



MTA*i*Q | **LEADING AUTOMOTIVE INNOVATION**

SUBMISSION

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Productivity Commission
4 National Circuit
Barton ACT 2600

Right to Repair

Introduction

The 'right to repair' has been a significant issue of debate in the motor trades over much of the last decade, culminating with the passage of the Motor Vehicle Service and Repair Information Sharing Scheme (MV Scheme) legislation in June 2021. It is expected the introduction of the MV Scheme, from July 2022, will help address a number of issues confronting the motor vehicle service and repair sector, and industry more generally, as a result of new technologies and changing market landscape.

The passage of the MV Scheme, of course, only addresses some of the barriers to the right to repair, and only in respect to passenger and light commercial vehicles. The MV Scheme focuses on making available to service and repair businesses critical diagnostic and service and repair information.

As the *Right to repair* draft report (the report) highlights, there are a broad range of factors that influence the 'right to repair'.

While not a focus of the report, perhaps the greater barrier to enhancing consumer access and choice to quality service and repairs in the motor industry is addressing the chronic skill shortages of technicians and mechanics. These have been exasperated by increased mining industry activity, growth in the automotive industry and current skilled migration settings.

For the motor vehicle market, the intersect between manufacturers' warranties and service and repair activities has emerged as a key issue, particularly as warranties have become an increasingly important part of the new vehicle value proposition or 'package'. Accordingly, the Motor Trades Association Queensland (MTA Queensland) welcomes the attention to this issue.

While passenger and light commercial vehicles make up the great bulk of the motor industry's service and repair market, the agricultural machinery service and repair market is identified in the report as reflecting some of the same issues that led to the establishment of the MV Scheme. These have also been highlighted in the May 2021 ACCC report, *Agricultural machinery market study* (ACCC report). The MTA Queensland particularly welcomes the opportunity to provide advice on the agricultural machinery service and repair market from the practical perspective of its members who support customers and communities across Queensland.

Accordingly, the MTA Queensland submission focuses on the draft recommendations and information requests to provide greater clarity in regard to service and repair rights, especially during the warranty period, and the report's consideration of the agricultural machinery service and repair market.

Key points

- Alternative dispute resolution mechanisms need to have a strong 'up front' focus on clarifying concerns particularly in relation to the motor industry where a range of complex issues can impact on claims of vehicle or machinery faults.
- While the proposal to evaluate the MV Scheme after three years is supported, it will also be important that the Scheme's implementation be closely monitored to ensure participants are appropriately credentialled.
- Additional 'fair use' or 'fair dealing' measures should await the review of the implementation and operation of the MV Scheme.
- While MTA Queensland supports additional text in warranties to inform consumers that consumer guarantees do not require authorised repair or spare parts, it is also important that consumers understand their responsibilities, as well as rights, in exercising their service or repair choices.
- MTA Queensland supports competent, qualified repairers using OEM equivalent aftermarket components providing warranty services.
- The action for the ACCC to develop guidance materials to assist purchasers of agricultural machinery outlined in the ACCC report may be worth consideration for a broader application to high-cost or complex products.

Enhancing access to consumer rights

The draft report outlines the issues consumers can experience in having faulty product concerns addressed. Concerns with having motor vehicle warranty claims resolved are prominent in the consumer complaints lodged with the ACCC outlined in the report.

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MTA Queensland members are committed to a number of values that support positive dealings and outcomes with their clients. To support this commitment, the MTA Queensland provides a process to assist consumers to resolve complaints with its member businesses. It seeks to provide a simple, supported process to resolve complaints and concerns.

This MTA Queensland support often helps to ‘start the conversation’, clarify concerns and address confusion and misunderstandings that often underpin consumer complaints in service and repair markets.

It is also worth noting that the motor industry more broadly has a strong customer focus with strategies to raise and address customer concerns. Customer surveys are routine across motor vehicle and machinery dealer franchises and some independent repairers, often backed by individual service and repair event follow up and sanctions. In the agricultural machinery market this can involve manufacturer customer surveys following services as well as end of warranty customer satisfaction surveys. Such surveys provide an opportunity for dealers to address any shortcomings direct with their customers.

While the MTA Queensland broadly supports proposed alternative dispute resolution mechanisms, some caution is warranted (**Draft rec. 3.2**). There needs to be a strong ‘up front’ focus on clarifying concerns particularly in relation to the motor industry where a range of complex issues can impact on claims of vehicle or machinery faults. An industry supported ‘exploration’ may assist in the early and less costly resolution of complaints.

Without mechanisms to efficiently explore complaints for complex consumer products, alternative disputes processes may become bogged down, especially if they are complemented by reforms that promote greater consumer complaints. Such an outcome will invariably lead to greater costs, frustration and inconvenience for consumers, business and industry and governments administering alternative dispute mechanisms.

Noting the significant number of complaints relating to guarantees and warranties received by the ACCC and its readiness to act, particularly in the case of the motor industry, it is not clear how a ‘super complaints’ mechanism will provide a significant additional benefit to consumers, businesses or regulators (**Draft rec 3.3**).

Enable access to repair supplies

As noted above, the MV Scheme has been legislated with implementation from July 2022. The proposal to evaluate its costs and benefits after three years is supported (**Draft rec 4.1**). It will also be important that the MV Scheme’s implementation be closely monitored to ensure the ‘rules’ for participation are appropriate and its impact is that sought.

