

**Presenting**

**A Submission on behalf of the readers of  
*Australian Fisherman & Boatowner ("F&B")*  
magazine**

**to**

**The Australian Competition & Consumer Commission**

**Re: Marine Power International Pty Ltd  
Notification N93925**

## **Re: Marine Power International Pty Ltd Notification N93925**

We are in receipt of the Application by Marine Power International Pty Ltd to alter their terms of trading in respect of the proposed “Premium Dealer” agreement.

- We understand this would allow Marine Power International to virtually exclude any Premium Dealer from ever having the opportunity of genuinely retailing alternative brands of outboard motors from other engine manufacturers.
- According to the report we’ve studied, Marine Power International are trying to establish that this will somehow *increase* consumer competition on the Showroom floor, and will be of a *significant benefit* to the Australian boating consumer.

In contrast, we would contend, on behalf of *Australian Fisherman & Boatowner* magazine’s 8,000-10,000 national readers, that nothing could be further from the truth.

It is our contention that the word “competition” as it applies to a boating consumer purchasing goods from a boat retailer, implies that there will be a *competitive* situation; by definition, this would involve more than one option for the consumer to make a properly considered purchase decision. This begs the obvious question: *If a Mercury outboard is the only “option” available to the consumer, wherein lies the competition?*

What is particularly duplicitous about this Application, is that it has been carefully crafted to allow the creation of an elite group - Mercury’s top retailers - under the guise of ‘public benefit’ when it really has nothing to do with ‘public benefit’ at all.

It is totally about shoring up Mercury's fast shrinking share of the Australian outboard market.

In fact, it is a subterfuge for the main game. At stake here is not the issue of Mercury retailers selling Mercury product exclusively – the real issue behind this Application is that Mercury Marine International want to use their exclusive OEM (Original Equipment Manufacturer) arrangement with Telwater Pty Ltd, to supply Telwater, with Marine Power International product – specifically, Mercury outboard motors - *to the exclusion of all other brands of outboards.*

By defining the top Mercury dealers' showrooms as exclusive Mercury retail outlets, and effectively banning any other outboard brand from the purchase process, the boating consumer who wishes to purchase a Quintrex – ***yes, the biggest selling brand of boat in Australia*** - from that dealer, will have absolutely no choice whatsoever as to the type, power, weight, and importantly, the price of the engine in the retail package.

This would be a disastrous situation for Australian boating consumers.

It's all very well for Marine Power International to talk about the vigorous "competition" in the marketplace, and state they only intend to appoint "Premium" Marine Dealers in busy areas – but in the real world, that is hogwash.

In reality, there is only one *Telwater* dealer in a given district anyway (a brutally controlled situation that has already had to be tested by the ACCC) so by definition, if the Premium Mercury Dealer has the Quintrex, Stacer or Savage franchise, nobody else will have that franchise within (commonly) hundreds of kilometres. And that includes most capital cities.

In other words, Marine Power International will have 'locked up' the exclusive rights to packaging Quintrex with their engines, whether the boating consumer wants it or not.

***If this Application is successful, the ACCC will, by the precedent a successful Application here will create, be powerless to prevent a further Application from Marine Power International to create an identical***

***“Premium Dealer” Arrangement with Marine Power International’s network of Mariner dealers – 99% of whom sell Telwater’s Stacer brand.***

Surely, by any economic, free-trade or competitive standard, this must be considered a serious restraint on the consumer’s right to a genuine freedom of choice.

#### **Public Benefit Claims (Point 4)**

It is not the writer’s intention to comment on the wholesale and retail arrangements described in this application because we believe it is of little relevance to the Application or the Australian boating consumer.

**However, we would like to lodge an objection to the Public Benefit Claims listed on page 7 of the application.**

Of the four main subsets, *not one of them has any demonstrable public benefit.*

**Subset 1:** *“encourage the dealer to consolidate . . .*

This double paragraph is specifically written to outline *the benefit to the dealer* – and to suggest that these “efficiencies” may include “reduced product delivery and holding costs” (etc) is simply a pipe dream; a nonsense. Nothing of the sort will occur in this economic climate.

**Similarly Point 2** in that subset, states *“this may assist consumers to make more informed choices about their purchases”* is highly unlikely to occur when the only product literature the consumers are going to receive is that provided *by the said Premium Mercury Dealer.*

It seems highly unlikely he’s going to advise the consumer about the benefits of a Honda, Yamaha or Suzuki outboard engine.

