

27 August 2019

**ATTENTION:** Mr Simon Bell  
Assistant Director  
Adjudication Branch  
Merger and Authorisation Review Division  
Australian Competition and Consumer Commission  
23 Marcus Clarke Street  
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Via email: [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au) ; [simon.bell@acc.gov.au](mailto:simon.bell@acc.gov.au)  
ACCC Ref: N10000491

## MTAA Public Submission to Exclusive dealing notification by Hyundai Motor Company Australia Pty Ltd, trading as Genesis Motors Australia

The [Motor Trades Association of Australia Limited](http://www.mtaa.com.au) (MTAA) appreciates the opportunity to make a submission to the ACCC regarding the exclusive dealing notification by Hyundai Motor Company Australia Pty Ltd, trading as Genesis Motors Australia (ACCC Ref: N10000491).

MTAA is a federation of various state and territory motor trades associations and automobile chambers of commerce and their thousands of automotive business constituents. MTAA represents, and is the national voice of, the 69,365 automobile sector businesses which employ over 379,000 Australians and contribute around \$37.1 billion to the Australian economy equating to about 2.2% of GDP. MTAA member constituents include automotive retail, service, maintenance, repair, dismantling recycling and associated businesses that provide essential services to a growing Australian fleet of motor vehicles (MVs) fast approaching 20 million by 2020.

In preparation of this submission MTAA has canvassed as far as practicable its member's more than 2500 motor body repair business constituents nationwide through the Australian Motor Body Repairers Association (AMBRA) and State and Territory Member Association's Body Repair Divisions.

### Executive Summary

1. MTAA and AMBRA are of the view, based on the information provided by the ACCC, the proposed exclusive dealing arrangement achieved through the 'establishment of a network of 'Genesis' certified repairers for smash, collision and bodywork repairers' appears to replicate, or is very similar to, existing arrangements by other manufacturers in the motor body repair market. MTAA, Members and AMBRA generally support these arrangements.
2. Therefore, in principle, MTAA / Member Associations and AMBRA, have no objection to the proposed exclusive dealing arrangement for the establishment of a network of 'Genesis' certified repairers for smash, collision and bodywork repairers, provided the MTAA's understanding of key elements of the application are correct.

## Key points

3. Existing manufacturers preferred motor body repair arrangements provide a valuable alternative business model for motor body repairers and consumers. MTAA and AMBRA are the view effective and meaningful relationships between manufacturers and motor body repairers are underpinned by transparent good faith negotiations. This is reflected by the fact that MTAA, its's members and AMBRA receive very few complaints or notifications of dispute specifically relating to arrangements between manufacturers and motor body repairers.
4. MTAA is aware some existing manufacturer exclusive repairer arrangements are likely to have been 'self-assessed' by manufacturers under changed provisions to relevant regulation from 2017, which MTAA understands provides market participants with increased capacity for self-regulation in the area of notification of exclusive dealing arrangements. The application by Hyundai Motor Company Australia therefore came as somewhat of a 'surprise' application given this background. However, the application and opportunity to comment on it is appreciated.
5. MTAA understands from the notification application supplied by Hyundai Motor Company Trading as Genesis Motors Australia (GMA) the following:
  - a. The Establishment of Genesis Certified Repairers
  - b. The use of genuine parts by these repairers
  - c. The requirement of the Certified Repairers to undertake Genesis Training either from Genesis or any third-party provider Genesis Motors Australia nominates.
  - d. The arrangement with repairers **will not** be an exclusive arrangement in that appointed repairers **will be able** to undertake other work for other manufactured brands of motor vehicles.
  - e. Genesis Certified Repairers will be free to purchase spare parts & components, equipment, tooling and services from other sources for use in the smash, collision and bodywork repair of vehicles other than Genesis Vehicles.
  - f. Genesis Certified Repairers will be free to conduct smash, collision and bodywork repairs for other motor vehicle manufacturers and on motor vehicles other than Genesis Vehicles,
  - g. Dealers will continue to supply Genesis Parts and Genesis Equipment to repairers who are not Genesis Certified Repairers
  - h. Genesis Certified Repairers will continue to compete with other smash, collision and bodywork repairers to supply their services to motor vehicle owners
  - i. Owners of Genesis Vehicles will be **free to choose** whether to have their Genesis Vehicle repaired at a Genesis Certified Repairer or at an alternative repairer. Genesis Motors Australia imposes no obligation on owners of Genesis Vehicles to have their vehicle repaired at a Genesis Certified Repairer.
6. If any of these understandings are incorrect, particularly in relation to the ability of motor body repairers being able to undertake work for other manufactured brands or consumers freedom of choice of repairer, then MTAA would have to reassess its support for the exclusive dealing arrangement.
7. Some further questions were posed by constituents which MTAA is unable to answer based on the information provided and are referred to the ACCC for further consideration:
  - a. Will single site, small business operators be considered as a GMA partner repairer or will they be excluded with 'exclusivity' given to "corporate body repairer organisations" (i.e., those with many sites and/or with publicly listed corporations"?)

- b. Is GMA seeking to vertically integrate and establish a separate business of body repair facilities which may be co-located on dealership sites and exclusively deal with those shops at the exclusion of other repair shops?
- c. If so, how will this be undertaken when the policyholder seeks to exercise its choice of repairer benefit and does not choose GMA?
- d. Will the partner repairers chosen by Genesis Motors Australia to join their network be bound by the Motor Vehicle Insurance and Repairer's Code of Conduct (the "Code")? This is important given that Genesis Motors Australia is national, the Code is national, but only mandatory in NSW.
- e. Will the partnered repairers be afforded their rights of association and are MTAA, MTA and affiliate industry bodies permitted to represent them in settlement of disputes that may arise from time to time between the parties?

## Conclusion

MTAA and constituents appreciate Hyundai Motor Company applying for the notification and for the opportunity to make a submission.

MTAA, its Members and AMBRA representing motor body repairers has no objection to the proposed exclusive dealing arrangement and the establishment of a network of 'Genesis' certified repairers for smash, collision and bodywork repairers, provided key points and assumptions presented in this submission are correct.

The MTAA remains available at any time to assist the ACCC and ask that you contact MTAA CEO, Richard Dudley at [richard.dudley@mtaa.com.au](mailto:richard.dudley@mtaa.com.au) if you require any additional information or clarity regarding this submission or matters pertaining to the application.

Yours sincerely



**Richard Dudley**  
Chief Executive Officer  
Motor Trades Association of Australia