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Advice from members indicates the importance of ensuring those businesses gaining access to diagnostic and service and repair information through the MV Scheme have the appropriate skills and expertise to act on this information and to address faulty repairs or service vehicles. That is, they are appropriately credentialed. Members are concerned about the damage poorly skilled, experienced or equipped repairers could do to complex machinery and the 'rebound' on dealers, particularly during the warranty period.

This is particularly the advice from MTA Queensland members in the agricultural machinery and repair market where the consequences of repair and service 'failures' can be very significant. These failures not only have financial implications but can extend to significant workplace health and safety concerns.

MTA Queensland members operating in this market expressed concern at the current level of 'reworks' required where repairs and services are undertaken without the appropriate skills and knowledge. Extension of the MV Scheme, as proposed in the ACCC report, would need to particularly consider ensuring those accessing the Scheme have appropriate credentials.

Advice from members indicate there is a readily available OEM and aftermarketparts availability across the motor vehicle and machinery markets. The costs and benefits of extending the positive obligation in the motor industry (presumably) through the MV Scheme to cover parts and tools is less apparent (**Info request 4.1, 4.2**). It would be prudent to understand the operations and impact of the MV Scheme before extending its coverage in this regard.

Noting the work underway to introduce the MV Scheme, and the need to ensure appropriate credentialing to access it, MTA Queensland does not believe additional 'fair use' or 'fair dealing' measures are warranted for the motor industry at this time (**Info request 5.1**). The review of the MV Scheme's effectiveness should be undertaken before such measures are considered.

Ensure warranties do not impede independent repair

Noting the report's detailing of the relatively high proportion of warranty and guarantee consumer complaints in the motor vehicle market, the MTA Queensland welcomes the consideration of proposals that respond to this issue. It is in no one's interest for a significant level of complaints to arise and not be resolved satisfactorily.

To some extent, of course, a heightened level of consumer complaint may be expected as warranties, particularly for (high cost) passenger vehicles, are extended and become part of the new vehicle 'package'.

As noted above, motor vehicles and machinery are complex products, and increasingly so given advances in technology and regulatory requirements. The consequences of poorly performed service and repairs work can be catastrophic, particularly in the agricultural machinery market where machine costs can be very substantial and the impact on productivity, lives and livelihoods equally so.

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Manufacturers and dealers invest heavily in the infrastructure and skills to support high-quality service and repair activities. Likewise, many reputable independent service and repair businesses devote significant resources to ensuring up to date knowledge and skills. Through its Registered Training Organisation, the MTA Institute, MTA Queensland assists the industry to develop these skills and expertise.

So, while MTA Queensland supports additional text in warranties to inform consumers that consumer guarantees do not require authorised repair or spare parts, it is also important that consumers understand their responsibilities, as well as rights, in exercising their service or repair choices (**Draft rec 4.2**). For high-cost and complex goods, especially, consumers need to satisfy themselves their chosen repair or service business has the necessary infrastructure, expertise and skills to complete the required works and the 'back-up' to respond to faulty repairs or service. This responsibility also needs to be highlighted in any proposed additional warranty text.

MTA Queensland has a similar view in relation to prohibiting warranty exclusion terms that require the use of authorised repairers or spare parts (**Info request 4.3**). MTA Queensland supports competent, qualified repairers using OEM equivalent aftermarket components accessing this market. Once again, consumers need to be aware of their responsibilities in exercising their choice of repairer or spare parts.

It is worth noting that the report finds such terms are not generally a feature of motor vehicle manufacturer warranties.

The action for the ACCC to develop guidance materials to assist purchasers of agricultural machinery outlined in the ACCC report may be worth consideration for a broader application to high-cost or complex products including motor vehicles. Such material could include this broader perspective on consumer rights and responsibilities in exercising service and repair decisions.

MTAQ Background

The Motor Trades Association of Queensland (MTA Queensland) is the peak body representing the interests of employers in the retail, repair, and service sectors of Queensland's automotive industry. MTA Queensland has been performing its vital representative role for the automotive industry since 1929. In Queensland there are some 15,500 automotive businesses employing more than 90,000 people, that generate more than \$20 billion annually. The Association represents and promotes issues of relevance to all levels of government. In 2019 MTA Queensland was announced as an ABA100 winner in The Australian Business Awards and a finalist in the Lord Mayor's Business Awards, for Business Innovation.

The MTA Institute (RTO 31529) is the leading automotive training provider in Queensland offering nationally recognised training, covering technical, retail and the aftermarket sectors of the automotive industry. The MTA Institute is the largest independent automotive training provider in Queensland, employing experienced trainers who are geographically dispersed from Cairns to the Gold Coast and Toowoomba to Emerald.

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In the last year, the MTA Institute delivered accredited courses to more than 2,000 students. The MTA Institute is the first trade RTO in Australia to be approved under the ITECA Industry Certification Program and was the winner of the Small Training Provider of the Year at the 2019 Queensland Training Awards.

MTA/Q, Australia's first automotive innovation hub established by MTA Queensland in 2017, is an ecosystem that supports innovation and research for the motor trades.

Thank you for your consideration.

Yours sincerely

Rod Camm
Group Chief Executive Officer

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