Similarly for Marine Power International to talk about *“encouragement will result from the Dealer’s increased security of tenure”* as having some sort of relevance to the boating consumer, is absurd.

Similarly the other paragraphs in this section headed Public Benefit, are totally fallacious as the Dealer receiving a benefit from being a Premium

operator (and getting, typically, a sales 'reward' and a free trip to Thailand as a result) will scarcely have any beneficial impact on the boating consumer being nailed to the Showroom floor.

**In our opinion, Section 4, "Public Benefit Claims" has not identified a single public benefit.**

### **Public Detriment – Item 6**

The fundamental argument from Marine Power International in Section 6 that "*the market is strong and the competition is fierce*" is laughable.

There have never been so many marine retail outlets shut-down as we've witnessed over the past 12 months (alone) in the Australian boating industry. Sea Media's excellent, up-to-the-minute database contained over 900 dealers a decade ago, but now contains less than half that figure.

Whole cities – Canberra, for example - do not have a boat dealer at all. Even in the very big capital cities such as Melbourne, Sydney and Brisbane, dealerships are centralising into a handful of very experienced dealers who have the financial wherewithal to stave off the impacts of a formal recession.

For Marine Power International to state that:

*"Competition in this retail market is strong and Marine Power International believes that the appointment of Premium Dealers in these markets will promote brand specialisation and inter brand competition between resellers."*

*"Marine Power International believes that there are no reasons for expecting that the proposed introduction will lead to any lessening of competition or other public detriment in the other markets identified."*

These two statements are just terribly wrong. How can banning an alternative brand of outboard motors from a Mercury dealer's showroom floor **NOT** "*lessen the competition*"?

It will certainly lessen the competition for Marine Power International (that much is patently obvious) but it will be to the detriment of the boating consumer.

*The consumer won't have a choice.*

We would also contend that competition in the Australian boating marketplace is not strong at all. Further, since Telwater aligned themselves so closely to Marine Power International, competition between so-called competitive brands has already declined to an extremely serious situation.

With this proposal, Marine Power International are now trying to leverage themselves into a situation that will give them an even tighter grip on the marketplace.

*In our view, if this proposal is allowed, there will be a very serious erosion of fair competition in the marketplace.*

### **Other Views: Competition Is Good – Isn't It?**

No doubt Marine Power International will argue they have the right to become the exclusive supplier of engines to any boat builder who wants to use their products. Nobody is going to argue with that.

Similarly, Telwater have the right to (in effect) “auction” the rights to supply engines for their big range of Quintrex, Stacer and Savage boats.

Nobody is going to argue with that, either.

At issue though – *and it is never brought out into the open* – is that when these two dominant marine companies get together, free and fair competition for the boating consumer is inevitably lost.

And whilst there are obvious advantages for Marine Power International in this ill-perceived not to say *selfish* synergy between an iconic Australia boat builder and a global engine manufacturer, what is best for the end consumer, runs a distant last.

Ironically, the original (pre-2000) ‘free and fair’ trading situation where-in the consumer could (traditionally) go to his dealer of choice, and order the boat of his choice, with the engine of his choice - was so successful, it lead

to 30 years of spectacular growth in the boating industry from the 1970s to the Y-2000.

Since then, and given the bitterly contested loss of the industry's free trade capacity (such as that espoused by the existing and extremely controversial Marine Power/Telwater supply agreement) even the most cursory study of industry data reveals an alarming downturn in the fortunes of the Australian Boating Industry in the last decade.

*Years before the onslaught of the GFC and its attendant recession.*

But in discussions about 'free trade' and the rights of the boat builder (especially by Telwater) debate is usually grounded in the car industry analogy: a consumer purchasing a Holden doesn't have a choice of engines – it is simply assumed the engine is part of the package.

Nobody expects to buy a Holden with a Ford Falcon engine, or a Toyota with a Mitsubishi engine. *So the argument goes . .*

But this is not the car industry, and the wholesale and retail structure is totally different. *Telwater* do not make the engines they are supplying as integrated boat/motor/trailer/packages.

This is not vertical integration of Telwater product.

Indeed, as we understand it, more Quintrex are still sold with Yamaha engines than they are with Mercury - which no doubt causes great consternation in the Mercury camp, as they have clearly paid a small fortune for the rights to supply their engines to the Telwater trifecta.

