

Important Franchise Legislation released for consultation

Dear Members

This is the most significant movement on an issue VACC & MTAA and members have been advocating for since before the creation of the franchising code of conduct and welcomed although it may not necessarily address every concern of new car retailing.

VACC acknowledges the contribution to this outcome of previous VADA MID and FIMDA Committee members and Chairs. For some these changes have come too late. VACC also wishes to thank MTAA CEO Richard Dudley for his untiring and relentless pursuit in persuading Government to introduce a schedule to the franchising code that is of relevance to franchise dealers.

You will find attached the joint ministerial media release from Ministers Andrews (Industry) and Cash (Small Business) releasing Governments proposed draft regulations to ensure fairness and equity in new car retail franchising.

The proposed draft regulations introduce an automotive specific section to the Franchising Code of Conduct to deal with matters raised by VACC & MTAA Members on behalf of their new car motorcycle and farm and industrial machinery dealers over many years.

The new regulations **only** apply to new car retailing at this stage.

It is the intention of Government and the Department to extend this to motorcycle and farm and industrial machinery during the first review period after examining the impact of transition to the new regulations (approx. 18 months to 3 years). VACC & MTAA will continue to advocate inclusion for these important industries as well as general reforms to other parts of the Franchising Code for other industries including fuel retailing.

The purpose of the Competition and Consumer (Industry Codes – Franchising) Amendment (New Vehicle Dealership Agreements) Regulations 2020 (the Regulation) is to address the effects on commercial arrangements arising from the **now recognised and accepted** power imbalance between car manufacturers as franchisors and new car dealers as franchisees.

The Regulation is divided into two Schedules.

Schedule 1 proposes to amend the Franchising Code to introduce two new Parts – Part 5 and Part 6 which apply only to new vehicle dealership agreements (Division 1).

Part 5 introduces amendments which address:

- end of term obligations (Division 2);
- capital expenditure requirements (Division 3); and
- resolving disputes through multi-franchisee dispute resolution (Division 4).

Part 6 provides the application, savings and transitional provisions for the amendments introduced in new Part 5.

Schedule 2 introduces updates to the definition list within the Franchising Code following the inclusion of the term 'new vehicle' by Schedule 1 of the Regulation.

Please note, except where otherwise stated in the Regulation, the remainder of the Franchising Code will continue to apply to new car dealership agreements.

Further information is available at <https://consult.industry.gov.au/industry-growth/automotive-franchising-draft-regulations-2019>

Attachments:

- [Franchising draft regulations](#)
- [Draft Explanatory Statement](#) - Competition and Consumer Amendment Regulations 2020
- [Regulation Impact Statement](#) - Franchise relationships between car manufacturers and new car dealers
- [MTAA Media Release](#)

Please note the **closing date** for consultations is **13 March 2020**.

It is expected a further announcement on access to service and repair information will be made in the next two weeks.

Please do not hesitate to contact me should you require any clarity or additional information.

Michael McKenna MBA
Industry Policy Advisor
Industry Divisions

VACC

Level 7 | 464 St Kilda Road | Melbourne Vic 3004

P: 03 9829 1280 | **M:** 0418 822 939 | **F:** 03 9867 1795 | **W:** vacc.com.au