

## **Undertaking to the Australian Competition and Consumer Commission**

Given under section 87B of the *Competition and Consumer Act 2010* (Cth) by  
Stellantis (Australia and New Zealand) Pty Ltd ACN 125956505

### **1. Person giving the Undertaking**

1.1 This Undertaking is given to the Australian Competition and Consumer Commission (**ACCC**) by Stellantis (Australia and New Zealand) Pty Ltd ACN 125956505 (**Stellantis Australia**) for the purposes of section 87B of the *Competition and Consumer Act 2010* (Cth) (**CCA**).

### **2. Background**

2.1 The Australian Consumer Law (**ACL**) commenced on 1 January 2011 and contains statutory guarantees in Division 1 of Part 3-2 which provides consumers with a basic, guaranteed level of protection for goods and services which they acquire (**Statutory Consumer Guarantees**). The Statutory Consumer Guarantees cannot be excluded, restricted, or modified. Consumers who are supplied with goods or services that fail to meet the Statutory Consumer Guarantees are entitled to remedies under Part 5-4 of the ACL.

*ACCC concerns about industry compliance with consumer guarantees for high value goods, including motor vehicles*

- 2.2 The ACCC receives a large number of complaints each year relating to consumer guarantees and high value goods, including motor vehicles. Since 2022, 24% of complaints regarding consumer guarantee issues related to motor vehicles.
- 2.3 Given this level of complaints, the ACCC has for several years prioritised its work on consumer issues in new car retailing. Empowering consumers and improving industry compliance with Statutory Consumer Guarantees, with a focus on high value goods including motor vehicles, is one of the ACCC's compliance and enforcement priorities in 2023-24.
- 2.4 Most car manufacturers provide consumers with a warranty with the purchase of a new car (**Manufacturer's Warranties**). Manufacturer's Warranties provide specific rights and obligations which are separate, and in addition, to the Statutory Consumer Guarantees.
- 2.5 The ACCC considers that it is concerning where car manufacturers' policies and procedures, including consumer redress systems and compliance programs, are generally focused on Manufacturer's Warranties, rather than consumers' entitlements arising from the Statutory Consumer Guarantees.

#### *Stellantis Australia*

2.6 Stellantis Australia (previously FCA Australia Pty Ltd) is a wholly owned subsidiary of FCA Minority LLC. Stellantis Australia is the local national sales company and importer of Jeep vehicles into Australia.

- 2.7 Stellantis Australia distributes all Jeep vehicles via its dealer network which is the retail distribution and servicing channel for Jeep vehicles. Jeep dealerships are separate legal entities to Stellantis Australia and are operated as franchises.
- 2.8 Stellantis Australia provides consumers with a warranty (**Jeep Manufacturer's Warranty**) at the time they purchase an eligible new Jeep vehicle. The term of the Jeep Manufacturer's Warranty is 5 years or 100,000km (whichever comes first). Full terms and conditions of the Jeep Manufacturer's Warranty are available on the Jeep website.
- 2.9 Stellantis Australia acknowledges:
- (a) the importance of having strong internal processes in place to ensure that claims about vehicle faults are assessed in accordance with the Statutory Consumer Guarantees and that consumers are accurately informed of, and able to easily access, their legal rights under the Statutory Consumer Guarantees;
  - (b) that the ACCC has received a number of complaints about the way in which Stellantis Australia and/or Jeep dealerships have assessed claims about Jeep vehicle faults; and
  - (c) the ACCC's concerns that Stellantis Australia's internal guidance documents and policies may not have provided Stellantis Australia staff with sufficient information to understand their obligations under, and to ensure compliance with, the ACL and in particular the Statutory Consumer Guarantees when dealing with customer complaints.
- 2.10 To address the ACCC's concerns raised in paragraph 2.9, Stellantis Australia has offered this Undertaking to the ACCC.

### **3. Commencement and Term of this Undertaking**

- 3.1 This Undertaking comes into effect when:
- (a) this Undertaking is executed by Stellantis Australia; and
  - (b) this Undertaking so executed is accepted by the ACCC (**Commencement Date**).
- 3.2 This Undertaking has effect for 3 years from the Commencement Date (**Term**).
- 3.3 From the Commencement Date, Stellantis Australia undertakes to assume the obligations set out in paragraphs 4.1 – 4.12 for the purposes of section 87B of the CCA.

### **4. Undertaking**

- 4.1 Stellantis Australia provides the undertakings set out below for the purposes of section 87B of the CCA and undertakes to implement these commitments, including by advising relevant staff and dealers (where applicable) of any changes to processes.
- 4.2 For the purpose of paragraph 4.3, **Complaints Handling System** means systems or procedures for dealing with complaints related to Stellantis Australia's compliance with the Statutory Consumer Guarantees, being communications by a consumer to Stellantis Australia, whether received directly from a consumer or

where the dealer provides the communication to Stellantis Australia for assistance resolving the inquiry, in relation to:

- (a) a fault or defect in a Jeep vehicle, whether or not the fault or defect is agreed to by Stellantis Australia;
- (b) a decision by Stellantis Australia, or its dealers, to repair, replace, or buy-back a Jeep vehicle, or a decision not to do any of those things on account of a fault or defect in a Jeep vehicle; or
- (c) the application of the Jeep Manufacturer's Warranty or the Statutory Consumer Guarantees.

