



MTAA



PO Box 6298 Kingston ACT 2604 * 02 51008239 * admin@mtaa.com.au * www.mtaa.com.au

13 March 2020

Automotive Franchising
Department of Industry, Science, Energy and Resources
Industry House
10 Binara Street, Canberra 2600

c.c. Mr Darren Atkinson
Manager
Advanced Manufacturing Section
Advanced Technologies Branch
Sectoral Growth Policy Division

Dr Craig Johnson
Assistant Manager
Advanced Manufacturing and Industry 4.0
Advanced Technologies Branch
Industry Growth Division

Via Email: AutomotiveFranchising@industry.gov.au; Darren.Atkinson@industry.gov.au;
Craig.Johnson@industry.gov.au;

C.C.

Dear Automotive Franchising team,

Please find attached to this correspondence the submission of the Motor Trades Association of Australia in response to the Exposure Draft of the Competition and Consumer (Industry Codes – Franchising) Amendment (New Vehicle Dealership Agreements) Regulations 2019.

Please do not hesitate to contact me should you require any additional information or clarity on 0412146828 or richard.dudley@mtaa.com.au.

Yours Sincerely

Richard Dudley
Chief Executive Officer
Motor Trades Association of Australia Limited

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MOTOR TRADES ASSOCIATION OF AUSTRALIA SUBMISSION EXPOSURE DRAFT OF THE COMPETITION AND CONSUMER (INDUSTRY CODES – FRANCHISING) AMENDMENT (NEW VEHICLE DEALERSHIP AGREEMENTS) REGULATIONS 2019.

1. EXECUTIVE SUMMARY

- 1.1. The Motor Trades Association of Australia Limited (MTAA) and its members, the State and Territory Motor Trade Associations and Automobile Chambers of Commerce, welcomes the Department of Industry, Science, Energy and Resources' further consideration of Automotive Franchising matters through the issue of the Exposure Draft of the Competition and Consumer (Industry Codes – Franchising) Amendment (New Vehicle Dealership Agreements) Regulations 2019 released on 14 February 2020.
- 1.2. MTAA and Members, (on behalf of new car retailing constituents), do not want to lose momentum in getting improved new car retailing franchise arrangements implemented and supports the introduction and implementation of Competition and Consumer (Industry Codes – Franchising) Amendment (New Vehicle Dealership Agreements) Regulations 2019 regulations on 1 July 2020.
- 1.3. MTAA and Members do not support any delay to the 1 July 2020 implementation date caused by further examination of ongoing concerns or the potential to include the Exposure Draft of the Competition and Consumer (Industry Codes – Franchising) Amendment (New Vehicle Dealership Agreements) Regulations 2019 in the wider Franchising Code of Conduct Taskforce Review recommendations scheduled to be presented to government for consideration over coming weeks. MTAA considers any delay to the introduction is unwarranted.
- 1.4. In 109 days (as of 13 March) new car retailing franchisees will have for the first-time regulations recognising a power imbalance between car manufacturers (franchisors) and new car dealers (franchisees); delivered by a new auto retailing franchise schedule to be incorporated in the Franchising Code of Conduct (FCC) with provisions addressing critical issues of:
 - Notice periods and end of term arrangements
 - Increased requirements for provision of information why agreement is not being renewed
 - Increased pre-contractual disclosure including specificity on capital expenditure
 - Expressly allowing multi-franchise dispute resolution, and
 - Penalties for breaches of some of these provisions.

MTAA notes the proposed regulations broadly align with the recommendations made in the Parliamentary Joint Committee (PJC) *'Fairness in Franchising'* report.

- 1.5. MTAA recognises and accepts that the draft regulations, as presented, are not perfect and do not recognise other significant MTAA concerns. These include:
 - Security of tenure (franchise agreement term) and the inclusion of minimum five-year terms to ensure adequate time to secure returns on substantial capital investment requirements stipulated by franchisors.

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- The potential increased use and / or application of one year or less franchise agreement terms, to potentially and effectively bypass or circumvent the provisions and requirements of the Franchising Code of Conduct and the proposed automotive franchising schedule including new minimum 12 month notice for non-renewal.
- The non-inclusion of other automotive sector franchise industries including motorcycle and farm and industrial machinery retailing.
- Goodwill and whether it should be recognised and compensated
- The potential for use of other 'term agreements' such as an agency agreement and whether such agreements are covered by the Franchising Code of Conduct.
- A practice by some franchisors of shifting the costs of legislative compliance and regulatory obligation to the franchisee when they are dealing with warranty matters.
- Adequacy of penalties and a range of broader franchise industry matters.

