

VACC's response to the Review of the Australian Financial Complaints Authority – Terms of Reference

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Contact

Kathy Zdravevski LL.M(JD)

Industry Policy

VACC

Level 7 | 464 St Kilda Road | Melbourne Vic 3004

M: 0418 329 527 | E: kzdravevski@vacc.com.au | W: vacc.com.au

Michael McKenna MBA

Industry Policy

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

About VACC

Australia's automotive industry is diverse and encompasses a variety of sectors. Table 1 shows that in aggregate the industry employs 384,810 people across 72,521 individual businesses and contributes over \$39 billion in industry value-added to Australia's economy. Of the 72,521 businesses representing Australia's automotive industry, most are small and family-owned businesses.

The Victorian Automotive Chamber of Commerce (VACC) is Victoria's peak automotive industry association, representing the interests of more than 5,000 members in over 20 retail automotive sectors, who employ over 50,000 Victorians.

VACC members range from new and used vehicle dealers (passenger, truck, commercial, motorcycles, recreational and farm machinery), repairers (mechanical, electrical, body and repair specialists, i.e. radiators and engines), vehicle servicing (service stations, vehicle washing, rental, windscreens), parts and component wholesale/retail and distribution and aftermarket manufacture (e.g. specialist vehicle, parts or component modification and/or manufacture), and automotive dismantlers and recyclers.

Table 1: Automotive Industry, Economic Summary 2019/20

ANZSIC CODE	INDUSTRY SECTOR	EMPLOYMENT (No.)	BUSINESSES (No.)	GDP CONTRIBUTION* (\$billion)
941	Automotive Repair and Maintenance	140,850	40,220	11.0
391	Motor Vehicle Retailing	71,450	5,361	7.7
2311, 2312, 2313, 2319	Motor Vehicle and Parts Manufacturing	37,050	3,148	3.72
400	Fuel Retailing	34,450	3,972	3.38
392	Motor Vehicle Parts & Tyre Retailing	34,750	4,285	2.1
350	Motor Vehicle and Parts Wholesaling	26,200	5,488	6.13
2399, 2462, 2491, 2461	Other Specialised Machinery & Equipment Manufacturing	10,000	837	1.6
6611	Passenger Car Rental & Hiring	7,120	2134	1.7
4231, 9429	Outdoor Power Equipment	4,650	1285	0.3
4245, 9429	Marine Equipment Retailing	3,210	818	0.22
4241	Bicycle Retailing	5,020	1,103	1.3
4610	Towing Services	3,040	2,460	0.2
9429	Agricultural Machinery Retailing & Repair	7,020	1410	N/A
	TOTAL	384,810	72,521	39.35 billion

List of Recommendations

Recommendation 1

VACC recommends a comprehensive analysis be undertaken of recurring motor vehicle complaints made to AFCA against subscribers to the Code. Specific attention should be given to complaints that focus on the day-to-day management of a claim, rather than significant breaches.

Recommendation 2

VACC recommends stricter compliance, enforcement, and auditing of ASIC's current Regulatory Guide RG 165 (known as RG 271 as of 5 October 2021).

Recommendation 3

VACC recommends AFCA and ASIC work together to provide a structured and comprehensive annual audit system of a motor insurer's IDR department.

Recommendation 4

VACC recommends insurers address front-line staff recruitment and training deficiencies and investigate their capacity to effectively manage complaints from both consumers and automotive repairers.

Recommendation 5

VACC recommends that the controls, systems, and processes of Australian Financial Service Licensees (the insurer) are monitored and regularly audited to ensure compliance of the Insurance Contracts Act 1984, all ASIC Regulatory Guides (specifically RG 165-271) and the General Insurance Code of Practice 2020. This would allow for a better-rounded understanding of the root causes of persistent complaints made against the insurer by consumers to AFCA that relate to the day to day management of a claim.

Recommendation 6

VACC recommends unregulated financial intermediaries be captured under section 9 of the NCCP to ensure greater transparency and accountability of industry practices.

