



17 May 2019

Tom Leuner
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Australian Competition & Consumer Commission
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Dear Tom,

A.P. Eagers' proposed acquisition of Automotive Holdings Group – interested party consultation

We understand the Australian Competition and Consumer Commission (ACCC) has received an application for authorisation from A.P. Eagers Limited (**AP Eagers**) for its proposed acquisition of the ordinary shares in Automotive Holdings Group Limited (**AHG**) that are not already owned by it (**the proposed acquisition**). We appreciate the invitation from the ACCC to comment on the application.

We met with the responsible ACCC staff via teleconference on Thursday 9th of May 2019. During that discussion we were able to ascertain the scope of the merger and the issues under consideration. As discussed during that meeting our key concerns relate to **New Car Servicing and the supply of parts, tools and installation data**. As a result we have restricted our comments to this matter and we do not address the issues of retailing of new or used vehicles in this submission.

About AAAA

The Australian Automotive Aftermarket Association (AAAA) is the national industry association representing manufacturers, distributors, wholesalers, importers and retailers of automotive parts and accessories, tools and equipment, as well as providers of vehicle service, repair and modification services in Australia.

The Association represents 2,250 member companies in all categories of the Australian automotive aftermarket. Members include major national and multi-national corporations as well as a large number of independent small and medium size businesses. Member companies are located in metropolitan, regional and rural Australia.

Opening Remarks

At the outset I wish to state that it is difficult to come to a definitive view on what affect (if any) this proposed merger will have on the sale of OEM parts to our members. The intent of this submission is to provide details of how our industry currently interacts with the new car dealership sector, some of the difficulties and some of practices that are a threat to competition.

Our recent experience of restricted OEM parts and installation data sales is that the majority of the dealer practices are governed by the policies of car manufacturers however given the diversity of ownership structures throughout the dealership channel our repairer members are also impacted by the practices or idiosyncrasies of individual dealers.

Our mechanical workshop members experience frustration from time to time in sourcing parts and installation data from some dealerships in order to repair or service customers' vehicles. There are instances reported where particular dealerships are difficult to deal with due to a localised decision to restrict or delay part sales or withhold installation data to independent repairers. In response to this, our industry has become adept at seeking out alternatives. If one particular dealership has a reputation for frustrating local repairers due to poor service, our members will seek an alternative dealer.

Context

The 2017 ACCC **New Car Retailing Market Study**, outlined the industry characteristics for the automotive new car retailing and aftermarket sectors. According to the findings of the 18 month study, the retail markets for the supply of new cars in Australia are generally competitive, however, competition in markets for the supply of aftermarket parts and services is less competitive:

- Authorised dealers generally earn higher profit margins from aftermarket services than from new car sales. For dealers, although parts sales and repair and service account for 15 per cent of revenue, these aftermarket services contribute 49 per cent of gross profit. The average net profit margin for dealers is approximately 1.7 to 1.8 per cent¹.
- A common pricing strategy for car manufacturers and authorised dealers is to discount new car prices to maximise sales of aftermarket services. This strategy reflects that consumers have more choices available at the time of the new car sale than they do in aftermarkets for repair, service and replacement parts after the sale².

The modern business model for authorised dealerships places a high reliance on throughput for parts and service in order to provide for a net positive profit result.

Parts Selection and Distribution Summary

When consumers present a vehicle for a service or repair in the independent repair channel, the diagnostic phase will commence immediately. The repairer will diagnose the problem(s) and refer to the manufacturer's service schedule on the vehicle to determine the parts required to complete the job.

Following the diagnosis phase, consumers are informed of the scope of the work required and the parts options available to them and the repairer will then seek approval from the consumer to purchase parts and commence the work.

There are a range of parts options available to consumers:

1. Aftermarket parts: that are designed for the aftermarket and are of similar or superior quality to the OEM part.

¹ ACCC New Car Retailing Market Study. December 2017. Page 4

² ACCC New Car Retailing Market Study. December 2017. Page 4

2. Reconditioned parts: This is very part specific, a small number of components can be recovered and reconditioned for continued use where it safe and cost effective to do so.
3. Car Company branded parts (referred to as OEM parts).
4. Parts manufacturers that produce the OEM part but sell under their own brand names in addition to the car manufacturers' brand - 'same part, different box'.

Independent workshops **purchase OEM branded parts from dealerships** and aftermarket parts are sourced from distributors and resellers or sometimes directly from aftermarket parts manufacturers.

Independent, non-dealer aligned repair and service workshops will only recommend parts options that are **fit for purpose**. If a consumer selects OEM parts, sourcing this part will generally occur by calling the local dealership, finding out if the part is in stock or can be ordered, ascertaining the cost and the anticipated delivery time.

The majority of our customers select aftermarket components due to price, availability and technician recommendations. For aftermarket parts the order will generally be placed electronically. These parts are then delivered to the workshop, generally within 2-3 hours, throughout Australia. The supply of aftermarket parts is a sophisticated and growing market fuelled by innovations in supply chain and logistics management, parts catalogues, electronic ordering, reliable delivery times and high quality parts alternatives.