- 1.6. MTAA recognises some of these concerns have already been investigated at a high level in the development of the exposure draft and are highly complex issues which have broader ramifications across franchising and the whole of the economy and are difficult to regulate for just the auto retail franchise sector. For example, the Franchising Code of Conduct does not specify minimum or secure terms for any other franchise operation and nor are term arrangements as contained in the Oil Code fit for purpose in terms franchising sector. Similarly, MTAA understands that historic protections for franchised dealers in the United States are not transferable to the Australian laws and regulations.
- 1.7 While MTAA would appreciate any additional work that can be undertaken in the limited timeframe between now and the proposed 1 July 2020 implementation date, this work should not jeopardise the proposed implementation date. Simply, it is important to implement the schedule and provisions outlined given the significance of the draft regulations.
- 1.8 MTAA also recognises some of these additional matters are being examined further by the Franchising Taskforce as it determines and provides recommendations on broader Franchising Code reforms to Government and Government's response to these. Other investigations of the Australian Consumer Law provisions currently being undertaken by the Treasury Department may also contribute to mitigating some matters of concern. MTAA will continue to make representations and provide input in these investigations and consultation on them.
- 1.9. MTAA respectfully suggests where some concerns are addressed through these additional investigations, recommendations and government response, that these be included in proposed changes to the Franchising Code of Conduct when introduced to Parliament later in 2020 or early 2021 or within 12 months from 1 July 2020 as part of an earlier scheduled review of the auto franchising schedule and provisions.

- 1.10. MTAA also recommends that government could provide surety on these other concerns by committing to an ongoing 12-month program of investigations by appropriate government departments and interested stakeholders including a timeframe for resolution or mitigation, or not, while proceeding with the draft regulations and implementation on 1 July 2020. For example, MTAA is of the view that work on inclusion of motorcycling and farm and industrial machinery retail franchises could be finalised within 12 months and incorporated in a future amendment at that time.
- 1.8 MTAA is of the view that after two decades of representations and advocacy, the power imbalance between car manufacturers (Franchisors) and dealers (Franchisees) has been appropriately recognised. It has been determined that major concerns are deserving of specific regulations as outlined in the Exposure Draft of the Competition and Consumer (Industry Codes – Franchising) Amendment (New Vehicle Dealership Agreements) Regulations 2019 and MTAA and Members strongly support their scheduled introduction on 1 July 2020.

2. RECOMMENDATIONS

The MTAA recommends:

1. That the proposed Competition and Consumer (Industry Codes – Franchising) Amendment (New Vehicle Dealership Agreements) Regulations 2019 be implemented on 1 July 2020 in existing form, if further improvements to outlined concerns cannot be satisfactorily addressed or mitigated in the time remaining between 13 March and the date required for the draft regulations to be finalised for introduction on the proposed implementation date.
2. That other concerns addressed by the wider review and reform of the Franchising Code of Conduct be captured and where necessary included in revisions to the automotive schedule if applicable as part of the package of reforms to the Code when determined by Parliament.
3. A further consultation program for outstanding matters be developed including:
 - Potential to identify an acceptable formula to link secure tenure with capital investment and for such a mitigation to be included as a future amendment to the automotive schedule.
 - Finalisation investigations of discrete matters pertaining to the motorcycle and farm and industrial machinery retailing franchise operation to allow these industries inclusion in the automotive schedule in 12 months from implementation date.
 - Development of agreed matters (including advice on matters where no resolution or mitigation can be developed and are taken off the agenda) for further examination over a 12-month period and implementation timeline for future amendments.



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4. That guidance material be developed in partnership between the Industry and Treasury Departments and Automotive stakeholders to provide greater detail and examples of the interrelationship between the Franchising Code of Conduct and provisions and the schedule and provisions. For example, the Schedule provision requiring increased detail and specificity on capital investment and the Franchising Codes overarching good faith negotiations requirement be highlighted.

