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Australian Competition and Consumer Commission
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Mitsubishi Motors Australia Limited—Exclusive dealing notification RN10000433 (“Notification”) — interested party consultation

1. Preliminary Comments

- (a) GPC Asia Pacific appreciates the opportunity to make a submission in relation to the ACCC’s consideration of the Notification.
- (b) Over many years, GPC Asia Pacific, in cooperation with relevant automotive aftermarket peak industry bodies, has championed the cause of choice of repairer for Australia’s vehicle owners. GPC Asia Pacific has undertaken this activity in recognition that choice is key to ensuring vehicle owners can select the cost of vehicle ownership that is suitable to their circumstances, and that such choice is critical to ensuring a vibrant competitive industry of automotive service and repair workshops, tens of thousands of whom are independent small businesses, as well as a competitive market for the supply of service and replacement parts.
- (c) As set out in this submission, and the separate submission of the Australian Automotive Aftermarket Association (AAAA) that GPC Asia Pacific has had the opportunity to read and supports, the 10 Year Warranty proposed in the Notification will have the effect of substantially lessening competition, and does give rise to greater public detriment than benefit. Allowing the Notification will give rise to an inevitable proliferation of similar offers by other vehicle manufacturers or dealers, amplifying the extent of any public determinant and negative impact on competition in markets for both the supply of automotive service and repairs, as well as associated replacement parts.

2. About GPC Asia Pacific

- (a) GPC Asia Pacific is the largest automotive aftermarket parts supplier in Australia and New Zealand, reselling and distributing automotive replacement parts, accessories, workshop consumables, and associated tools, equipment, and technical solutions, through a network of over 517 stores supported by a team of more than 6,000 dedicated team members.
- (b) GPC Asia Pacific services both trade workshop and retail, as well as fleet, industrial, and mining, customers. With market leading positions in Australia and New Zealand, GPC Asia Pacific has annual turnover of approximately A\$1.8 billion.
- (c) GPC Asia Pacific operates four lines of business:
 - (i) Repco dual form trade and retail – automotive aftermarket;

- (ii) NAPA and aligned brands trade - automotive aftermarket;
 - (iii) Two-Wheeled Division - motorcycle parts, tyres, accessories, clothing, and protective equipment; and
 - (iv) Digital, representing B2B and B2C (both omnichannel and pure-play) - automotive aftermarket and motorcycle.
- (d) GPC Asia Pacific's Repco and NAPA business support over 47,000 independent workshop customers, as well as the nation's DIY and automotive parts consumers, via a national network of stores located in metropolitan, regional, and rural locations, with distribution centres located in each state. Repco is an iconic Australian brand, having pioneered the auto parts industry in 1922.

3. **GPC Asia Pacific's unique position**

- (a) GPC Asia Pacific considers it is uniquely placed to respond to this interested party consultation due to the position it holds in the automotive aftermarket in Australia.
- (b) GPC Asia Pacific businesses first commenced selling automotive parts and equipment to trade customers in 1922. Our staff service the independent repair workshops of Australia on a daily basis, and are acutely aware of the various issues they and their customers face obtaining the parts, information, and tools necessary to operate their businesses.
- (c) A large part of GPC Asia Pacific's business, and approximately 50% of the Repco business, is providing support to retail DIY and car enthusiast and other retail customers.
- (d) Repco facilitates a network of over 495 independent repairers under the "Repco Authorised Service" banner. Close engagement with this network provides us with a very high level of visibility of the issues faced by independent workshops.
- (e) GPC Asia Pacific has historically cooperated with industry peak bodies, the ACCC, and other Commonwealth entity enquiries in relation to the automotive industry in Australia. Should the ACCC propose to undertake a further discussions with industry stakeholders concerning this topic, we would be pleased to make appropriate senior executives available for this purpose.

4. **Public detriment**

4.1. ***Detrimental impact on consumer choice***

- (a) After a house, buying a car is the highest cost purchase generally made by households. It is essential that vehicle owners, and in particularly retail consumers, are able to select the cost of ownership model which suits their specific circumstances.
- (b) The 10 Year Warranty proposed in the Notification (**10 Year Warranty**) detrimentally impinges on this choice, as it creates a compulsion, even if not expressed as a contractual obligation, to continue to purchase servicing from Mitsubishi Motors Limited (**MMAL**) dealerships and authorised service centres (**MMAL Workshops**), and as a result will effectively tie consumers to MMAL Workshops for additional repair services due to the strong ties between consumers and individual workshops.