1. Introduction

The Victorian Automotive Chamber of Commerce (VACC) welcomes the opportunity to provide a response to Treasury's Review of the Australian Financial Complaints Authority (AFCA) - Terms of Reference.

VACC supports AFCA's formal obligation to identify systemic issues¹ arising from complaints. The following submission provides commentary into the effectiveness of AFCA's processes for the identification and appropriate response to systemic issues arising from complaints in the general insurance motor vehicle industry.

VACC is also seeking, as part of this review, assistance from AFCA by the power vested in them², to assist the automotive industry and address the systemic issues, which have an impact on consumers and VACC members more broadly. Apart from systemic issues in the general insurance motor vehicle industry, systemic issues also exist for consumers who have been misled by intermediary vehicle lease brokers or credit financial institutions in the lease agreement of a new motor vehicle from a franchise dealer. This submission will discuss both areas of the automotive industry separately.

Complaints received by AFCA allege a wide range of product and service-related issues including processes or staff bias, delays of claim settlement, failure to take account of relevant information, breach procedural fairness and discourtesy. Under Regulatory Guide 267.198, a "systemic issue" means an issue that may: (a) affect more than one complainant, (b) involve many complaints that are similar in nature, (c) affect all current or potential complainants at a particular firm; or (d) affect more than one firm.³

VACC, as an automotive industry employer association, protects and promotes the interests of its members.⁴ Given VACC's duty and responsibilities, and appreciating AFCA can consider complaints from consumers about general insurance motor vehicle products and credit institutions, VACC sees AFCA as a powerful authority to identify and eliminate the root cause of various industry sector, systemic issues that have not been previously addressed.

2. Response to Terms of Reference

2.1 Why do VACC member repairers* need AFCA's help in the general insurance motor vehicle industry to identify systemic issues?

VACC repairer members and several of AFCA's General Motor Insurer subscribers form part of the wider motor insurance industry sector. This relationship can be identified by the numerous complaints AFCA receives each year by consumers against the insurer, whereby many consumers rely on motor vehicle repairers for both assistance in claims handling and repairs. The high volume of complaints, received yearly by AFCA, is evidence of systemic issues regarding the conduct of insurance companies. Such conduct has a direct impact, and often negative impact, on the consumer and motor repairer.

2.2 The importance of the complaint AFCA receives from consumers against the insurer

Complaints are an important indicator of AFCA's subscribers' ability to comply with the General Insurance Code of Practice (the Code) and meet its regulatory objectives more broadly. VACC members dealing with insurers are predominantly small motor repair businesses, who over

1 *Corporations Act 2001* (Cth) s 1052E.

2 The Treasury Laws Amendment (Putting Consumers First - Establishment of the Australian Financial Complaints Authority) Act 2018 (Cth) (the AFCA Act) authorises AFCA and outlines how AFCA's jurisdiction and powers are determined. The Corporations Act 2001 (Cth) gives ASIC powers to oversee AFCA. ASIC is required to approve material changes to the AFCA scheme under the Corporations Act, 2001.

3 ASIC June 2018. Regulatory Guide 267.198: Oversight of the Australian Financial Complaints Authority, p. 42.

4 VACC members range from new and used vehicle dealers (passenger, truck, commercial, motorcycles, recreational and farm machinery), repairers (mechanical, electrical, body and repair specialists, i.e. radiators and engines), vehicle servicing (service stations, vehicle washing, rental, windscreens), parts and component wholesale/retail and distribution and aftermarket manufacture (e.g. specialist vehicle, parts or component modification and/or manufacture), and automotive dismantlers and recyclers.

time, have been placed under a glass ceiling by insurers. This glass ceiling relates to preferred repairer schemes, consumer choice of repairer, repair methods, quoting, repairer warranties, parts used for vehicle repairs, with the most concerning being dispute resolution opportunities and objectivity amongst the insurer's Internal Dispute Resolution (IDR) processes and fairness principles. Each issue directly affects the consumer and flows onto VACC repairer members.