3. CONTEXT

- Before and since the introduction of the Franchising Code of Conduct, MTAA and its Members have advocated relentlessly that the Franchising Code of Conduct is ineffective and unsuitable for the purpose of resolving the serious detriments resulting from the significant power imbalances in the relationship between vehicle manufacturers, who are the beneficiaries of these imbalances, at the expense of new car dealers.
- The MTAA and its State and Territory Association Members have as one of the highest policy priorities for more than 20 years, the inadequacy of regulations impacting franchising arrangements between auto makers and distributors (Franchisors) and retail dealers across new car, motorcycle and farm machinery (Franchisees).
- The history of this advocacy and representation and the actions and achievements of MTAA and Members is **provided in Attachment 1** to this briefing.
- From its formation in 1988 the MTAA has mounted a case that there is a significant power imbalance in the relationship between automakers and their representatives and dealers and that this was deserving of specific and individual recognition in the nation's laws and regulations. Specifically, MTAA made repeated calls for concerns to be addressed in franchising regulations.
- MTAA and Members have achieved progressive improvements since 1998 when the FCC was implemented including improved disclosure requirements (multiple), the introduction of good faith negotiations, strengthened recognition of auto franchise retailing. But these achievements were limited as they were always in the context of the broader franchising sector with improvements applicable to all sectors and industry participants.
- After years of advocacy and representations to previous reviews and investigations, MTAA and Members positions regarding the power imbalance between car manufacturers and dealers; and the need for specific action was finally recognised. In the 2016/17 ACCC new car market study, the ACCC recognised there was a power imbalance between car manufacturers and importers (franchisors) and new car retailers (franchisees) and recommended this imbalance be examined further.
- In the 2018 Parliamentary Joint Committee (OJC) 'Fairness in Franchising' Report. Auto franchising matters secured a specific chapter, along with references in other chapters. MTAA and Members were powerful advocates with concerns and solutions given 30 references in the final report.

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- Importantly MTAA secured two recommendations in the PJC report which in tandem with the ACCC new car retailing market study findings and recommendations, provided the necessary foundations to the proposed regulatory solution now presented.
- Since February 2018 the Industry Department supported by the Treasury Department has investigated the power imbalance (as recommended by the ACCC and PJC) and how best to address long standing issues and impacts of this power imbalance in franchising agreements.
- The Draft Exposure proposal that creates a specific schedule that from 1 July 2020 will be included in the Franchising Code of Conduct (FCC) to better protect new car retail franchisees.

4. CONSIDERATION

- MTAA Members and their impacted constituents have expressed general satisfaction that the power imbalance in auto franchising has been recognised and is deserving of a specific schedule and provisions that address four critical concerns:
 - End of term obligations
 - Capital expenditure requirements
 - Resolving disputes through multi-franchisee dispute resolution
 - Penalties for breaches of the provisions
- MTAA Members and their impacted constituents also raised several concerns, both in response to the draft regulations and during consultation for the RIS. These included:
 - Insecurity of tenure for vehicle dealers was raised as a specific issue which is not captured within the draft regulations. This is particularly a concern for automotive dealers in Australia who have shown brand loyalty to the franchisor with investment in millions of dollars in facilities, stock and equipment over sometime decades of loyal partnerships.
 - The increasing use of one-year and below agreements is concerning, particularly when parts of the proposed automotive franchising code of conduct do not apply to agreements under 12 months such as provisions for end of term obligations.
 - The practice of franchisors shifting the costs of legislative compliance to the franchisee when they are dealing with warranties. For example some Members have advised that some manufacturer would not reimburse actual costs incurred with rectify warranty matters including inadequate compensation for time to repair, all components necessary to repair, provision of replacement vehicles, and disposal of components, despite the requirement to do so under Australian law with significant penalties for non-compliance.
 - A summary of constituent consultations for MTAA Member the Motor Trades Association of South Australia **is included at Attachment 2** to this submission.