The problem with all of these trade-machinations, is that the poor 'mug consumer' who chooses to live in regional Australia in places such as Ingham Qld, Alice Springs, NT, Karatha WA, Queenstown, Tas (etc) is seriously disadvantaged by this proposal – and even his city based counterpart will suffer in the ultimate discovery that there is usually only one Mercury Quintrex dealer in their city.

**Expecting to get a competitive quotation from the only dealer with a city-based monopoly on the Quintrex product, is not realistic.**

It is wrong that a consumer has to purchase the Quintrex, Stacer or Savage from the Mercury dealer in a regional centre (such as you'll find in Townsville, Rockhampton, Mackay, etc) when in fact his local outboard dealer is a Honda, Yamaha or Suzuki dealer who cannot 'get' the Telwater dealership, because he sells an "unacceptable" brand of outboard.

"Unacceptable" to Marine Power International, that is! This has nothing to do with the consumer's choice – and in most instances we have investigated, nor is it the desire of the dealer.

Without exception, the marine dealers all hate being bludgeoned into a corner with brand leverage; there has been countless well documented court cases at the State and Federal level to evidence this point.

The Australian marine industry is a very unusual marketplace. It's scattered over a huge continent and consumers have no end of trouble getting good service and satisfaction to pursue their favourite pastimes of fishing and boating.

This Application by Marine Power International is all about what suits Marine Power International, it has NOTHING to do with consumer benefit.

We contend they have not identified a single advantage for the Australian boating consumer in this Application.

Marine Power International is a company on the brink of a financial tsunami threatening to engulf their entire global operation.

Any reasonable person, made aware of the relevant facts 'from the man on the street' as distinct from smart lawyers in the CBD, would find it extremely hard to believe that Marine Power International are paying more than lip service to the consumer, given MPI's present financial circumstances.

This is why we object strongly to this application by Marine Power International as they try and leverage their position in the marketplace to **the unambiguous detriment of the Australian boating consumer.**



### **About The Author**

Peter Webster is a 63 year old Editor and 50% owner of the marine publishing company, Sea Media Pty Ltd. Sea Media is unusual in that it is one of a handful of companies that work exclusively in and around the Australian marine industry.

Peter Webster has been deeply involved in the industry for 35 years, and has been a working journalist in this field throughout that period. In the 1970s and 1980s, he was the Editor and a director of the AB Group of magazines which included such notable titles as *Australian Boating*, *The Cruising Skipper*, *Trailerboat Fisherman*, etc.

It was the biggest marine publishing group in Australia which collapsed in the 1988 recession, along with most of the boating industry. Recessions are not new to the boating industry; this is the fourth Peter has worked through.

Peter is a regular consultant to the boating industry. Together with his co-Director, Ruth Cunningham (a specialist in marine chandlery, publishing, data-basing and IT development) Sea Media has extensive experience and knowledge of the structure, size and direction – and limitations - of the Australian boating industry.

*This submission has been written by Peter Webster on behalf of SEA Media Pty Ltd, and “F&B” readers throughout Australia.*

It's important to acknowledge that we have carried advertising from virtually every recognised boat building company in Australia over the years, and publish the industry's only (monthly) outboard database of specifications and recommended retail price lists on behalf of every outboard manufacturer, including the Mercury/Mariner brands.

*Australian Fisherman & Boating (known everywhere as “F&B”) magazine is one of the biggest magazines of its kind left in Australia, and continues to grow quite strongly, despite the current recession.*

It's renowned for its “hands on” editorial, and commands a great deal of credibility and respect from both consumer and trade alike.

Sea Media also publishes a number of other titles including:

- *Plate Alloy Boats Of Australia (annual)*
- *Power Cats Of Australia Directory (bi-annual)*
- *The Australian Marina Directory (every 3 years) and*
- *Trailers, Towing & Rooftopping (every 3 years).*

Sea Media publishes F&B both in print and electronic formats, with all major editorial and technical reports being archived in the rapidly growing “Sea Library” hosted on Sea Media’s popular web site.

(Of interest, the SEA LIBRARY now contains hundreds of marine articles, boat and engine tests in a remarkable resource boating consumers love to use – currently, we are experiencing *6,500-7,000 full downloads* of feature articles, every month).

For further information about Peter Webster or Sea Media Pty Ltd, we recommend a visit to our website would be a useful reference.

Please go to:

[www.seamedia.com.au](http://www.seamedia.com.au)