Accordingly, the role of the vehicle owner is at the heart of the relationship between repairers and insurers. This role has evolved over time, however, AFCA's role and power to address systemic issues that arise from the aforementioned issues between the insurer and repairer is not well known. By identifying the reoccurring complaints AFCA sees lodged against the insurers on a daily basis, AFCA can go some way to question the status quo and broad obligations that an insurer is expected to uphold in order to keep their Australian Financial Services (AFS) license.

Complaints are an important indicator of a motor vehicle insurer's ability to comply with the Code and meet its objectives.⁵ Understanding the reasons for an 'expression of dissatisfaction'⁶ provides subscribers of AFCA and the Code with important insights into their products, compliance frameworks and organisational approach. VACC acknowledges that The Code Governance Committee⁷ will continue to monitor complaints to better understand the reasons behind the complaints, as well as subscribers' responses. However, VACC recommends a deeper analysis into the root causes of complaints be undertaken with individual subscribers (insurers), to truly understand why specific motor vehicle insurance complaints are made against the insurer time and time again.

Recommendation 1

VACC recommends a comprehensive analysis be undertaken of recurring motor vehicle complaints made to AFCA against subscribers to the Code. Specific attention should be given to complaints that focus on the day-to-day management of a claim, rather than significant breaches.

Recommendation 2

VACC recommends stricter compliance, enforcement, and auditing of ASIC's current Regulatory Guide RG 165 (known as RG 271 as of 5 October 2021).

Recommendation 3

VACC recommends AFCA and ASIC work together to provide a structured and comprehensive annual audit system of a motor insurer's IDR department.

2.3 Confronting statistics to seek a long-term change in decades old motor insurance systemic issues

VACC appreciates the primary purpose of AFCA's reporting requirements is to ensure information is provided to the regulators to consider whether regulatory action is necessary. VACC also understands several past and present Ministers, through various enquiries, considered the importance of resolving the ongoing problems that have arisen in the structural relationship between the automotive repairer and the insurance industry at a national level. Although developments have been made for the industry as a whole, the systemic issues remain due to AFCA being the only agency with the knowledge, numbers, evidence, or the power to address the systemic issues arising from their signatories.

5 General Insurance Code of Practice 2020.

6 For complaints received by financial firms before 5 October 2021, Regulatory Guide 165 Licensing: Internal and external dispute resolution (RG 165) applies. RG 165 will be withdrawn on 5 October 2022. See Regulatory Guide 165 Licensing: Internal and external dispute resolution page 19. <https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-165-licensing-internal-and-external-dispute-resolution/>

7 The General Insurance Code Governance Committee <https://insurancecode.org.au/>

In 2019–20, AFCA received 19,103 general insurance complaints from consumers.⁸ Of the 19,103 complaints, 5293 complaints were for motor insurance products alone.⁹ To prove the visibility AFCA has on systemic issues in the industry – and their root cause – AFCA received 3171 complaints regarding the amount paid under a claim.¹⁰

For example, adjustments in motor vehicle repair quotations are a legitimate practice to get to the ‘right’ price for settlement of a claim. On some occasions the adjustment is up, rather than down, although the adjustment is typically down. Repairers pay rates also differ across the country and is often not taken into consideration by insurers (if at all) by insurers standardising repair costs. This leads to the *amount paid* under the claim to come into dispute via the consumer.



The above is an example, well known by AFCA, regarding the question and principles of *fairness* between the insurer/repairer and consumer in recent years. Multiple complaints are regularly lodged against the insurer (for reasons already mentioned), which suggests that there is an insurer process issue regarding amounts paid under a claim that simply must be addressed. It may not be the payment for the entire claim. The dispute may only arise on part of the claim, which is even more concerning from a consumer point of view and not to mention time wasting for all involved. The VACC questions why such complaints continue in an industry so heavily regulated with Acts, Codes and a raft of upcoming legislative changes that will continue as part of the Hayne Royal Commission. It is heavily publicised when an insurer publishes annual quality reports detailing their standards across the industry, with commentary stating, “our dedication is to quality, safety, continuous improvement and leading industry initiatives to help us deliver the best possible experience for our customers,”¹¹ which is then directly undermined by the excessive number of complaints the insurer directly receives via AFCA.

