

Submission to Mitsubishi Motors Australia Limited—Exclusive
dealing notification RN1000043 - 10 year warranty with
exclusive servicing by Mitsubishi Motors Australia Limited
Dealers

Dyer's Auto Engineering

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Dyer's Auto Engineering.

Dyer's Auto Engineering is an independent vehicle servicing and repair centre located in Yellingbo in the Yarra Ranges in Melbourne's outer east. Dyer' Auto Engineering provides vehicle servicing and repairs to vehicle owners mostly from the surrounding area.

Customers of Dyer's Auto Engineering includes individual vehicle owners and small fleets with the vehicles serviced and repaired being representative of the overall vehicle market.

Dyer's Auto Engineering completes vehicle servicing according to manufacturer's schedules and always uses replacement parts that are equivalent to or better than original equipment manufacturer's parts.

For many customers of Dyer' Auto Engineering, servicing and repairs by a dealer is not a viable option. This being due to geographical location, previous poor dealership experience and cost.

The fleet customers of Dyer's Auto Engineering prefer one independent service centre to service the different vehicles of that fleet rather than use multiple dealers.

Response to the Mitsubishi Motors Australia Limited (MMAL) 10 year warranty and servicing exclusive dealing notification to the ACCC.

1.0 MMAL 10year warranty and exclusive servicing background

MMAL new vehicle sales are 22,549 vehicles less in September 2020 year to date (YTD) compared with September 2019 YTD. This is a reduction in MMAL new vehicle sales of 35% in 2020 compared with the same period in 2019 when the overall new vehicle market has reduced by 20.5%.

Period (YTD)	Total vehicle sales
Jan – Sept 2019	64,506
Jan – Sept 2020	41,957

Table 1: MMAL New vehicle sales

A reduction in new vehicle volume of 22,549 vehicles and 35% in 2020 over the same period in 2019, when the overall market is only down by 20.5% is a significant business challenge for MMAL.

With MMAL struggling with sales volume in 2020, MMAL is seeking a competitive advantage by offering a 10 year, 200,000km manufacturer's warranty with exclusive servicing by MMAL dealers.

As the 10 year, 200,000km warranty is only available to consumers who service their vehicles by a MMAL dealer this exclusive servicing arrangement re-directs servicing that is currently completed by (and would be in the future) independent service centres from independent service centres to MMAL dealers. This directs revenue and profit to MMAL (via parts sales) and MMAL dealers that would otherwise go to independent service centres.

The magnitude of the financial opportunity for MMAL and MMAL dealers to increase servicing revenue by offering a 10year warranty with an exclusive dealing servicing arrangement is known to the ACCC. Box 2.1 of the New Car Retailing Industry – a market study by the ACCC – December 2017 states 'dealers earn a significant proportion of their overall profit from the servicing of new cars– about the same contribution to overall profit as the sale of new cars themselves'.

Behaviour by MMAL to direct servicing of Mitsubishi vehicles away from independent service centres to MMAL dealers is not new. Table 4.1 of the New Car Retailing Industry – a market study by the ACCC – December 2017 lists MMAL as one of the manufacturers listed as ‘no’ for making available technical repair information to independent service centres.

This redirection of Mitsubishi servicing and revenue away from independent service centres (including Dyer’s Auto Engineering) to MMAL dealers reduces the profit and viability of many independent service centres.

3.0 MMAL Competitors

MMAL competitors are unlikely to ignore the competitive advantage provided to MMAL and MMAL dealers with the 10year warranty with the exclusive servicing arrangement.

If the ACC does not revoke the current exclusive dealing protection provided to MMAL for the 10 year warranty and exclusive dealing arrangement it is most likely MMAL competitors will also introduce 10 year warranties with the same exclusive dealing service arrangement.

It would be impossible for the ACCC to revoke the protection of MMAL competitors that submit an exclusive dealing notification for a 10year warranty and exclusive servicing arrangement if the protection of MMAL provided by the notification of exclusive dealing is not revoked by the ACCC.

If MMAL competitors were offered protection from exclusive dealing with a 10year warranty and service exclusive dealing arrangement this would substantially increase the servicing revenue redirected from independent service centres to dealers. This would substantially reduce the service revenue of the independent service providers by redirecting that service revenue to MMAL dealers. It is likely independent service centres will exit the business as a result.

This reduction in service revenue will result in independent service centres exiting the business and reducing competition which is harmful to consumers.

3.0 Consumer Guarantee confusion

While manufacturers and dealers officially recognise consumer guarantees, manufacturers and dealers continue to make it difficult for consumers to exercise their consumer guarantee rights.

In addition to this, many consumers are unaware of their consumer guarantee rights and manufactures and dealers continue to take advantage of this lack of awareness of consumer guarantees when failures and defects occur outside of the manufacturer’s warranty period.

The MMAL 10year warranty further contributes to the confusion around manufacturer’s warranties for defects and the consumer guarantee under Australian Consumer Law.

4.0 Aftermarket Part Manufacturers

Dyer's Auto Engineering use quality aftermarket parts that have equivalent or better performance than the original equipment manufacturer parts. These aftermarket parts manufacturers include:

- Bendix Brakes
- DBA Rotors
- Ryco Filters

To ensure aftermarket parts achieve equivalent or better performance to original equipment equivalent parts, aftermarket component manufacturers must invest in design, development, testing and production tooling. The same investment in each aftermarket part is required if the overall volume of that part is 10 or 10,000.

Reducing the servicing of Mitsubishi vehicle completed by independent service centres reduces the quantity of aftermarket parts purchased such as brake pads, brake rotors and filters and hence the volume of Mitsubishi aftermarket parts.

This reduction in Mitsubishi aftermarket part volume will require aftermarket part manufacturers to amortise the Mitsubishi aftermarket part investment over reduced volume. This will result in higher Mitsubishi's aftermarket part prices.

Higher Mitsubishi aftermarket part prices is harmful to consumers.

5.0 Summary and Conclusion.

The MMAL 10year warranty and exclusive servicing arrangement will direct servicing volume and revenue away from Dyer's Auto Engineering to MMAL dealers.

If protection provided to MMAL for the MMAL 10year warranty and exclusive servicing arrangement notification is not revoked by the ACCC it is likely that MMAL competitors will follow. This will direct further servicing volume and revenue away from Dyer's Auto Engineering to MMAL dealers.

The MMAL 10year warranty and exclusive servicing arrangement contributes to the confusion amongst consumers regarding consumer guarantees.

Reduced vehicle servicing completed by independent service centres reduces the volume and cost of quality aftermarket parts.

The MMAL 10 year warranty and exclusive servicing arrangement is harmful to Dyer's Auto Engineering, independent service centres and consumers.