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- MTAA understands the exposure draft applies only to the arrangements between new car dealers and manufacturers. While the concerns of new car retailers are of critical importance and should be addressed as a matter of priority, MTAA strongly recommends that any solutions must equally apply to motorcycle and farm machinery franchised retailers who invariably experience the concerns that are materially consistent, albeit with some minor nuances.
- These nuances should be finalised and the motorcycling and farm and industrial machinery retail franchising industries be included at the earliest opportunity – ideally around 12 months after implementation. This will allow time for the final consideration of these industries. MTAA on behalf of these industries and its members has recognised that the work of Industry and Treasury was specific to new car retailing and in response to the ACCC New Car Market Study which did not include these industries.
- MTAA was provided assurances during early consultation that these industries would be included after subtle differences were examined and inclusion issues determined. MTAA recommends this work be included in a program over the 12-month period from implementation.
- MTAA is of a view that some outstanding matters including adequacy of penalties and some other elements will be addressed by the recommendations of the Franchising Task Force currently examining the Parliamentary Joint Committee's (PJC) '*Fairness in Franchising*' report findings and recommendations. MTAA understands the Franchising Taskforce report and recommendations will be provided to Government in coming weeks. MTAA expects Government will respond to this report sometime in 2020 with significant reforms to the Franchising Code of Conduct anticipated. These reforms are interrelated with the exposure draft and may require further amendments either as the broader changes are introduced to Parliament or future amendments as part of a review of the automotive franchising schedule.
- MTAA and Members believe it important to note that concerns and problems arising from power imbalances from manufacturers and retail franchised dealers are not uniform or applicable to every relationship. There are good examples of relationships that work well, where conflicts are the exception rather than the norm, and can usually be traced back to commitments to negotiate in good faith. Generally, market leading manufacturers demonstrate greater collaboration, communication, negotiation happier in their dealership networks that significantly contributes to market leadership and profitability.
- This observation has been confirmed by MTAA Members through dealer surveys and workshops including two dealer surveys conducted by VACC in 2018. It is important also to note that market leading manufacturers support their dealership and consumer network when faced with warranty or Australian Consumer Law (ACL) claims. However, there is evidence that as pressures mount and market share reduces then dealers can and have experienced changes in behaviour by manufacturers where previously sound relationships, built up over years, can evaporate seemingly overnight. The announcement by General Motors Holden in February 2020 is the latest example.

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- With other manufacturers expected to review their Australian operations, it is important that work continue to identify solutions or mitigations to the tenure issue and protection for franchisee dealers in the delivery of warranty obligations.
- MTAA will provide input to current investigations by Consumer Affairs Ministers into provisions of the ACL which may impact clarity on supplier and supplier obligations.
- MTAA recommends further work be undertaken and included in a program of work in the 12 months post implementation on 1 July 2020 to investigate a formula that captures the size of capital investment to a secure tenure period and could be incorporated as an amendment in the first review. For example if in disclosure documentation an automotive franchisor (car manufacturer / distributor) requires a franchisee (car dealer) to invest \$5 to \$10m then a secure term of 5 years should be considered and incorporated as a provision to provide for a term that allows for return on such investment. MTAA understands the complexity of this issue and the whole of franchising sector implications and does not believe this work can be accommodated before the proposed implementation date of 1 July 2020. On this basis the implementation date should not be compromised, but work continue identifying (if possible) a potential solution or mitigation of the tenure issue.
- MTAA understands that the proposed schedule and provisions are interlocked with other Franchising Code of Conduct provisions and these wider provisions for disclosure, good faith negotiations, will require the development of guidance material so that automotive franchisees are aware of the interaction between the ACL, CCA, Franchising Code of Conduct and the automotive franchising schedule and provisions as outlined in the exposure draft.
- While the issues raised by members should not hold up the progress and passage of the automotive franchising code into regulation, it is the MTAA's position that the Federal Government should commit to a review of the effectiveness of the code at 12 months of operation, with a view to expand provisions as needed.

5. MTAA AND MEMBER ORGANISATIONS IN CONTEXT

- The Automotive sector and the multiple industries within it, are undergoing unprecedented structural adjustment brought about by external global influences including automation, the rapid application of advanced technology, increasing influence of increasingly larger and consolidated market participants, and changes to consumer purchasing behaviours.
- Modern motor vehicles are now highly complex, integrated, and increasingly inter-connected products. Increased safety, efficiency, environmental, mobility and connectivity outcomes are being achieved with increasing reliance on computerisation, often with multiple third-party Original Equipment Manufacturers (OEMs) creating and supplying technologies particularly in advanced systems and sub- system integration.