It is reasonable to expect insurers will commend themselves for exceptional performance, but it is another issue entirely to report in the media they are acting in good faith and undertaking the basic principles of fairness in each and every claim, when evidence suggests the contrary. Silos exist between an insurer’s front-line staff (claims handlers, assessors, and junior management) and senior management and executives in order to understand and control the number of

8 AFCA Annual Review 2019–20 – ‘General insurance complaints – Between 1 July 2019 and 30 June 2020’, page 18.

9 Ibid.

10 Ibid.

11 IAG Quality Report – Partnering with industry to deliver exceptional quality, service, and value. 2019/2020. https://www.iag.com.au/sites/default/files/Documents/Announcements/IAG-Quality-Report-2019-2020.pdf?utm_source=bodyshopnews-net&utm_medium=bodyshopnews-website&utm_campaign=iag-releases-its-annual-quality-report-for-2019-2020. Please also see comments made by IAG Executives published by; Bodyshop News Newsletter 22 March 2021, ‘IAG Releases Its Annual Quality Report For 2019-2020’ Luke Gallagher, Executive General Manager Direct Claims at IAG. https://bodyshopnews.net/iag-releases-its-annual-quality-report-for-2019-2020/?utm_source=newsletter&utm_medium=email&utm_campaign=repco_backs_the_australian_auto_aftermarket_expo&utm_term=2021-03-24

complaints received by consumers against them. An insurer's Internal Dispute Resolution (IDR) Department as a front-line defence to complaints is silent in addressing the systemic issues it sees or does not see. Due to complaints identified at the front line via claims handling not being addressed through the correct channels or being dealt with by staff who are not qualified to manage the complaint, the same issues and complaints reoccur. The above is supported by the volume of complaints AFCA receives against its various insurer signatories. Hence why the industry relies on AFCA to call out such practices and stop the power imbalance that exists in the motor insurer industry.

VACC is hopeful the upcoming legislative changes in claims handling as a financial service will address the lack of knowledge, experience, and dedication to the industry from various insurers and their employees. It is time insurers seriously reconsider who they employ, and for what specific reason. They should not underestimate the importance front line staff have in dealing with complaints from the onset to then actually correctly referring the complaint to the appropriate channel. Insurers are very well versed at explaining to regulatory authorities that they have tailored motor insurance training modules and systems in place, but the internal Training and Quality Assurance departments must be questioned on the efficacy of their training programs. Insurance training is not done externally, with limited training options available and internal insurer created training exists. The programs offered by National Accredited Institutions like ANZIIIF become too burdensome and expensive for insurers, hence when you combine training deficiencies in relation to regulatory minimum expectations and the number of complaints received per insurer the issues become overwhelming.

There are significant issues across claims and assessing processes with each insurer that must be immediately addressed to stop systemic issues continuing from claims handling. The only solace for consumers and repairers is knowing AFCA has full view of the process issues and the types of complaints generated – which many believe are avoidable. As a minimum, all parties must act in good faith in claims handling, which would reduce the number of complaints and work towards combatting decades old systemic issues.

Recommendation 4

VACC recommends insurers address front-line staff recruitment and training deficiencies and investigate their capacity to effectively manage complaints from both consumers and automotive repairers.

