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9 October 2020

Mr Andrew Mahony
ACCC
GPO Box 3131
CANBERRA ACT 2601

Via email adjudication@acc.gov.au

Dear Sir,

**Mitsubishi Motors Australia Limited – Exclusive dealing notification
RN10000433 – interested party consultation**

We refer to your email letter of 17 September 2020 regarding the Mitsubishi Motors Australia Limited (“MMAL”) above notification.

We are the franchisor of the Ultra Tune network of automotive service workshops around the mainland of Australia. We currently have 257 workshops:

State / Territory	No. of workshops
New South Wales & ACT	67
Northern Territory	2
Queensland	74
South Australia	22
Victoria	67
Western Australia	25

The vast majority are operated by small “family run” franchisees employing 2-5 people.

Our franchisees service all popular makes and models of passenger, SUV, light commercial and 4x4 motor vehicles. They service approximately 2.8% of the Australian independent vehicle servicing market. Most of the vehicles serviced by our franchisees are 5 years or older as manufacturer dealers have large share of vehicle servicing during their “manufacturer” warranty period.

For the purposes of our submissions, we will distinguish between the manufacturer warranty and the statutory warranty. The former being the warranty express provided by a manufacturer to a customer (including the proposed warranty which is the subject of MMAL’s notification) and the latter being the statutory guarantees provided under the Australia Consumer Law (“ACL”).

Historically, Ultra Tune workshops, and other independent vehicle workshops, provide a cheaper and more cost-effective service to consumers in their servicing and repair of automotive vehicles, in addition to the same quality of work and better customer service.

We object to the notification and request the ACCC revoke the above notification because:

- (a) MMAL's proposed warranty will have the effect of lessening competition; and
- (b) It will not result in a public benefit outweighing the public detriment.

The basis for our objections are as follows:

Warranties for new vehicles provided by manufacturers, dealerships¹ and the ACL have already created confusion with consumers as to their rights. We submit the MMAL proposed warranty does not provide a real benefit to consumer above the protections provided for under the ACL ("ACL Warranties"). For example, the ACL already provides consumer protection from manufacturing defect and poor workmanship. Furthermore, the MMAL proposed 'extended' warranty has numerous exclusions (beyond the exclusion of servicing by non-dealers) to provide MMAL ample flexibility to reject a claim by a consumer. The consumer is then placed in the unenviable position of having paid more for servicing, having surrendered their right for servicing by an independent and, in all probability, can no longer retain the benefit of MMAL proposed warranty for the remainder of the 10 year period.

MMAL proposed warranty will further create confusion and misunderstanding with consumers as it creates two manufacturer's warranties;

- one where the consumer impliedly surrenders their right to have independent non-dealer car servicing for a claimed 10 year manufacturer warranty; and
- one where the consumer is provided a 5 year manufacturer warranty if they chose to engage non-dealer service.

We submit the MMAL proposed warranty is open to abuse by MMAL and dealerships. Firstly, consumers are more likely to have an incorrect perception that the MMAL proposed warranty is the "10 year" benefit without mentioned of the constraints referred to above.

We have already seen an example of this in the Cars Guide article of 1 October 2020 (<https://www.carsguide.com.au/car-news/mitsubishi-overtakes-kia-mg-and-ssangyong-with-10-year-warranty-for-new-cars-suvs-utes-and>) (copy attached). Even in this article there is no mention of the requirement of having servicing performed by MMAL dealers throughout the 10 year period.

Secondly, consumers are likely to be under the incorrect perception that vehicle repairs (as distinct from scheduled services) are required to undertaken by MMAL dealer in order to retain the "10 year" manufacturer warranty. This is not the case. Yet we see from the above-mentioned Car Guide article, there is no mention of the consumer right to have vehicle repairs performed by dealers or independent repairers.

¹ In the past and even now, some dealerships have provided extended warranties to consumers in the form of direct contracts which are contingent upon the consumer servicing their vehicle with that specific dealer.

MMAL claims to hold 7.8% of the Australia vehicle market and their proposed manufacturer warranty will not greatly affect the aftermarket servicing. We submit that this claim fails to consider that their propose will affect 100% of new Mitsubishi vehicle owners should this notification be approved. This will have the effect of reducing the consumer's choice of service provider on the belief hope of retaining the 10 year manufacturer warranty.

We further submit that should MMAL's notification be allowed, it will set a dangerous precedent for other vehicle manufacturers seek and obtain similar exclusions which ultimately will exclude independent service workshops (like us) from the vehicle servicing market. This will ultimately reduce the consumer choice and price competitiveness.

Furthermore, MMAL have not provided any information as to the servicing costs during the proposed 10 year MMAL warranty period. This is of clear detriment to consumers as they are unable to compare the benefit of the MMAL proposed warranty (if any) against the real cost savings offered by independent workshops like Ultra Tune.