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- MTAA Limited is the national association of participating State and Territory Motor Trades Associations and Automobile Chambers of Commerce Members, and discrete national industry associations that exist under the MTAA umbrella providing unparalleled coverage and access to the nation's automotive and related businesses.
- MTAA and members represents and is the national voice of the 69,365 retail motor trades businesses which employ over 379,365 Australians that contributed \$37.1 billion to the Australian economy in 2015/16, which equates to 2.2% of Australia's GDP. Most of these businesses are small, and family owned and operated enterprises.
- MTAA member constituents include automotive retail, service, maintenance, repair, dismantling recycling and associated businesses, that provide essential services to a growing Australian fleet of vehicles fast approaching 20 million (expected by 2020) that has rapidly advancing technological systems and capabilities.
- MTAA Limited Members have almost all industries (more than 95%) of the automotive sector represented as business member constituents. This allows MTAA Limited Members the ability to understand the operations, issues, concerns and risks of participating automotive industries including but not limited to:
 - New car retailing (including service)
 - Used car retailing (including some who service)
 - New and used motorcycle retailing (including service and recycling / dismantling)
 - Vehicle body repair (smash repair)
 - Independent automotive servicing
 - Service station and convenience stores (franchise and independent)
 - Auto recyclers, dismantlers and part suppliers
 - Farm and industrial machinery retailing (including service and in some cases dismantling and recycling)
 - Tyre retailing, retreading and recycling
 - Towing
 - Bus and coach
 - Heavy vehicle
 - Specific service professions including glass, transmission, engine replacement and reconditioning, brakes, steering, automotive electrical and air- conditioning
 - Vehicle Rental
- Most MTAA Limited members are also automotive sector training providers and possess extensive operations and facilities in apprenticeship training and skills development and post trade qualifications. In many jurisdictions MTAA Members are the largest employers of automotive apprentices and trainees.

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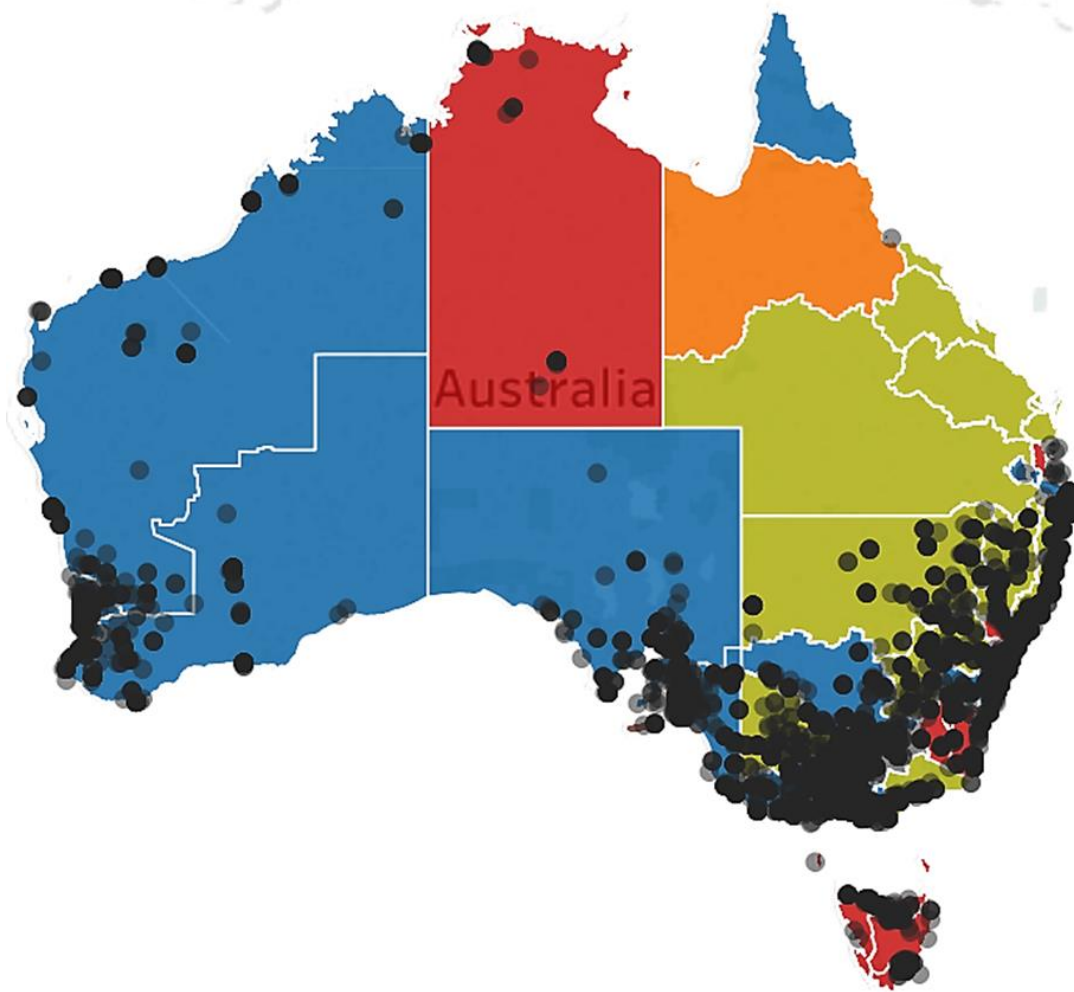