2.4 AFCA can assist to eliminate decade old systemic issues – the future

Post Royal Commission¹², there is anticipation regarding how insurers will respond to the new Unfair Contract Term regime, scheduled to come into effect 5 April 2021. There is now more hope that a lack of fairness in insurer assessing behaviour towards automotive repairers and consumers will have real consequences. The potential of a civil penalty attached to the failure by an AFS licensee (in this case an insurer) to ensure their financial services are provided 'efficiently, honestly and fairly' as required by section 912A of the *Corporations Act* goes some way to providing greater protections and accountability. It is understandable that insurers would be anxious to get it right, and well before their name appears in any published AFCA final determinations. However, this is where the industry requires better investigation into the root cause of the complaints that motor vehicle insurers receive against them via AFCA.

Between 1 July 2020 and 31 December 2020, one of Australia's largest motor vehicle insurer had 475 complaints lodged against them by AFCA in this six-month period.¹³ As per AFCA'S own

¹² The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry was established on 14 December 2017. The Commissioner, the Honourable Kenneth Hayne AC QC, submitted his Final Report to the Governor-General on 1 February 2019 and the report was tabled in Parliament on 4 February 2019.

¹³ Australian Financial Complaints Authority, AFCA Data cube. AFCA's Data cube houses a visualisation of data for financial firms with four or more complaints in the period from 1 July 2020 - 31 December 2020. <https://data.afca.org.au/>

definition of a systemic issue,¹⁴ a systemic issue is one that has been raised in a complaint or several complaints, or is otherwise identified by information obtained by, or provided to AFCA that is likely to affect a class of persons beyond any person who lodged a complaint or raised a concern. Several complaints of the same type or a single complaint may raise a systemic issue, provided that the effect of the issue may clearly extend beyond a single complainant. Therefore, by further analysis and example, of those 475 complaints identified above for this particular insurer, based on AFCA's own definition of systemic issues, it is likely a systemic issue exists and should be raised with the insurer directly, with the root cause identified, made public and reported to ASIC.¹⁵

VACC argues that despite AFCA not being a financial service regulator (such as ASIC or APRA), or more specifically connected to the motor insurer industry, AFCA has been given powers to assist and restore balance between motor insurers and repairers. It is understood that when AFCA receives a complaint, they will consider whether it raises an issue that is possibly systemic. VACC subsequently argues that by receiving a number of new complaints about the same issue, or where the issue that affected the particular parties to the complaint could have affected others in a similar way, AFCA should address these issues as systemic and seek to understand the root cause.

To use an example provided by AFCA in its 2019-20 Annual Report¹⁶ for General Insurance, (Sept 19 quarter) a state-based, member-funded general insurer concluded a remediation program to 74,465 consumers was warranted, worth roughly \$8.3 million. They had identified policyholders were not provided with a new Product Disclosure Statement (PDS) in circumstances where they had requested a mid-term variation in the type of general insurance (e.g., home, travel, motor) cover. VACC argues, that although systemic issues, like the above, are more broadly aligned with significant breaches¹⁷ and remediation programs, VACC urges AFCA to look at the *individual complaints* received against a motor vehicle insurer that are considered more serious and detrimental than a failure to provide a PDS to a consumer when one was originally provided. VACC argues insurers should be asked "Why are you repeatedly receiving the same complaints?" The motor insurer industry would benefit by AFCA addressing *operational*, systemic issues in the motor insurance industry.

VACC understands that when an insurer provides a reason for the cause of a complaint by a consumer, such insurer subscribers overwhelmingly point to processes and procedures not being followed. This is disappointing and suggests one or more of the following possibilities:

- Insurers' compliance frameworks (their controls, systems, and processes for detecting, recording, and preventing complaints) are still not sufficiently robust
- insurers are not adequately investigating the root cause of complaints, or
- insurers may be selecting 'processes and procedures' that they deem reasonable for a conducive relationship between a consumer and a repairer, but in fact cause breaches and complaints by default of their own misdoings by not looking closely at the real complaint cause.

Recommendation 5

VACC recommends that the controls, systems, and processes of Australian Financial Service Licensees (the insurer) are monitored and regularly audited to ensure compliance of the Insurance Contracts Act 1984, all ASIC Regulatory Guides (specifically RG 165-271) and the General Insurance Code of Practice 2020. This would allow for a better-rounded understanding of the root causes of persistent complaints made against the insurer by consumers to AFCA that relate to the day to day management of a claim.

