mitsubishi Motors Australia Limited—Exclusive dealing notification
RN10000433—interested party consultation**

The Australian Competition and Consumer Commission (the **ACCC**) has received an exclusive dealing notification from Mitsubishi Motors Australia Limited (**MMAL**). The ACCC invites you to comment on the notification.

Under the notification, MMAL proposes to introduce an amended warranty offering whereby MMAL will offer a 10-year (or 200,000 km, whichever occurs first) warranty to purchasers of new Mitsubishi vehicles on the condition that the purchaser exclusively acquires aftermarket servicing from an MMAL dealer or service centre.

The purpose of this letter is to invite you, as a potentially interested party, to comment on the notified arrangements. Further information about the notification process is provided in the ACCC's [Exclusive Dealing Notification Guidelines](#). If you do not wish to make a submission, no further action is required from you.

Exclusive dealing conduct and the notification process

Broadly, exclusive dealing occurs when one person trading with another restricts the other's freedom to choose with whom, in what or where they deal. Exclusive dealing arrangements breach the *Competition and Consumer Act 2010* (the **Act**) if the restriction is likely to have the purpose, effect or likely effect of substantially lessening competition. By lodging a notification with the ACCC, businesses obtain protection from legal action for exclusive dealing conduct. This protection commences immediately and remains unless or until the ACCC revokes that protection.

The ACCC can only remove the protection from legal action provided by a notification if it is satisfied that the notified conduct:

- has the purpose, effect or likely effect of substantially lessening competition, and
- in all the circumstances, will not result in any likely public benefit(s) which would outweigh any likely public detriment(s).

Details of MMAL's notified arrangements

MMAL is an importer and distributor of Mitsubishi branded motor vehicles in Australia.

Currently, MMAL offers a five-year warranty for new Mitsubishi vehicles. Under the notified arrangements, purchasers will continue to remain entitled to a five-year warranty for their new Mitsubishi vehicle when they service their vehicle in accordance with MMAL's service

schedules and associated documentation (regardless of whether they service their new Mitsubishi vehicle at an MMAL dealer or service centre).

Under the notified arrangements, in addition to the five-year warranty, purchasers will be entitled to a 10-year warranty (that is, the initial five-year warranty plus an additional five years) where (in addition to complying with MMAL's service schedules and associated documentation) they exclusively service their new Mitsubishi vehicle with an MMAL dealer or service centre.

Where a purchaser chooses to service their new Mitsubishi vehicle with a non-MMAL dealer or service centre, they will lose the benefit of the 10-year warranty going forward, but will retain the benefit of the five-year warranty.

Purchasers will remain able to obtain repairs (as distinct from servicing), including repairs undertaken pursuant to the consumer guarantees set out in the Australian Consumer Law, from an independent repairer or service centre without affecting the 10-year warranty.

A copy of the notification is **attached** to the email. Updates on the matter as it progresses will be available on the ACCC's [Notifications Public Register](#).

Request for submissions

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements.

If you intend to provide a submission in relation to MMAL's notification, please do so by **2 October 2020**. Submissions should be emailed to adjudication@acc.gov.au with the subject RN10000433– Mitsubishi Motors Australia Limited – submission'.

Alternatively, if you would like to provide comments orally, please contact Andrew Mahony on (03) 9290 1983 to organise a suitable time.

Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request for exclusion. Please see the ACCC's publication [Guidelines for excluding information from the public register](#).

Timetable

The ACCC will progress its assessment of the notification in a timely manner. An indicative timetable is set out below for your information

11 September 2020	Lodgement of notification.
17 September 2020	Public consultation process begins.
2 October 2020	Closing date for submissions from interested parties.
9 October 2020	Applicant responds to issues raised in the public consultation process.
October 2020	ACCC decision to either issue a draft notice to revoke the notification or to take no further action and allow the notification to stand.

You can forward this letter to any other party who may wish to make a submission to the ACCC regarding the notification.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Andrew Mahony on (03) 9290 1983 or adjudication@acc.gov.au.

Yours sincerely

A handwritten signature in blue ink that reads "Black." with a period at the end.

Susie Black
Director
Adjudication Branch

List of interested parties consulted

Berwick Mitsubishi

Eric Insurance

Harrier National

Hobart Mitsubishi

Irelands Mitsubishi

John Huges Mitsubishi

Kelly Mitsubishi

Kings Mitsubishi

K-Mart Tyre and Auto

Liverpool Mitsubishi

Lube Mobile

Northeast Mitsubishi

Northshore Mitsubishi

Nundah Mitsubishi

Repcos Service

Riverland Mitsubishi

Toowong Mitsubishi

Tynan Mitsubishi

Ultratune

Wanneroo Mitsubishi

Youngs Mitsubishi