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**From:** Brett Lee [REDACTED]  
**Sent:** Thursday, 8 October 2020 12:37 PM  
**To:** Adjudication  
**Subject:** Re interested party on Mitsubishi Motors Australian Limited (MMAL) Exclusive Dealing Notification RN10000433.

**Categories:** Submission

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I object to this notification and request that the ACCC revoke this notification because this conduct:

1. has the purpose, effect or likely effect of substantially lessening competition, and
2. in all the circumstances, will not result in likely public benefit which would outweigh the likely public detriment.

I am an operations manager for a Queensland based Automotive based franchise network, we believe allowing this to proceed will be detrimental to our businesses, staff and many of our clients

And does not benefit clients but places them on a situation of little or no choice as to who services their own property.

I have listed our reasons below

Re- Mitsubishi Motors Australia Limited—Exclusive dealing notification RN10000433—interested party consultation.

As a concerned party, I would like to voice my objections/ concerns over this application being permitted to proceed.

- From a trade perspective, I do not see how this promotes fair trading for the automotive trade in general, a major manufacturer is knowingly attempting to tie-up the servicing of their branded vehicles for 10 years.
- If this was to proceed other manufacturers would follow suit and suddenly your choice of who services your vehicle would become governed by a “Fear of losing your Warranty” instead of who you believe can competently maintain your vehicle.
- It conditionally removes a “freedom of choice of repairer” currently exercised by many thousands of vehicle owners.

Whilst MMAL acknowledges that a 5 year period is available to the purchaser of the vehicle should they wish to exercise their freedom of choice as to who services their property.

- The Idea of a 10-year warranty sounds an excellent sales point for MMAL to be able to increase its market share in the Australian market place. However, having it tied to an exclusive MMAL dealership servicing agreement removes a “Freedom of choice” that the general public currently benefits from.
- The proposal put forward, in fact, ties up the servicing of the vehicle to MMAL dealerships for not only the original purchaser but also ties in a possible 2<sup>nd</sup> purchaser of the vehicle, as many vehicles are turned over at about the 4 to 5-year mark, so both the first and second owners of the vehicle lose their choice of who services their property, due to fears that if something fails on the vehicle that is covered by the proposed MMAL warranty, it may not be honoured.

Under the current situation, MMAL provides a warranty for the vehicle for 5 years and the balance of the warranty is transferred to a new owner at the point of resale, regardless of who has serviced the vehicle. (As this should always remain the choice of the vehicle's owner)

Surely the warranty period relates to the quality of the “Vehicle build” not the choice of service facility. If the vehicle is of such good quality that a 10-year warranty is applied, who services the vehicle should have no bearing on the quality of the vehicle, as long as it has been serviced and maintained to the manufacturers' specifications.

By applying a restriction on who is permitted to service the vehicle, forces the vehicle owner to have to decide about

- have the vehicle exclusively serviced at a dealership that they possibly may not be happy with or
- choosing their choice of repairer and lose 50% of the advertised warranty period

#### **Some typical scenarios**

- **Scenario 1**

Let us say the first owner of the vehicle purposely purchases the vehicle because of the 10-year warranty feature, knowing that this would be a good selling point when they plan to sell the vehicle at a later time. Now let's move forward 4 years and they have decided to advertise the vehicle for sale with the remaining 6 years warranty. The new purchaser agrees to the price and the vehicle is sent for a safety certificate inspection, so the sale can proceed.

During the inspection, the vehicle requires Brake repairs to pass the certificate and the inspection station are informed by the first owner to carry out the repair.

The Non-MMAL inspection station orders their usual brand of brake pads (Bendix for example) and repairs the brakes to the industry expected standard.

Has the Inspection station caused the warranty (They are unaware of) to suddenly decrease from the remaining 6 year period to what is now only 1 year?

The person selling the vehicle has now (unknowingly) falsely advertised the vehicle and the new purchaser could reject the sale, due to the non-genuine brake pads being fitted at a non-MMAL workshop.

Or do MMAL want the safety inspection business exclusive to them as well?

- **Scenario 2**

If a car has a break down due to a battery failure, does the owner have to have a Mitsubishi branded battery fitted to safeguard the warranty?

- **Scenario 3**

Another point to consider is the fact that even MMAL dealerships use non-genuine parts from time to time for various reasons, (Supply issues, Cost of replacement parts to the client etc...)

So a vehicle is taken to an MMAL dealership for service and they are unable to supply a genuine oil filter and choose to fit a RYCO brand filter instead (Ryco is considered a high-quality replacement by the automotive industry).

The owner of the vehicle is charged for the service and is none the wiser.

This owner of the vehicle then sells the vehicle to a second owner with the warranty intact (To their knowledge).

The new owner is then informed that the warranty has been breached because a RYCO brand filter was fitted to the vehicle at some stage.

The second purchaser was influenced to purchase the vehicle because the logbook indicated all servicing had been carried out by an MMAL dealership and the remainder of the warranty should be intact.

A different MMAL dealership informs them that they don't use RYCO filters, so it must have been replaced elsewhere and the warranty is now voided. This will be concerning to any current owner of the vehicle and certainly not their fault nor that of the previous owner.

#### **Current situation**

Given the independent automotive repair industry regularly have ex-dealership clients approaching them to carry out servicing on their vehicles because of dissatisfaction with the service provided by some dealerships, forcing these vehicle owners to have to continue to deal with businesses that they are unhappy with because they might lose their warranty, is an unfair condition to many of the retail public.

- I believe it is great for MMAL to offer a 10-year warranty on their product, but it should never be conditional on them maintaining a monopoly on who services the owners' property

Surely this new warranty can be “clearly- advertised” and sold as an Extended warranty to new car purchasers, so the person buying the vehicle can make their own informed choice at the time of purchase and elect to take up the offer or not.

I can't help feeling that the term “10-year warranty” will be more prominent in their sales pitches than the restriction placed on the owner to qualify for the proposed warranty.

A 10-year Warranty is a statement that they will back their product for a period of 10-years

If a 10-year warranty is such a good selling point that will increase the MMAL market share, why is it necessary to tie it into service programs at all?

Who an owner chooses to service their vehicle should not be a condition of any warranty

“A warranty” is to protect the owner if something goes wrong, it will be rectified by the manufacturer.

“Scheduled logbook servicing” of the vehicle is to maintain the vehicle to the standard set out by the manufacturer and should be the only required condition to maintain their warranty, not who carries out the logbook servicing.

Logbook servicing is already carried out by thousands of qualified automotive technicians (Dealership and non-dealership) to the “manufacturers' logbook requirements and standards”, providing retail clients with the choice of who services their vehicles.

In summary

- Changing this current situation is harmful to the automotive service and repair industry and
- Enforces an unnecessary condition of warranty, upon many people that have given the dealerships, business in the past, but now choose to do business with independent automotive service centres to maintain their vehicles.

Please consider these relevant points when considering any “Exclusive dealings agreement for MMAL”

Regards

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