14 Australian Financial Complaints Authority, 'Operational Guidelines to the Rules' (January 2021) A. 17 Systemic Issues [82].

15 Corporations Act s1052E (4).

16 AFCA Annual Review 2019-20 – 'General insurance complaints – Between 1 July 2019 and 30 June 2020.

17 Guidance Note No.2 Significant Breach obligations, June 2020 <https://insurancecode.org.au/resources/guidance-note-no-2-significant-breach-obligation/>



2.5 The franchise dealer sector

2.5.1 Emerging issues identified in franchised dealer sector.

A systemic issue facing consumers, and one that is becoming more problematic, relates to consumers who have been misled by intermediary vehicle lease brokers in the lease of a new motor vehicle from a franchise dealer.

This issue occurs when a consumer chooses, or are directed by their employers, to enter a new vehicle leasing arrangement with an independent broker or credit intermediary. New vehicle dealers regularly encounter consumers (almost daily), who have been affected by what can be considered as opportunistic intermediary brokers – many of whom have possibly breached many of their obligations under the *National Consumer Credit Protection Act 2009* (NCCP). VACC sees this to be the single largest emerging issue facing consumers and dealers in finance lending for 2021 and beyond.

2.5.2 Australian car sales - Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

Research tabled at the 2018 *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* ('the Commission') indicated 90 per cent of all Australian car sales are arranged through finance, of which around 39 per cent are financed through a dealership, and approximately 61 per cent are financed from other sources.¹⁸

Prior to the Commission's findings, the franchise dealer network revisited their internal finance models due to an ASIC inquiry into how interest rates are set for consumers in Australian dealerships at the point of sale. ASIC had previously implemented prohibition, as flex commissions operate in a way that is unfair under the NCCP. The inquiry also addressed other reforms that would see the restriction of add-on insurance and other financial packages at the consumer touchpoint level. This has resulted in greater transparency and better outcomes for the dealer to consumer finance interactions. Toyota Financial Services (TFS) is a best practice example for consumer finance accessibility and transparency. It is the view of VACC's new car dealer division members and the Victorian Automobile Dealers Association (VADA) that TFS is

¹⁸ Royal Commission, *Some Features of Car Financing in Australia Background Paper 3* (Commonwealth of Australia, 2018).

a best case example of a lease company who actively and transparently informs the consumer of all charges associated with a lease vehicle.¹⁹

2.5.3 The credit intermediary market

In 2018, ASIC confirmed a total of 4,861 credit intermediaries with 36,149 credit representatives for the year 2017–18.²⁰ From information on credit representatives made publicly available by ASIC,²¹ VACC was unable to determine the specific proportion for car loan financing. Suffice to say that the systemic consumer issues that are being observed by VADA members at the test drive and vehicle delivery stages are alarming.

It is VACC's view that consumers are being severely disadvantaged by breaches and noncompliance of brokers under section 121 of the *NCCP*. It is VACC's view that unregulated intermediaries should be captured under section 9 of the *NCCP*.

2.5.4 What the Victorian Automobile Dealers Association (VADA) sees daily

VADA members witness firsthand the level of consumer detriment misinformation has on consumers – often resulting in major financial losses due to dealings with lease brokerage firms. The purpose of the finance broker should be to act as an intermediary between borrowers, lenders and their loan products. They should assist and advise borrowers on the loan application process and negotiate interest rates on loans, including car loans.²² However, the reality suggests that on a regular and systemic basis, consumers do not have access to this type of service provision – instead they are experiencing the following issues:

