

BULLETIN

Industry Divisions



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Important Survey for Farm Machinery & Motorcycle Dealers to advise the ACCC of issues with manufacturer warranty on farm equipment

Members of the VACC Farm and Industrial Machinery Dealers Association (FIMDA) and VACC Motorcycle Industry Division (MID) were advised on 29 February 2020 that the ACCC had released a discussion paper called [Agricultural machinery: After-sales markets](#).

FIMDA and MID members were advised that VACC will be heavily invested on this discussion and will be representing the interests of its 220 Victorian FIMDA and 300 MID Members.

What does VACC request from you?

VACC has developed a short survey to help inform its submission and that it asks for all FIMDA and MID members to complete. The survey is important whether you are a franchise or non-franchise dealer.

You can take the survey by [taking this link](#).

What is the purpose of the survey?

The VACC survey aims to gather as much industry generated evidence to inform its submission regarding the four elements of the ACCC Review, namely:

- Whether access to independent agricultural machinery repairs is limited.
- Whether farmers may lack resource in the event of a problem with their machinery.
- Do agreements between manufacturers and dealers may limit access to repairs?
- Does data ownership and management may raise privacy and competition issues?

What will VACC be focussing upon?

Key to the VACC submission will be that the onus of Australian Consumer Law (ACL) obligations, when dealing with a consumer facing issue is not portrayed or perceived to an issue for dealers to solely solve. Manufacturers have a responsibility under the ACL to ensure their products meet the consumer guarantees.

VACC's preferred legal firm, HWL Ebsworth advise that where a supplier is liable to a consumer for a breach of consumer guarantees, that the supplier has a right of indemnity against the manufacturer to recover its losses provided that the consumer guarantee that has been breached is one of the following:

- acceptable quality;
- fitness for a disclosed purpose which the consumer made known to the manufacturer either directly or indirectly through the supplier or a person who had any prior negotiations or arrangements in relation to the acquisition of the goods were conducted or made; or
- supply by description; or
- The supplier has the right to seek reimbursement from the manufacturer but they must do so within three years of the issue.

Please take the survey, distribute it to as many Farm Machinery and Motorcycle Dealers that you know of who retail farm machinery.

Any queries from members or non-members should come to my office.

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VACC

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