Access to OEM Parts

The sourcing of OEM parts by contrast is not as predictable, reliable or transparent. The ability to order certain parts can rely upon goodwill and relationships that have been established at a local dealership level. During the ACCC Market Study, we did seek feedback from the industry on access to parts, how this occurs and what difficulties, if any, are encountered and we have listed a sample of these in **Appendix A**.

As outlined in our submission to the ACCC Market Study and in the key findings of that study, there are industry reports of OEM parts restriction and delay. The majority of the issues experienced relate to the withholding installation software or codes required to install the part although there were also examples of the sale of certain parts and tools being withheld.

If the local dealer of a particular brand refuses to supply parts, or is slow to provide these parts or does not assist in providing the installation codes, an independent repairer will seek out an alternative authorised dealer of the same vehicle brand. In the metropolitan area, sourcing alternative dealers is not difficult. In rural and regional areas this can become quite a challenge.

The ACCC final report on New Car Retailing found evidence that car manufacturers and dealers sometimes restrict access to certain parts. It was also noted in the report that this may occur for legitimate reasons that may benefit consumers. For example, this would include parts which may in limited instances, compromise car security and encourage theft. *"However, a further motive for restricting access may be to steer more repair and service work back to authorised dealers and preferred repairer networks"*³. This can reduce competition for servicing or repair work and raise prices.

³ ACCC New Car Retailing December 2017, Chapter 5, page 139

Parts Restriction Issues

It must be acknowledged that the dealership business model includes commissions and incentives for parts sales. As a result, in our industry there are many cooperative dealerships that do sell required parts together with the tools/instructions/codes for initialising the part to independent repairers. This cooperative relationship results in increased parts sales, ongoing relationships with independent repairers and of course, sound consumer outcomes. We do value cooperative relationships with dealerships. However as stated earlier in this submission there are also many issues experienced by independent repairers which result from both manufacturer and individual dealer imposed policies and practices.

Security Related Parts

There is a clear lack of transparency and consistency in the practice of withholding parts on the grounds of security. The lack of transparency and consistency across manufacturers about what is classified as security-related parts means that access restrictions can be arbitrary, increasing uncertainty and cost for independent repairers. When parts are withheld for so called “security reasons” it is sometimes possible for independent repairers to find a dealer that does **not** consider the part to be security related and is prepared to sell that part. It would appear that allocating the “security” label to a part can be a decision made by an individual dealer acting in isolation. We are however, often informed that the ‘security’ justification is more likely to be a policy imposed by the car manufacturer and not the dealership. For example, we have anecdotal evidence that one particular European manufacturer is increasingly restricting parts sales to independent repairers for “security reasons”.

Re-Initialisation Codes and Software Updates

The largest area of complaints we receive regarding access to OEM parts is the evidence from independent repairers that parts were made available by dealers, but the part would not work without accompanying data - meaning that the part itself was useless. Some dealerships are helpful and provide all required software/codes/installation instructions with the part, whereas some dealerships withhold information and it is only after the part is fitted that the installer discovers a code is required to reintegrate the component into the vehicle. In many cases the dealer insists that the vehicle be brought to the dealership for initialisation of the part – for a fee – and often a delay of a few days. This usually requires towing the vehicle to the dealership as the vehicle is immobilised. These practices all add unnecessary time and cost to a repair and often have a detrimental effect on the independent repairer’s customer satisfaction and retention.

Other Barriers: Time and Package Volumes

Our members also report other restrictions and barriers are sometimes used to make it more difficult for independent repairers. This includes dealers imposing impractical response times on requests for parts and services and selling oil blends and air conditioning refrigerants in sizes uneconomical for small and medium sized independent repairers.

Rural and Regional

The impact of these issues are exacerbated in rural and regional areas if a dealership does not cooperate with the local repair base as businesses are often forced into finding another dealership that may be hundreds of kilometres away.

Concluding Remarks

As noted in the accompanying materials, the proposed merger will result in an entity that represents only 13% of the new car dealership market. Further we have no evidence that A.P. Eagers or AHG have imposed a parts supply policy across their current ownership base.

However we wish to put on record that:

- Dealerships are often our only source of OEM branded parts supply
- We do encounter difficulties in accessing OEM parts. At the present time this appears to be primarily due to the car manufacturers' policies or individual dealership attitudes to the independent repair sector. There is no evidence to suggest that dealerships are implementing industry wide restrictive policies in a uniform manner at the present time.
- As a result, these difficulties are, in part, addressed by sourcing parts from alternative dealerships.
- It is anticipated that the proposed introduction by Government of a mandatory industry code for the sharing of repair and service information as recommended by the ACCC market study will increase the availability of essential repair and service data such as software and re-initialisation codes required to install parts and will limit car manufacturers ability to impose industry wide policies to restrict access to certain parts and/or data. The ACCC study also recommended that the definition of security related parts and data be tightly defined and that safeguards be put in place to enable environmental, safety and security-related technical information to be shared with the independent sector.
- A larger group of dealerships operating umbrella policies could present a threat to competition if this larger group adopts restrictive parts supply practices, particularly in rural and regional areas.