- No documented or written advice regarding the finance interest rate is provided to a consumer.
- The charging of exorbitant interest rates ranging from 8-15 per cent.
- Unclear or confusing interest rate calculations or charges that were not previously advised.
- No documented advice on establishment fees and the monthly management fee.
- The bundling of products that the consumer has no previous knowledge of, or opportunity to decline (e.g. lease protection, paint protection fees).²³
- Facing exorbitant early exit fees.
- Payment of a referral or a commission that is not declared to the consumer. This issue is particularly aggrieving for both consumer and dealer as the undeclared fee is not offset against the price of the vehicle, subsequently significantly impacting the dealer's margin. When there has been no disclosure of the brokers benefit, the arrangements could fall foul of criminal laws (which apply in all six states).²⁴
- Insisting that consumers travel from regional or remote Victoria to metropolitan Melbourne to collect a vehicle.²⁵

Recommendation 6

VACC recommends unregulated financial intermediaries be captured under section 9 of the *NCCP* to ensure greater transparency and accountability of industry practices.

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20 ASIC, *Cost Recovery Implementation Statement: Levies for ASIC Industry Funding (2017–18)* (October 2017), 47 <http://download.asic.gov.au/media/4506901/cris-levies-for-asic-industry-funding-2017-18-published-6-october-2017.pdf>.

21 See Australian Government, *ASIC – Credit Representative Dataset* (1 February 2018), <https://data.gov.au/dataset/asic-credit-representative>.

22 See ASIC, *Glossary – finance broker* <https://www.moneysmart.gov.au/glossary/ff/finance-broker>; see also generally Productivity Commission, *Draft Report: Competition in the Australian Financial System* (January 2018), 214–16 <https://www.pc.gov.au/inquiries/current/financial-system/draft/financial-system-draft.pdf>.

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24 Teresa Torcasio, *Referral arrangements and secret commissions – know your obligations or the consequences could be serious* (2019) retrieved from <https://hwlebsworth.com.au/referral-arrangements-and-secret-commissions-know-your-obligations-or-the-consequences-could-be-serious/>.

25 VADA members advise that it is common for a consumer to travel to, for e.g., Swan Hill to Ferntree Gully at the demand of the broker.

3. Conclusion

AFCA defines a systemic issue as an issue that is likely to have an effect on consumers or small businesses in addition to any complainant.²⁶ Consumers and repairers need to understand the reasons for an expression of dissatisfaction (a complaint) why it continues to occur, and how it affects the claims process – of which they are a part. As the financial authority, VACC seeks AFCA's assistance in addressing the systemic issues experienced by VACC body repair and new car dealer members as they relate to motor vehicle insurance and financial brokers and intermediaries.

VACC also calls attention to the opportunistic behaviour of intermediary vehicle lease brokers in the lease of a new motor vehicle from a franchise dealer. It is VACC's view that such brokers and credit intermediaries are potentially in breach of their obligations under the NCCP and should be called to account. VACC sees this as the single largest emerging issue facing automotive dealers and consumers this year and calls on AFCA, with their visibility of complaints generated by consumers against credit providers, to better scrutinise such complaints as a matter of urgency.

Further, brokers who are not captured under the NCCP, or those who are found to deliberately disregard their legislated obligation to the NCCP, must be identified and held to account. Members across VACC's 1260 (approximate) franchise dealers across the new car, motorcycle, commercial vehicle, and farm machinery divisions witness daily, the frustrations of consumers who are unaware of what exactly they are paying for. The breaches of brokers and credit institutions are increasing, evidenced by the number of complaints regularly made to AFCA. It is predicted this will become more severe we move out beyond a Job Keeper subsidised workforce.

As to continue AFCA's statutory objective, requiring its processes be appropriate to identify systemic issues arising from complaints, VACC recommends a more direct root cause analysis be completed, focusing on direct AFCA signatories. If not, then the systemic issues afflicting consumers will continue, which is limiting to both the wider motor and insurer industries and consumers alike.

²⁶ Australian Financial Complaints Authority, 'Operational Guidelines to the Rules' (January 2021) A. 17 Systemic Issues [82]. Australian Financial Complaints Authority, 'Complaint Resolution Scheme Rules' (13 January 2021) A.17.1 [20].



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