



**HOLDEN**

Compulsory Licensing of Patents  
Productivity Commission  
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By email: [patents@pc.gov.au](mailto:patents@pc.gov.au)

Dear Sir / Madam,

#### **Submission regarding Compulsory Licensing of Patents**

GM Holden Ltd (**Holden**) has reviewed and considered the Productivity Commission Issues Paper titled "Compulsory Licensing of Patents" dated August 2012 (the **Issues Paper**) and is writing this submission in response to that paper.

Holden has conducted internal research on the ways in which patents are registered (either by it or its related bodies corporate) and the extent to which it complies with, or relies on, the compulsory licensing of patents scheme currently in place in Australia pursuant to the *Patents Act 1990* (Cwlth).

The automotive industry in Australia is highly capital intensive and focused on innovation. In this context Holden believes patented ideas need to be given legal protection.

However, as a key participant in the automotive industry in Australia, Holden also believes that there is substantial value in commercializing any process improvements or other patentable inventions generated as a result of its business activities and research and development work. With that in mind Holden has focused on the commercialization of ideas rather than the legal protection of the same. Therefore the actual number of patent applications by Holden (or its related bodies corporate) in Australia over the last decade has been relatively small given the amount of R&D work undertaken by Holden (and its related bodies corporate).

To date, Holden has not seen any problems with industry practices regarding the registering of patents and any subsequent licensing. Holden has never sought to invoke the provisions of the *Patent Act 1990* (Cwlth) to require a third party to compulsorily license a patent to Holden, nor has Holden had such provisions sought to be invoked against it by a third party.

As a result Holden does not have a particular view regarding changes that may be required to the *Patent Act 1990* (Cwlth) in order for the Productivity Commission to achieve its objectives set out in the Issues Paper.

Holden however notes that in the event of any changes and given the highly capital intensive nature of the Australian automotive industry, the public interest test set out in s.133(2)(a) of the *Patent Act 1990* (Cwlth) should be maintained or strengthened to ensure that any compulsorily licensed patent, is required to be licensed only where such license is clearly in the public interest.

Yours sincerely, 

 **Matthew Hobbs**  
GM Holden Ltd  
Director Government Relations & Internal Communications