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**Subject:** FW: Mitsubishi Motors Australian Limited (MMAL) Exclusive Dealing Notification  
RN10000433 [SEC=OFFICIAL]

**Security Classification:** OFFICIAL

To whom it may concern,

I am making this submission in response to the threat that waiving the current obligations for exclusive dealing would have on consumer understanding, choice and competitiveness in repairer and pricing.

I worked for over 20 years within the dealership network, including Mitsubishi, Nissan, Daihatsu, Proton, SsangYong and Toyota and in the aftermarket concurrently for [the past 30 odd years](#). It is well known and practiced, that dealer employees at all levels use misleading and confusing language about warranty rights and statutory obligations and this is even in the face of the rules and regulations which prohibit excluding warranty based on [the use of repairer or non-genuine parts](#). In fact they go to great lengths to ensure consumers don't realise they have options and some outright tell consumers if they don't use the dealer network they will void warranties [and](#) that is well known in all circles.

I have had to step in to support consumers on countless occasions who had been told by dealers that their warranty was voided because of the use of aftermarket parts or servicing and unfortunately the incidence of this has not reduced, despite concerted efforts to educate the consumer. I believe this is persisting because of the deliberate efforts of the dealer networks to misinform [\(or deliberately not inform\)](#) their customers [of the status of their warranty rights under current legislation](#).

This misinformation will be exploited even more by the dealers if given the greenlight to use the extended warranty as an [exclusive tool](#) and which will be exacerbated through the dealers using language to tie warranty qualification, to them servicing the vehicle, using phrases like "your warranty period, your ten year warranty" or any other terms that will lead the consumer to believe they have no choice. The deliberate non-statement about choice is akin to saying there is no choice and that is the current practice.

The dealers motivation to pursue this, is not to offer a consumer an extended warranty only but to tie the statutory warranty and extended warranty together, making the consumer believe they are dependent on each other to qualify [or in essence just one warranty](#).

If this was based [\(dealer motivation\)](#) purely on helping their customers have a longer warranty, the customer could be told they can have their car serviced anywhere for the [statutory warranty \(current situation\) period](#) and then back to the dealer for the extended 5 years. [That wouldn't be offered because even](#) though it could be seen as a real consumer benefit, [it would detract from the real motive, which is to tie the 2 warranties together and commit the consumer to long term servicing](#). [The benefit is to the dealer by using the combined option](#). Offering choice in the first 5 years, then the consumer choosing to maybe go to the dealer to get the "free" extended warranty, provided they get it serviced there, [is certainly not something the dealers would be interested in, as they don't get the leverage of using the extended warranty to ensure they get the vehicle serviced there from day one](#).

[Make no mistake this is essentially about dealers forcing through the obligation of the extended warranty to have the car serviced there for the first 5 years](#). It is primarily all about the first 5 years of servicing, [the extended warranty is a smokescreen](#). These extended warranties when looked at in practical terms fall well short of the purported benefits. There are many reasons why vehicles won't even get into the extended warranty period, cars sold within 5 years vehicles written off through accident. Then cars that won't see the full 10 year term. [Many](#)

consumers would drop out in years 6 & 7 as they see that there is no value in the program, because of the higher servicing costs but the damage has been done, they have been servicing a car there for 5 or 6 years at significantly higher costs, than they would have if they had used their previous independent repairers and parts suppliers. Some may even drop out in year 3 or 4 but again the dealers has a win for those years by tying them into dealer servicing. These situations will cause the warranty to deliver little or no benefit to the consumer, when they have been exclusively tied to the dealer, for in almost all cases substantially dearer servicing.

When we consider what the consumer forfeits (although most of them wouldn't realise it) is that they lock into higher servicing prices and parts prices for an extended time, with little tangible benefit. This is especially true when you consider that a lot of consumers will have disposed of the vehicle before any need of an extended warranty, let alone the times that when they may need it, it doesn't cover what they thought it would or it may have been covered under statutory warranty any way, even though outside the dealers original warranty.

Overall there have been strides made despite dealers efforts to the contrary, to provide information about consumers rights and choices in regard to stat warranty and how they can receive the same parts and servicing at greatly reduced prices. To approve this exemption would totally undermine this and then of course, it will quickly spread to other makes/brands. Imagine the effect on the aftermarket independent repair and parts industry, if all car dealers can leverage the first 5 years of servicing into an exclusive arrangement. A huge removal of choice and an enormous reduction in competitive options. All the pressure that the independents have put on the car companies to be more competitive would be eroded and price rises would go unchecked.

