

GOVERNMENT REQUEST

PROVIDE CLARIFICATION TO AUTOMOTIVE BUSINESSES, MANUFACTURERS & CONSUMERS ON THEIR RIGHTS & OBLIGATIONS UNDER THE AUSTRALIAN CONSUMER LAW

The Australian Consumer Law (ACL) is intended to safeguard consumers and businesses by establishing clear and fair commercial standards.

To be effective, the ACL should prioritise certainty and clarity, avoid placing unreasonable compliance burdens on businesses, and impose penalties that are proportionate to the harm caused.

The Treasury's Regulatory Impact Statement proposals will result in disproportionate detriment to business if increased penalty provisions are introduced without providing additional clarity on the concepts of acceptable quality, major failure and rejection periods. In this regard we have several requests:

Compliance and penalties

The ACL must avoid imposing excessive compliance requirements on businesses. Any penalties should be proportional to the actual harm experienced by consumers.

Clarity and definitions

There is a need for greater clarity on key concepts such as 'major fault', 'durability' and 'rejection period'. Businesses and consumers alike require precise guidance on what constitutes acceptable quality and how long products should reasonably last before defects are considered a breach of consumer guarantees.

Treatment of second-hand products

The current ACL disproportionately affects traders dealing in used products. This issue is exacerbated when manufacturers do not support suppliers selling second-hand goods. This situation results in unrealistic consumer expectations and contributes to numerous misguided legal actions. Clear guidance from the ACCC is needed to address these issues and align consumer expectations with the nature of used products.

New market entrants

There is significant concern about how new international entrants into the Australian automotive market will comply with ACL protections. Section 274 of the ACL should be reinforced to ensure that these new entrants do not disadvantage Australian consumers or industry.

RECOMMENDATIONS



Ensure that any changes to the ACL do not unduly impact businesses by providing balanced protections for both consumers and businesses, and offer clear guidance on acceptable commercial standards, particularly concerning consumer guarantees



Clearly define the treatment of used motor vehicles and second-hand products under the ACL to avoid confusion and ensure fair practices



Strengthen the ACCC's role in enforcing manufacturer indemnity protections for suppliers, especially in relation to new entrants in the Australian market, to prevent unfair disadvantages and ensure consistent consumer protections