

### Issues with PPSR searches and product recall

Members were advised in mid-January 2023 of a new feature that would be added to the search result when conducting a VIN search on the Personal Property Security Register (PPSR). That new feature would allow for a person who conducted a PPSR search to also be informed if that vehicle had an outstanding manufacturer recall.

The inclusion of the recall data of this came about after many years of lobbying and was a long term TACC reform that had its genesis during the Takata Airbag Recall of 2018.

#### What information does the PPSR provide on its search certificate?

The website of the PPSR advises that a PPSR search includes information recorded against the Vehicle Identification Number or chassis number of a vehicle. You will also be provided with a PPSR Search Certificate which you can use as a legal record of your results.

- make, model and color.
- written off status.
- stolen status
- Vehicle safety recall status
- Security interest

It is important to note that a security interest is most commonly created when a secured party (such as a lender) takes an interest in personal property of a grantor (such as a borrower), as security for a loan or other obligation. The security interest means the secured party can take the personal property (known as the collateral) if the secured obligation is not met.[\[1\]](#)

#### What is the issue with vehicle safety recall notices?

From reports received from TACC Licensed Motor Car Trader (LMCT) members and interstate counterparts, it would appear that some older recalls that were once attached to a vehicle had reappeared on PPSR search certificates as being unresolved. This is not on all PPSR certificates.

This has of course confused many LMCTs, consumers and financial institutions. LMCTs have been forced to deal in some instances directly with a Vehicle Manufacturer to be provided with a letter to produce to a consumer or finance company stating there is no live recall on a vehicle or that the recall work had been completed many years ago and was no longer current.

The potential scenario is that many vehicles can not be sold as Section 127 of the Australian Consumer Law prohibits the *'supply, in trade or commerce, of a consumer good'* in respect of which a recall notice is in force. It is important to note that a vehicle is a consumer good for the purposes of the ACL irrespective of whether it is purchased by a retail or wholesale buyer. Any sale by a dealer - whether a wholesale or retail sale - will be a supply in trade or commerce.

## What should LMCTs do if confronted with this issue?

In the short term, LMCTs should lodge a dispute registration form with the Registrar of the PPSR. Attached is a form "[Disputing a Registration. Applying for a removal.](#)" that should be kept close by to assist you with further or future applications for the removal of PPSR encumbrances.

- You can find out if your vehicle has a current recall by visiting the Australian Government [Vehicle Recall](#) webpage. You should make this your first point of action.
- If you are able, you should verify with your local franchise dealer of that brand as to whether the recall is still current and provide that information as part of your dispute resolution application.
- LMCTs are also asked to email me, Michael McKenna on [mmckenna@vacc.com.au](mailto:mmckenna@vacc.com.au) with examples of the current recall issue on a PPSR search certificate.

## Other actions

TACC enjoys a very positive relationship with the Australian Financial Security Authority (AFSA), the administrators of the PPSR, and has expressed the industry's acute anxiety regarding the potentially negative outcomes of this glitch. AFSA are working a fix to this issue and will keep TACC informed.

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<sup>[1]</sup> PPSR webpage "What is a security interest?"