MMAL have claimed their 10 year MMAL proposed warranty will improve the consumer servicing offered by dealerships. However, we submit that such a causation cannot withstand proper scrutiny:

- dealerships and MMAL already have a close relationship including access to manufacturer only servicing data/tools.
- Our franchisees have informed us and in our general experience, consumers have experienced poor consumer service from manufacturer authorised dealers. It is a falsity to draw any causation between improved customer service and an increase warranty period on the proviso of servicing only by a dealer.
- We and other independent workshops offer consumers independent and more cost-effective servicing and repair, including consumer choice as to genuine and non-genuine parts and consumables.
- Indeed, in discussions with our franchisees, many of them have remarked, they provide better quality work and customer service at cheaper cost to consumers.

Whilst MMAL have an existing dealer and standalone authorised service centres network, that network cannot match the number of independent workshops. Consumers may feel compelled to now travel further distances to an MMAL dealer (especially in regional areas) to retain the perceived benefit of the MMAL proposed warranty. This places extra financial and time costs for those consumers for, we say, little to no return when an independent workshop can provide more convenient and cheaper servicing to consumers.

In the past, we have seen resistance from manufacturers to provide independent repairer's access to vehicle servicing technical data/tools. In our previous submissions to the "*New Car Retailing Industry – a Market study by the ACCC*" report December 2017, we submitted that this reduces competition and choice to consumers. This notification we submit is a similar tactic by MMAL to reduce competition and choice to consumers.

Ultimately, we submit that if MMAL is truly dedicated to improving Mitsubishi new vehicle consumer experience, they should work with both their dealership network and

the independent workshops in providing the same access to their vehicle servicing technical data and their proposed 10 year warranty.

Yours faithfully

A grey rectangular box redacting the signature of Albert Chong.

Albert Chong

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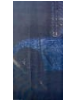
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Mitsubishi overtakes Kia, MG and SsangYong with 10-year warranty for new cars, SUVs, utes and vans sold in Australia

[Mitsubishi ASX](#) [Mitsubishi Outlander](#) [Mitsubishi Triton](#) [Mitsubishi Mirage](#) [Mitsubishi Pajero Sport](#) [Mitsubishi Pajero](#) [Mitsubishi Eclipse Cross](#) ...



The Triton ute now comes with a 10-year/200,000km warranty.



Justin Hilliard

Deputy News Editor
CarsGuide

1 Oct 2020 • 2 min read

Mitsubishi has introduced the longest warranty for new vehicles sold to private buyers and small businesses in Australia, with its 10-year/200,000km offer now available in showrooms.

The new permanent, transferable warranty doubles Mitsubishi's previous five-year/100,000km term and overtakes the seven-year/unlimited-kilometre offers that Kia, MG and SsangYong have led from the front with in Australia.

That said, if owners don't service their vehicles at a Mitsubishi dealership, they will instead be covered for five years or 100,000km, whichever comes first.

Read More: [New Mitsubishi Outlander 2021 confirmed: Game-changing Toyota RAV4 rival to 'surprise many'](#)

Better yet, the latest version of Mitsubishi's Diamond Advantage program also includes 10-year/150,000km capped-price servicing, up from the previous three-year/45,000km term. This also sets a new standard locally, besting the seven-year offers from Kia and SsangYong.

Four years of roadside assistance continues to round out the Diamond Advantage program, with owners getting that level of support if they take advantage of the first three years or 45,000km of capped-price servicing available at Mitsubishi dealerships.



[Click here](#)

Of note, Kia is still ahead when it comes to roadside assistance, although it requires buyers to fully take up its seven-year capped-price servicing offer to get the maximum eight years.

Critically, the Diamond Advantage program applies to all Mitsubishi models, including the [Mirage](#) light hatchback, [ASX](#) and [Eclipse Cross](#) small SUVs, [Outlander](#) mid-size SUV, [Pajero](#) and [Pajero Sport](#) large SUVs, [Triton](#) mid-size ute and [Express](#) mid-size van.

Read More: [New Mitsubishi Eclipse Cross 2021 goes hybrid](#)

The timing of the new warranty, capped-price servicing and roadside assistance terms is no coincidence, as Mitsubishi is celebrating 40 years in Australia, having launched on October 1, 1980, with 24 dealerships.

"Over the years, our products and dealerships have certainly changed. What hasn't changed is our commitment to Australia – it is as firm now as it was on October 1, 1980," said Mitsubishi Australia's chief executive officer, Shaun Westcott.

Read More: [Mitsubishi ASX future in doubt as small SUV focus shifts to Eclipse Cross](#)

"Forty years is an incredible achievement, and I'd like to acknowledge all of those who have contributed to that success."

As reported, the next 12 months will be key for Mitsubishi Australia, with the heavily facelifted Eclipse Cross due to be revealed in November, while the next-generation Outlander will debut early next year.

Read More: [Mitsubishi Pajero axed! End of the road for ageing off-road icon as brand battles record losses](#)

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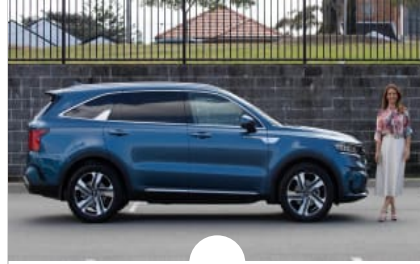
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