Car companies unchecked price rises, car companies expansion of workshops through higher guaranteed volumes, consumers feeling locked in, independents reducing their workshops workforce due to a huge downturn. I ask where is the benefit in that. Only to the dealer not the consumer and not to choice. Guaranteed choice that is widely enforced and publicised is the best weapon to ensuring a better deal for consumers.

Dealers and car companies do not have a good track record with regards to providing fair information and choice to their customers, take the shared data situation, another tool that has been used by them to negate choice of repairer. Between the withholding of data, which has been acknowledged by the government and is in the process of legislating to force compliance and the past history of unfairly treating their customers over warranty fulfilment, as well as the service fixed price wrought, it astounds that they are asking for an exemption to be able to exclusively deal.

Quite simply the consumer is getting better and more unbiased information than ever before, which gives them the best information to make an informed choice, about how they want their car serviced and by whom, whilst still retaining their statutory warranty. Dealers and car companies offer extended warranties currently, which consumers can make up their mind as to the benefit to them, again whilst knowing they have other options. The consumer is best placed to make these decisions in the current environment and to exempt dealers from not being able to tie into exclusivity undermines the process completely.

Extended warranties are already terribly confusing for the consumer and some warranties are purported to be a saviour in all areas but often fall well short of what the consumer expects. Also, consumers already have statutory rights that often extend past the car companies warranties.

I believe the system is pretty good at the moment and should be left as is and if anything extended warranties should be reviewed, as to their actual useful benefit to the consumer.

Ultimately, the simple question is, would this new exclusive dealing, deliver guaranteed tangible benefits to the consumer or more likely remove choice and bind the consumer to a long regime of higher priced servicing and parts supply.

There would be only one guaranteed winner from this and that is dealers county wide, not consumers and not the independent mechanical servicing and parts supply businesses that work extremely hard to provide choice and keep the dealer pricing in check.

Let's ask what has motivated MMAL to come up with this extended warranty. There has been a steady move to consumers opting to use independent repairers and parts suppliers for some time and it has placed downward pressure on service pricing as well as reduction in time a consumer uses dealer servicing before moving to an independent repairer. Dealerships spend a huge amount of time focusing on service retention rates and know that they don't really provide a competitive offer. Solution remove choice and tie consumer to dealer servicing through a warranty that offers everything and delivers little in tangible benefit at little cost.

Let's, play a little scenario out. A scenario that the dealers have tried so hard over the years to make a reality. A scenario, that only through legislation has it been ensured that this has not happened at the dealers behest. Where would the consumer be if this had been allowed. No statutory warranty if using independent repairers. No warranty if using aftermarket parts. No data sharing to independent repairers. Only leads to one place higher servicing costs, poorer service levels and no choice. OK, this hasn't succeeded but what to try next. Let's try exclusive dealing using an extended warranty as the tool to remove choice. All those things would have guaranteed serving turnover.

To legislate such a huge change against the practice of having consumer safeguards in place to guarantee choice from coercion or deceptive practices, would completely undermine the way our car servicing industry has grown over decades. Choice for the consumer and flow on benefits of competitive pricing and higher levels of service, have been the cornerstone of better benefits for the consumer and would be completely decimated and cause a major imbalance in the industry if exclusive dealing is allowed. This imbalance would have major negative impacts to independent workshops, aftermarket parts retailers, wholesalers and manufacturers and importers. The snowball effect over only a few years would be unfathomable and I am certain in the end completely overshadow that benefit which any consumer may have been perceived to have received.

Monopolising the customer is the goal here and nothing else. This guarantees higher profits. To understand the motivation, the biggest profit generator in dealer land is car servicing. Not vehicle sales, not spare parts but car servicing.

Removing choice through the smokescreen of an extended warranty that in a lot of cases will provide zero benefit but only tie a consumer into dealer warranty from day one. It is a disaster in the making.

I agree that to the untrained person, in respect to how the market works, superficially it seems a harmless benefit being bestowed on the consumer but with only a little research, the people charged with deciding on this proposal can see the sinister impacts lurking beneath the surface.

Regards,