

Date: 4 October 2024

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RESPONSE TO THE INDUSTRY CODES (PENALTIES AND OTHER AMENDMENTS): EXPOSURE DRAFT LEGISLATION

The Australian Automotive Dealer Association (AADA) welcomes the opportunity to submit a response to the *Industry codes (penalties and other amendments): exposure draft legislation*.

There are almost 3,200 new car Dealers in Australia which range from family-owned small businesses to larger and publicly owned businesses operating in regional Australia and capital cities across the country. Franchised new car Dealers employ more than 61,000 people directly with a total economic contribution of over \$18.6 billion.

Each year, franchised new car Dealers sell more than 1.5 million new and used vehicles, complete around 48 million individual service, repair and maintenance jobs and facilitate 476,978 finance contracts. In 2023, Dealers employed around 5,530 apprentices and the commitment to training investment was \$31 million. Dealers make a tax and duty contribution of \$6.8 billion annually and often make significant contributions to their local economies through sponsorships, advertising and indirect contributions.

The AADA is supportive of the proposed legislation to increase penalties under the Competition and Consumer Act (CCA) for contraventions of the Franchising Code of Conduct (the Code) to 60 penalty units for a body corporate, and 12 penalty units otherwise.

The AADA considers the Code to be the most important regulatory mechanism for protecting franchisee rights in Australia, and this is particularly so for the automotive franchising industry because of the introduction of Part 5 of the Code which relates to new vehicle dealerships. It is critical that franchisors are deterred from contravening the Code and that the penalty regime for breaches of the legislation should have a meaningful impact to deter behaviour.

The automotive retailing industry is often characterised by the immense power imbalance held between large multinational manufacturers and franchised new car dealers. Original Equipment Manufacturers (OEMs) enjoy superior bargaining power, and due to the extensive powers to bring franchise agreements to an abrupt end using non-renewal and termination powers dealers are often left vulnerable in this one-sided relationship.

This is compounded by the automotive retailing industry undergoing systematic change, as a result of new technologies entering the market, new overseas brands looking to set up networks to retail vehicles and obligations on manufacturers to supply more fuel-efficient vehicles as a result of the New Vehicle Efficiency Standard.

While the AADA considers that the franchising code should go further to protect Australian Dealers from sophisticated anti-competitive behaviours of OEMs, implementing an increased penalty rate for breaches of the Consumer and Competition Act will support greater adherence to the protections outlined in the Code.

As such, the AADA reiterates support for the proposed legislation to increase penalties under the Competition and Consumer Act (CCA) for contraventions of the Franchising Code of Conduct.

The AADA would be happy to meet to discuss our submission and participate in any further consultation. If you require further information or clarification in respect of any matters raised, please do not hesitate to contact me.

Yours Sincerely,

James Voortman
Chief Executive Officer