I trust these comments have been useful and I thank you once again for the opportunity to provide a submission on this potential merger.

Yours Sincerely,



Stuart Charity
Chief Executive Officer
Australian Automotive Aftermarket Association

Appendix A

Independent repairers accessing appropriate parts or tools

There are many examples of difficulties in parts access. In early 2016, we asked repairers to provide specific examples of difficulties accessing parts or tools. We received a large number of complaints and a number of these across different car brands and models are extracted here to illustrate what these difficulties are, and the implications for repairers and consumers⁴:

Problems initialising the part, or reintegrating a part that was purchased from the dealership:

VW Caddy

One example. We had to replace the ignition barrel, cylinder & key on a VW Caddy, parts the dealer happily sold me, when it came time to commission the new ignition cylinder with our scan tool, the 4-digit code required was not accessible for me from the dealer. Four phone calls and the promise that the service department will get back to me never eventuated.

Ford Territory Ghia

Steering angle sensor failure. Whole steering column needs to be replaced. Once replaced the steering angle sensor has to be programmed to suit the vehicle. (Not just calibrated) It needs to be programmed first after it's been replaced and then calibrated. We had to return the vehicle to do the dealer to have it programmed.

Ford FG Falcon

We had a FG falcon with an air bag issue from the crash shop that our scan tool diagnosed a faulty air bag module. Sourced a new genuine module from local Ford dealer and had to get it programmed by local dealer. Car was mobile so we drove this to the dealer. They said could we leave it with them, they took 2 days and charged us excessively to programme vehicle, client not happy and we nearly lost contract with crash shop over delays even though we told them it was at dealer being sorted. We can tow truck vehicles in the city, not sure what you would do in the country to get them to a dealer?

Ford Focus | Ford Mondeo | Ford Transit

These vehicles require special tools to replace the timing belts/chains and cannot be purchased locally through the dealer network. We are prepared to purchase the tools as a group – but they specifically stated that we cannot buy these tools. Many of our staff were trained in the Ford network and have a lot of experience in the dealer network. Without the tools, it is impossible to undertake testing or replacement.

Holden Astra TS

We had a client with a TS Astra that had an engine ECU fault requiring a replacement ECU. We purchased a new genuine ECU from our local dealer but it had to be programmed into the

⁴ Australian Automotive Aftermarket Association, May 2016. *Evidence of critical repair and service information currently withheld from consumers and their repairer of choice.*

vehicle, our local dealer stated they could not programme the ECU for 3 days “too busy” so to get our client back on the road we had to tow truck the vehicle to a dealer in the city, pay a programming fee and tow truck the vehicle back to us. Would have been happy to pay a fee to download and unlock/programme vehicle in house to save inconvenience and possible vehicle damage whilst in tow truck operators’ control.

Mercedes A190

We had a 2009 Mercedes A190 towed to the workshop from another repairer. The Steering lock was faulty and would not turn the steering wheel or start. Mercedes once sold you the new Steering lock and Green program key to program the steering lock into the vehicle. As of this year, they will not sell you the steering lock or supply the green program key. They want you to tow the vehicle to a Mercedes workshop and for them to fit and program the part. It will cost a minimum \$500 just to install the part and tow the vehicle before the cost of the part is added. This is costly for the client and time consuming.

Nissan

Lack of price transparency: Bought a diesel particulate filter from a Nissan dealer and after fitting new filter needed to go back to dealer for force burn. One dealer charged \$110.00 another dealer charged \$280.00.

Volvo

A customer brought in their Volvo in that had the ABS light on dash, after some diagnosis it revealed that it needed a new ABS module (Anti-Lock Braking system). We purchased the correct part directly from the manufacturer and installed it for the customer however the manufacturers neglected to let us know that the ABS module needed to be programmed in and we wasted hours of non-billable time trying to get it to work. Finally, after multiple phone calls and stuffing around we were told it need to be programmed by the dealers only. We had to re-book the customer in and drive her vehicle to the dealer who kept her car for 2 days (as they would fit us in when they could) and cost an additional \$300+ which we could not charge out to our customer and also had to provide the customer with a loan vehicle. The customer was extremely inconvenienced without a car for days and we were out of pocket around \$500.00 for the job as we tried to keep the customer happy by keeping the price as close as possible to our estimate.

Suzuki Vitara 2008

We recently had a 2008 Suzuki Grand Vitara that has an issue with EGR Valve; we purchased the part from local dealership and then was told that after the fact that it needed a connector set, then to have to try to get technical information that was not forthcoming from that dealership. Contacted another dealership and they sent to us information that should have been originally supplied with parts.

The vehicle went to local dealership eventually leaving us with footing the cost for their diagnostic recoding when they could have informed us originally the procedure for this vehicle. This has left us greatly out of pocket as owner paid dealership and not us.