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MEMBER OF



Mr Peter Harris

Chairman

Productivity Commission

Locked Bag 2, Collins St East

MELBOURNE VIC 8003

23 January 2017

Dear Mr Harris

I write to you in response to the Draft Report *Consumer Law Enforcement and Administration* (the Draft Report). The Australian Automobile Association (AAA) provided a submission to the Australian Consumer Law Review's (ACL Review) Interim Report in December 2016. As the reviews are related, the AAA wishes to provide the ACL Review submission to the Productivity Commission for consideration.

The AAA is the peak organisation for Australia's motoring clubs and their eight million members. The AAA advances the interests of all road users across Australia to ensure land transport networks are safe and sustainable, and that the cost and access to transport is fair for all Australians.

The AAA understands that issues relating to the effectiveness of the administration and enforcement arrangements underpinning the ACL were required to be independently assessed; as such the Productivity Commission was tasked to separately consider these factors. In relation to specific findings outlined in the Draft Report, the AAA strongly supports developing a national database of consumer complaints and incidents as outlined in the ACL Review submission:

"The AAA would support an ongoing arrangement where feedback on the operability of the ACL is continuously received and analysed. Consistent, national data collection would support stakeholder engagement and provide opportunity for stakeholders to be engaged. This could be through a national annual data release, where feedback is requested on trending consumer issues."



The AAA also agrees with the statement that differences in consumer protection and redress can disadvantage consumers in some states or territories relative to others. This is highlighted by varying fees and charges associated with accessing justice, as well as different jurisdictional limits applying across tribunals, limiting a consumer's ability to seek justice when a motor vehicle is involved.

For example, as outlined in Consumer Case Study 2 in the attached submission, a consumer was denied access to the Queensland Civil and Administrative Tribunal (QCAT) because the jurisdictional limit was \$25,000, below the cost of the purchased motor vehicle. If the consumer resided in Victoria, the Victorian Civil and Administrative Tribunal (VCAT) has no monetary limit on the cost or value of the goods and services in dispute, which significantly increases consumer access to justice in the case of pursuing problems with motor vehicles.

The AAA is strongly of the view, that all Australians should have an equal ability to rectify breaches of the ACL when encountering problems with a new motor vehicle. To achieve this, a review is needed of the fees and charges involved in accessing justice as well as jurisdictional limits in tribunals for consumer claims. The AAA also notes that not all jurisdictions provide access to a tribunal for consumer claims and this is another area needing urgent review.

The AAA also supports the draft finding that regulators should develop policies and protocols that place a greater emphasis on prioritising matters that represent higher levels of risk to consumers. The AAA considers that consumers who face problems with new motor vehicles are at significant financial risk. For example, as noted in the ACL Review submission:

"The (AAA's Transport Affordability) Index also shows that the largest transport expense incurred by an average Australian family is the cost of servicing a new car loan at around \$121 per week. This highlights the significance of transport to the average Australian family, a much larger expense than telecommunications, electricity and water which consume a much smaller share, at around one to three per cent, but it also shows the financial stress a family can be placed under if the family motor vehicle is compromised in any way."

In relation to the purchase of a new motor vehicle, the AAA considers there are significant gaps or deficiencies in the current dispute resolution services provided by the ACL regulators, as outlined in the attached submission. The AAA would see merit in the consideration of a retail ombudsman, provided that access to remedy under the ACL is strengthened and the evidentiary burden of consumers is reduced. The ombudsman would also need a strong clarification of what constitutes a 'major failure' as outlined in the attached submission.

If the Productivity Commission would like to discuss this letter or the attached submission further, please contact Sophie Finemore – Senior Advisor – Economic Policy and Research.

The AAA thanks the Productivity Commission for the opportunity to comment on the Draft Report and looks forward to progressing this important policy matter going forward.

Yours sincerely

MICHAEL BRADLEY
Chief Executive Officer

Attachment: Australian Consumer Law Review Submission – December 2016