- (c) GPC Asia Pacific considers the proposition in paragraph 1.7(d) of the Notification that “Purchasers will remain able to obtain repairs (as distinct from servicing), including repairs undertaken pursuant to the consumer guarantees, from an independent repairer or service centre” to be purely hypothetical and not reflective of actual market practice. GPC Asia Pacific would expect, for instance, that market data reflects a significant proportion of repair work is identified in the course of performing routine service work.
- (a) As the ACCC’s own consumer survey found, “around 30 per cent of survey respondents take their vehicle to a dealership for service or a repair because they believe it is compulsory according to their logbook or warranty, and around 30 per cent do it because they are worried about voiding their warranty”¹, whilst “almost nine out of ten consumers go to authorised dealer service centres whilst their vehicle is under warranty.”²
- (b) GPC Asia Pacific contends that these factors do effectively give rise to ‘captive customers’, who are then exposed to unnecessarily incurring additional costs when obtaining servicing from new car dealer workshops (**Dealers**) in preference to alternative providers as:
- (i) in GPC Asia Pacific’s experience, original equipment manufacturer (**OEM**) parts utilised by Dealers in the course of service and repair work and associated employee time and are generally sold at a higher cost than aftermarket options;
 - (ii) profit margins for after sale services, including the use of parts in those services, are higher than the profit margins in sale of new vehicles³, operating as a material disincentive for both OEMs and Dealers to use alternative less expensive independent aftermarket parts, which are suitable both as to application and quality, and would therefore offer an alternative less expensive “choice” to consumers;
 - (iii) it is common for new car dealer franchise agreements to stipulate Dealers use authorised parts sourced through the OEM authorised distribution channels, and specifically prohibit the use of parallel imports or aftermarket parts.
- (a) Further factors contributing to the risk of ‘captive customers’ include:
- (i) the ‘lock in’ effect caused by high switching costs once a car has been purchased⁴;

¹ ACCC New Car Industry Market Study, December 2017 (ACCC Market Study) page 55

² ACCC Market Study page 42

³ ACCC Market Study pages 30 and 142

⁴ ACCC Market Study page 141

- (ii) an erroneous consumer view that OEM parts have a quality advantage over after-market parts, a view that is promoted by OEMs and Dealers⁵; and
 - (iii) opaqueness of parts and service pricing, as well as complexity and uncertainty about which parts will be required when⁶.
- (b) These factors highlight the low likelihood of consumers electing to service Mitsubishi vehicles with independent service centres where a 10 Year Warranty applies, an option MMAL asserts at paragraph 5.1(b)(ii) as part of its public benefits arguments. It is not borne out by the data.
 - (c) It is GPC Asia Pacific's contention that the 10 Year Warranty, when overlaid with the prevailing market and consumer factors that lead consumers to preference Dealers for service and repair work when their vehicle is under warranty, will deliver negative public benefits and reduced competition for automotive parts, service and repair work.

4.2. ***High degree of skill and care***

- (a) MMAL asserts at paragraph 5.1(b) of the Notification that MMAL Dealers or Service Centres are able to conduct servicing of Mitsubishi Vehicles with a "high degree of care and skill (as MMAL is able to exercise significantly greater control over its Dealers and Service Centres than it is able to exercise over independent service centres)." It is GPC ASIA PACIFIC's experience, both in respect of the operation of the Repco Authorised Service network as well as close collaboration with Australia's leading chain and independent automotive workshops, that Dealers generally, and Mitsubishi specifically, do not have a monopoly on expertise, training, and technical know-how and solutions sufficient to provide "a high degree of care and skill" in the service and repair of vehicles.
- (b) This asserted public benefit in fact highlights and reinforces the significant public detriment associated with misconceptions perpetuated by OEM's direct or implied misleading representations that manufacturer's warranties are tied to using an authorised dealer or OEM parts for service or repair work, or that Dealers offer a higher degree of skill and care. As outlined above, such practices are designed to create 'captive customers' who are then exposed to higher costs.

4.3. ***Option to rely on consumer guarantees***

- (a) MMAL note in their application that consumers would have flexibility to simply rely on the consumer guarantee rights under the Australian Consumer Law, and thus obtain servicing from non MMAL providers.
- (b) Again, this is correct hypothetically, however it does not bear out in practice. Critically, this is because Dealers focus on warranty obligations to the exclusion of their consumer guarantee obligations⁷, and consumers are not provided by Dealers

⁵ ACCC Market Study page 141

⁶ ACCC Market Study page 141

⁷ ACCC Market Study page

with adequate information about consumer guarantees at the point of sale of a new car. This impacts the ability of consumers to accurately assess the value of any additional consumer protections offered by extended warranty relative to the rights they already have under the consumer guarantees.

- (c) Accordingly, the option of reliance on the consumer guarantees is unlikely to be a strong or relevant factor in a consumer's determination of whether the 10 Year Warranty offers value.

4.4. **Summary**

- (a) MMAL asserts that there are no public detriments associated with its proposed 10 Year Warranty. As outlined above, GPC Asia Pacific considers there are material public detriments that would flow from the Notification being left to stand, particularly in light of the inevitable expansion of similar offers by MMAL and other OEM brands.
- (b) The result will be a reduction in choice in where and by whom a consumer's car is serviced and repaired, and in the parts used, and a concomitant growth in the numbers of "captive customers" for whom car ownership is more expensive.
- (c) The inevitable corollary of a growth in "captive customers" by Dealership and OEMs is an increase in market power that will facilitate the ability to raise prices for service and repair work and parts sales, with countervailing competitive forces having a reduced impact.
- (d) As the ACCC is aware, and as it notes in the ACCC Market Study, OEMs have had a long standing practice of employing various anti-competitive practices to retain service and repair work and parts sales within their Dealer networks, including withholding technical information and denying access to parts, with resulting public detriment. This new 10 Year Warranty will give rise to public detriment, and will lead to substantial lessening of competition, and as such should be disallowed.

Thank you for the opportunity to provide this submission. Should the ACCC have any specific questions concerning or wish to engage further with GPC Asia Pacific concerning this submission, please contact the writer.

Yours Sincerely

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