*Review of complaints handling systems and procedures*

4.3 Stellantis Australia undertakes that it will within 6 months of the Commencement Date complete a review of its Complaints Handling System in order to identify any changes necessary to ensure that:

- (a) consumers are able to access a refund or replacement vehicle (or at the customer's request, a repair) where there has been a major failure;
- (b) consideration of a consumer's ACL rights is embedded into Stellantis Australia's systems and procedures with the objective of ensuring that consumers are not denied remedies they are entitled to arising from the Statutory Consumer Guarantees; and
- (c) consumers who request a refund or replacement vehicle are advised in writing of the outcome of the request, and, where applicable, of the reason that a remedy sought by the customer has not been agreed by Stellantis Australia.

4.4 Within 3 months of completing the review in paragraph 4.3 above, Stellantis Australia will implement any changes identified as a result of the review and provide evidence of these amendments to the ACCC.

4.5 In undertaking the review referred to in paragraph 4.3 above, Stellantis Australia will have regard in particular to the importance of ensuring that consumers are not misled about:

- (a) the circumstances in which the Statutory Consumer Guarantees may apply;
- (b) the remedies that may be available to consumers when a car does not meet the Statutory Consumer Guarantees; and
- (c) the interaction between the Statutory Consumer Guarantees and any manufacturer's warranties.

*Consumer Communications*

4.6 Stellantis Australia undertakes that it will within 3 months of the Commencement Date, ensure that all customers who purchase a new Jeep vehicle receive a communication from Stellantis Australia which advises them in writing of their rights in relation to the Statutory Consumer Guarantees, with such communication to be sent within 30 days of purchase or provided on the date of delivery of the vehicle.

*Review of training for staff and dealers*

- 4.7 Stellantis Australia undertakes that it will within 9 months of the Commencement Date, review and update (as applicable) its training for:
- (a) Relevant staff (being directors, officers and employees of Stellantis Australia whose duties involve managing, resolving or approving the resolution of customer complaints (**Staff**) and make any changes necessary to ensure that Staff have sufficient information to understand how ACL compliance in relation to the Statutory Consumer Guarantees is to be achieved by Stellantis Australia, in particular as to when a customer is entitled to a replacement or a refund, rather than a repair consistent with the Statutory Consumer Guarantees; and
  - (b) dealers to provide information about the requirements of the ACL and in particular dealer obligations under the Statutory Consumer Guarantees and how Stellantis Australia can assist its dealers to resolve complaints consistently with the Statutory Consumer Guarantees, in particular as to when a replacement or a refund should be offered, rather than a repair, and will provide the updated training material to the ACCC.
- 4.8 Stellantis Australia will require Staff to attend the training outlined in paragraph 4.7(a) at least annually for the duration of this Undertaking.

*Annual review*

- 4.9 Stellantis Australia undertakes that for the duration of this Undertaking, it will appoint a director or a senior manager of the business with suitable qualification or experience in corporate compliance as the officer responsible for conducting an annual review of the commitments Stellantis Australia has made in this Undertaking. The responsible officer will be appointed within 3 months of the Commencement Date.
- 4.10 The responsible officer will prepare an annual report for Stellantis Australia's appropriate governing body on the effectiveness and implementation of the commitments in ensuring ACL compliance in relation to the Statutory Consumer Guarantees within 12 months from the Commencement Date and annually thereafter for the term of the Undertaking. Stellantis Australia will provide these reports to the ACCC.

*Independent review*

- 4.11 Stellantis Australia undertakes that it will involve an independent expert or experts with suitable experience in consumer law, such as Stellantis Australia's external legal advisors, in the review of:
- (a) Stellantis Australia's Complaint Handling System referred to in paragraph 4.3;
  - (b) correspondence to consumers referred to in paragraph 4.6;
  - (c) the training for Staff and dealers referred to in paragraph 4.7 and 4.8; and
  - (d) the annual report to Stellantis Australia's governing body referred to in paragraph 4.10.

**ACCC inquiries**

4.12 Stellantis Australia undertakes that it will:

- (a) respond to ACCC inquiries for the purpose of monitoring compliance with the Undertaking within a reasonable period of time; and
- (b) promptly and fully implement any recommendations that the ACCC may make that the ACCC considers reasonably necessary to ensure that Stellantis Australia maintains and continues to implement the changes to its Complaints Handling System referred to in paragraph 4.4 of this Undertaking.

**5. Acknowledgements**

5.1 Stellantis Australia acknowledges that:

- (a) the ACCC will make this Undertaking publicly available including by publishing it on the ACCC's public register of section 87B undertakings on its website;
- (b) the ACCC may, from time to time, make public reference to this Undertaking including in news media statements and in ACCC publications; and
- (c) this Undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

**Executed as an Undertaking**

Executed by Stellantis (Australia and New Zealand) Pty Ltd ACN 125956505 pursuant to section 127(1) of the *Corporations Act 2001* by:

	
Signature of director	Signature of a director/company secretary (delete as appropriate)
 Michael Filazzola	 Claude Murray
Name of director (print)	Name of director/company secretary (print)
23.10.2023	23.10.2023
Date	Date

Accepted by the Australian Competition and Consumer Commission pursuant to section 87B of the *Competition and Consumer Act 2010* (Cth) on:

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Date 25 October 2023

and signed on behalf of the Commission:

*G Cass-Gottlieb*

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~~Michael John Keogh, Acting Chair~~ GINA CASS-GOTTLIEB, Chair

*GC*

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Date 25 October 2023