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MTAA member consituents



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ATTACHMENT 1: HISTORY OF FRANCHISING REFORM AND MTAA CONTRIBUTIONS

History of Franchising Policy and Regulation

And relationship to Automotive Sector particularly new car, bike, and farm machinery retail franchisees



MTAA & Members actions and achievements

A 20 year path to recognition of power imbalance and and auto retail franchise specific regulations

1970s-1990	1991	1993	1994	1996	1997	1998	2006	2008	2009	2010	2013/14
National Motor Trade and automobile chamber of commerce members advocate for increased fairness with auto retailers among the first industries covered by franchising arrangements	MTAA / Members help secure voluntary FCC. Advocate auto industries and car, motorcycle, farm machinery and fuel retailers specifically are not adequately covered by franchising arrangements.	MTAA / Members provide evidence-based submissions to Gardini Review that voluntary code is inadequate and calls for mandated code & separate auto retailing recognition in proposed mandated code.	MTAA forms Fair Trading Coalition to push for equity and fairness in reform of Trade Practices Act and highlight specific issues for auto industries incl. retail franchising. Strengthen calls for discrete recognition of auto warranting own protections.	MTAA / Members and MTAA make representations and submissions to numerous govt inquiries.	MTAA / Members and MTAA led Fair Trading Coalition help secure mandated Franchising Code of Conduct.	MTAA / Members step up advocacy for separate treatment auto sector incl. fuel and new car retailing. Helped secure Oil Code (2006) for fuel retailers. Provide submissions and representation to Matthews Review and PJC inquiries	MTAA helps secure improved disclosure arrangements and improved dispute resolution provisions in FCC resulting from Matthews and PJC inquiries	MTAA helps secure improved disclosure arrangements and improved dispute resolution provisions in FCC resulting from Matthews and PJC inquiries	MTAA helps secure improved disclosure arrangements and improved dispute resolution provisions in FCC resulting from Matthews and PJC inquiries	MTAA helps secure improved disclosure arrangements and improved dispute resolution provisions in FCC resulting from Matthews and PJC inquiries	Wein Review Into franchising Code of Conduct MTAA / Members provide submissions and testimony to review calling for recognition of auto retail franchise issues and for those to be addressed in Franchising Code

1991 - 1996

2015	2016-2017	2018	2019	2020
Wein Review raises auto retailing issues (Part 9) and calls for comprehensive study into power imbalance and recognises discrete auto retailing issues. MTAA / Members help secure overhauled FCC implemented with stronger good faith requirements; penalties for breaches; improved transparency of marketing funds; disclosure and other changes.	MTAA / Members make extensive representations to ACCC market study including testimony from dealers across auto industries in specific roundtables and consultation sessions. Secured ACCC acknowledgement of power imbalance of auto makers and retailers and call for further investigation	MTAA / Members provide comprehensive submissions to the Federal Parliamentary Joint Committee (PJC) inquiry into franchising and the Franchising Code of Conduct (FCC). For first time dealers provided testimony to Committee and further representations to 'in-camera' hearings.	The PJC released its final "Fairness in Franchising" report. The MTAA and Members were largely responsible for securing an entire chapter for auto franchising concerns and were extensively quoted in the report. MTAA obtained support and acknowledgement of the ACCC for its position regarding power imbalance and that auto retailing was deserving of its own recognition in franchising laws and regulations. The Committee recommended accordingly.	Industry Department recommends auto franchisees have their own schedule attached to the FCC and provides revised regulatory impact statement with an implementation date on 1 July 2020. Some other concerns to be addressed in wider review of FCC by Treasury.

ATTACHMENT 2- MTA-SA MEMBER CONSULTATION



MEMBER CONSULTATION

Australian Government Franchising Sector Reforms Franchising Taskforce - Regulation Impact Statement

MTA Consultation for input into MTAA Submission

Following the release of a Draft Regulatory Impact Statement (RIS), on 11 November 2019, to outline possible options to deal with the findings and recommendations of the final report of the Parliamentary Joint Committee Inquiry (PJC) into Franchising, the MTA contacted members subject to a franchise agreement to discuss the contents of the RIS.

