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ACCC Decision on Mitsubishi's Exclusive Dealing notification Update

The Australian Competition and Consumer Commission has handed down its decision to allow Mitsubishi's conditional 10 year or 200,000 km warranty to stand. The warranty is conditional on the vehicle being serviced only by authorised Mitsubishi Dealers and service centres.

The ACCC carefully considered a variety of factors in its decision, including a large number of submissions from independent repairers, aftermarket parts suppliers, members of the public and Associations including VACC via the Motor Trades Association of Australia (MTAA).

The ACCC have allowed Mitsubishi Motors Australia Limited (MMAL) exclusive dealing notification to stand based on current information and conclude that there is no basis the notified conduct has the purpose, effect or likely effect of substantially lessening competition.

This means purchases of new Mitsubishi vehicles will continue to remain entitled to MMAL's standard five-year warranty when they service their vehicle in accordance with MMAL's service schedules regardless of whether they are serviced at dealer or independent repairer. Consumers will also remain able to obtain repairs from independent repairers, just not a service if the consumer wants to keep their 10-year warranty intact.

The ACCC go on to say that they can revoke the notification if it is satisfied that the notified conduct:

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

To revoke the notification the ACCC would consider the following information:

- the extent of the notification's impact on the ongoing viability of independent mechanics, and the extent to which this substantially reduces the constraint independent mechanics provide on MMAL and its dealers and service centres, and
- the extent to which other vehicle manufacturers seek to engage in similar conduct, and the potential impact on the relevant markets.

The Executive Committees of the VACC Automobile Repairers, Electrical and General Divisions are disappointed with this decision and believe consumer choice will be affected in the longer term, however, will continue to monitor the situation, remain in dialogue with the ACCC on this issue.

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