
From: Mark Pedder [REDACTED]
Sent: Thursday, 8 October 2020 4:14 PM
To: Adjudication
Subject: Mitsubishi Motors Australian Limited (MMAL) Exclusive Dealing Notification RN10000433.

Categories: Submission

Mitsubishi Motors Australian Limited (MMAL) Exclusive Dealing Notification RN10000433. Interested Party Response – Objection to the Notification

On behalf of Pedders Suspension and Brakes, I wish to submit our objection to this notification and request that the ACCC revoke this notification because this conduct: has the purpose, effect or likely effect of substantially lessening competition.

Background

The Pedders organisation began in 1950 when owner, Roy Pedder, opened Pedders Die-Cast Welding Service in Hawthorn Road, Carnegie, and soon after, moved to Claremont Ave, Malvern. Roy, an ex-RAAF World War 2 plane welder, began the business by fixing general household items, but with his skills in welding die-cast materials, found his niche in the automotive market in smash repairs and shock absorbers.

With the weakness of the early lever-type shocks in Australian conditions, coupled with the demand for his services in this area, Roy decided to specialise in the repair and reconditioning of **shock absorbers** and subsequently the business grew rapidly. The workshop was moved to a factory in Wren Road, Moorabbin, while sales continued in Malvern. In the mid-50s, Pedder's became renowned for reconditioning shock absorbers that the rest of the trade said were unrepairable. By the late 50s, Pedders had 15 people servicing more than 3000 shocks per month. Pedders moved with demand and its reconditioning work gained wide acceptance. In 1964 Pedders was literally mass producing its own brand of shocks by simply modifying overseas designs to suit local needs. The Pedders shocks featured altered internal valve rates based on specific market needs and these new shocks were marketed for the first time under the Pedders banner. Soon the shocks took on the striking red colour for better identification and by the end of the 60s, Pedders shock absorbers had grown in reputation and popularity.

Pedders now has over 120 locations Australia wide, with over 150 employees Pedders has recently expanded its export markets to now include shipments to distributors in Korea, Mauritius, Europe, The Middle East, Thailand, Indonesia, Kenya, South Africa, Malaysia, China, Cyprus & the U.S.A. Pedders employs over 500 people Australia-wide and has suspension products for the majority of vehicles on our roads today. This large, multinational Australian automotive company has come a long way from a backyard welding shop, and most if not all of this growth has been due to Australian car owners choosing **superior Aftermarket products**.

Issues

Contrary to the car makers well-financed hyperbole regarding so called 'genuine' parts, there are very good reasons for car owners to choose superior aftermarket components to upgrade vehicles and equip these vehicles for the conditions that are likely to test sub-standard or generic car company components.

The car industry often promotes a paternalistic view that they are protecting or supporting their customers which is why they insist on 'genuine' parts. By inference, independent high quality parts are portrayed as 'non-genuine' and therefore, unsafe. This could not be further from the truth. Our components are genuine Pedders components backed by our warranty and subject to significant and rigorous product testing – a process that follows our extensive investment in research and development. Indeed we could not have maintained our position in the Australian market for the past 70 years without our reputation for superior quality and for product innovation.

Effectively, we are in the safety business – we make vehicles safer over rough terrain and when carrying additional weight for trade or recreation purposes. A good example of our safety services and products is our Tow and Load Assessment. A service that we conduct for \$75 for vehicle owners ensure that their vehicle is able to tow correctly and that they are loading the vehicle correctly – for optimal safety of the occupants and other road users and in a manner that will not compromise the durability of the vehicle. We also offer a \$28 Brake, Steering and Suspension Check. This is a critical service for utes and trade vehicles that are carrying additional load and tools.

My point here is that we offer critical products and services outside of the Mitsubishi branded products and their authorised dealerships. We have some concern that under the MMAL Exclusive Dealing notification these safety checks that do lead to the purchase of our Australian designed products would now be in doubt for new Mitsubishi Owners. The wording of the 'Extended' warranty implies that consumer choice is considerably reduced and that a decision to fit aftermarket components or seek vehicle safety inspections outside of the Mitsubishi family would void the consumers' warranty rights.

As you would be aware, all of our products and our services are delivered to consumers with consumer guarantee statutory rights as outlined in the Australian Consumer Law. We do not of course, dictate to our customers that any of our warranty obligations are influenced by any other choices that the consumer may make, unless their actions caused the fault to our product or fitment. We see no good reason to scare our customers by threatening a loss of rights and we do not force our customers to continue to return to us for servicing. We stand by our products and our service and our customers will come back to Pedders as repeat customers if we deliver good products, exceptional service and respectfully and lawfully deal with any warranty issues.

This ongoing and unrelenting campaign to artificially capture the customer will ultimately lead to a loss of competition in our industry. As a company we seek to be the best in our class, not mislead our customers and we would greatly appreciate that actions of the ACCC seek to **reinforce** the competitive nature of our market and **not restrict** consumer choice or **reduce** consumer rights.

There is already so much confusion regarding new car warranties. There is a generally a great deal of fatigue when purchasing a vehicle, limited information on consumer guarantees at the time of purchase and the impression given to the consumer regarding servicing and warranties at the time of sale can be misleading. In our view consumers already have rights and it is difficult to see what rights they would have that are additional under an extended warranty – even the term 'extended' is misleading. Given the existing level of confusion and the significant power imbalance, this Notification will fuel the problem and neither support consumer rights nor improve consumers' knowledge of their rights.

We work hard to inform consumers that using our products will not void the warranty. Consumers are entitled to use fit for purpose parts that are installed with suitably qualified professions. That is the guideline as issued by the ACCC. But every day we see more and more car owners that are confused about whether they can service outside of the dealership and if they can use our innovative Australian designed modification parts and services. We do note that Mitsubishi Australia does not make any reference to the Australian Automotive Aftermarket parts suppliers in their request for exclusive dealing notification – and perhaps this is because they do not know of the parts implications or because there is a misunderstanding that Australia no longer produces automotive components. I can reassure you that we do produce and export Automotive components that are world renowned for design and quality. In my view our industry does not require government funding or hand-outs. What is required is a competitive landscape that embraces and encourages innovation. Anti-competitive practices such as this Exclusive Dealing notification will have the effect of reducing investment in aftermarket innovation and product development.

Concluding Remarks

Our role in the industry is to support car owners to enhance vehicle systems to ensure that they are safe and fit for purpose. We have a proud 70-year history of high quality products backed by our warranty and ACL consumer guarantees. We keep, and grow our position in this industry by always respecting our customers and we continue to 'meet the market' with new products and new services. We respect that the ACCC will make a decision on this notification that allows us to continue to compete on price and quality based on well-informed customers that exercise choice without any fear that their actions will result in a loss of their warranty rights.

Yours sincerely,

Mark Pedder | Director | Pedders Suspension

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