While the RIS does not include specific solutions for issues previously raised by MTA members with regards to franchised automotive retailing, the MTA engaged with members broadly regarding the seven (7) revised principles relevant to the franchising relationship, as follows:

Entering a franchising agreement	<ol style="list-style-type: none"> 1 Prospective franchisees should be able to make reasonable assessments of the value (including costs, obligations, benefits and risks) of a franchise before entering into a contract with a franchisor 2 Franchisees should have time to consider whether the relationship is right for them before committing to an agreement
Operating a franchise	<ol style="list-style-type: none"> 3 Each party to a franchise agreement should be able to verify the other party is meeting its obligations and is generating value for both parties
Business phase	<ol style="list-style-type: none"> 4 A healthy franchising model fosters mutually beneficial cooperation between the franchisor and the franchisee, with shared risk and reward, free from exploitation and conflicts of interest 5 Where disagreements turn into disputes, there is a resolution process that is fair, timely and cost effective for both parties

Exiting	6 Franchisees and franchisors should be able to exit in a way that is reasonable to both parties
Regulatory framework across all phases	7 The framework for industry codes should support regulatory compliance, enforcement and appropriate consistency

While the members the MTA spoke with generally agreed with the spirit of the principles outlined above, the following issues were broadly raised by members:

Power imbalance

There was a feeling amongst members that there is a power imbalance in the franchise relationship, with one member stating that, *"No dealer expects a franchise relationship to benefit the franchisee."*

Members indicated that due to franchisors having greater market power, franchisees had little ability to have input into matters such as price setting for products. This in turn leads to an environment in which profitability can be severely limited, leading to reduced business viability.

Other members considered that they had limited ability to have input into franchisor decisions and the services and support they were required to pay for. For example, some members were frustrated that they were required to pay high advertising fees, in circumstances where they saw limited value. Another member was frustrated that franchisees were charged for services such as IT infrastructure, whether they use it or not. In general, members were frustrated by their inability to effectively negotiate on items such as this.

One member lamented that they were not able to collectively bargain with other franchisees, leaving him to negotiate one-on-one with the franchisor. This particular member indicated that they would like to see a 'dealer council' in their circumstances.

Conversely, another member advised that while the franchise model they operated under did have a franchise advisory council (FAC) to negotiate with the franchisor, they felt that this body was not representative for all franchisees, favouring the larger, higher volume stores and those situated on the east coast of Australia.

Dispute management

Members expressed a desire for an independent escalation and mediation process for disputes, separate from the franchisee and franchisor.

Members were concerned that if, as a franchisee, they spoke up about an issue, they can be 'singled out' as 'trouble makers', putting them out of

favour with the franchisor. In this regard, franchise contracts including 'no-fault termination clauses' are of concern to franchisees, effectively causing them to stay silent regarding their concerns.

Members saw value in an independent government led mediation process for disputes in franchise relationships, such as the Small Business Commissioner in South Australia.

Unnecessary set-up and ongoing location expenditure

A member advised, anecdotally, of franchisees taking over a location being required to purchase brand new equipment to fit out a store, when the same equipment was already present and included. The implication being that the franchisor benefited financially from the arrangement.

Another member reported that franchise agreements included unfair requirements regarding the need to upgrade facilities and signage. While the upgrade costs are shared 50/50 with the franchisor, the member reported that as they are in a regional location, the anticipated upgrade costs are comparable to the value of the site itself.

The MTA was also advised that franchisees are sometimes forced to buy licenced/official tools, in circumstances where significantly cheaper non-official options, which serve the same purpose, are available.

Misleading practices

A member indicated that they had been misled through promotional material at the time of entering into the franchise agreement regarding the expected *average* revenue per month. When they subsequently queried the figure they were advised that it was a 'typo' and was in fact a reference to the *maximum* expected revenue per month.

The same member indicated that there needs to be more time given in cooling off periods. Based on their personal experience, 7 days, which was the cooling off period for their franchise, was not a reasonable amount of time in which to make an informed decision.

Control over customer information

A member was concerned about the high level of control that franchisors seek to gain over a franchisee's customer information, asserting that franchisor support may be withheld if access to customer information is not provided.

The member alleged that franchisors would claim ownership over the franchisee's customer information and provide it to a new franchisee at change of ownership or restructure.