



8 October 2015

BY EMAIL: lacsc@parliament.qld.gov.au

Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane QLD 4000



Dear Mr Furner



**'Lemon' Laws: an inquiry into consumer protections and remedies
for buyers of new motor vehicles
Submission by FCA Australia Pty Ltd**

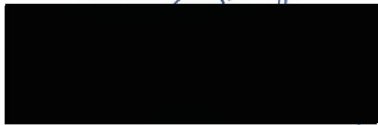


We refer to your letter dated 24 September 2015.

Please find enclosed FCA Australia Pty Ltd's submission in relation to
'Lemon' Laws: an inquiry into consumer protections and remedies for
buyers of new motor vehicles.



Yours faithfully,



Pat Dougherty
President and CEO



FCA Australia Pty Ltd Submission to Legal Affairs and Community Safety Committee (Queensland)

Inquiry into consumer protections and remedies for buyers of new motor vehicles

1. BACKGROUND

FCA Australia Pty Ltd (**FCA**) is the distributor of Jeep, Alfa Romeo, Fiat, Dodge and Chrysler vehicles in Australia.

The Legal Affairs Community Safety Committee (**Committee**) is a committee of the Legislative Assembly of Queensland and has been directed by the Legislative Assembly to inquire into consumer protections and remedies for buyers of new motor vehicles (**Inquiry**).

By letter of 24 September 2015, the Committee invited FCA to make a written submission in relation to the Terms of Reference applicable to the Inquiry. The letter indicated that the Committee is aware of recent publicity surrounding FCA's handling of consumer complaints, the recent investigation by the Australian Competition and Consumer Commission (**ACCC**) into FCA's handling of consumer guarantee complaints and FCA's provision of an administrative undertaking to the ACCC following the ACCC's investigation. The letter indicated that the Committee is particularly interested in specific aspects of FCA's handling of consumer complaints and actions being taken by FCA in relation to the resolution of consumer complaints.

2. PURPOSE OF THIS SUBMISSION

The purpose of this submission is to address the issues raised in the Committee's letter to FCA in relation to FCA's handling of consumer complaints.

This submission does not purport to address the broader issues raised by the Committee's Terms of Reference.

3. FCA'S HANDLING OF CONSUMER COMPLAINTS

3.1 Rapid Growth of FCA

Issues concerning FCA's handling of consumer complaints are largely historical issues and largely attributable to FCA's unprecedented rapid sales growth in recent years.

FCA's significant sales growth in recent years is largely due to strengthening brand recognition in the Australian automotive market, competitive pricing of vehicles distributed by FCA, the high equipment levels of its vehicles and its strong value proposition to consumers.

FCA's rapid sales growth in recent years is summarised as follows:

	2010	2011	2012	2013	2014
Sales	11,633	14,566	23,739	33,968	43,104

The rapid growth experienced by FCA in recent years has however given rise to a variety of issues, both at dealer level and head office level. In some cases, dealers' service divisions have lagged in growth behind their sales divisions. Similarly, at head office level, FCA's growth in some areas of its business associated with aftersales customer care has arguably not kept pace with sales growth at times.

Furthermore, this period of rapid growth corresponded with the introduction of the Australian Consumer Law (**ACL**) on 1 January 2011 and, more particularly, the ACL's consumer guarantees. It has also corresponded with the ACCC's public awareness campaign in relation to the consumer guarantees, possibly increasing the number of customer queries and complaints and, in particular, complaints about faults or defects outside the warranty period applicable to vehicles distributed by FCA. This may have exacerbated some of the issues arising from FCA's rapid sales growth during this period.

It was not possible for FCA to foresee such unprecedented growth and accordingly FCA only became aware of the issues arising from this growth with the benefit of hindsight. Once identified, FCA commenced a process of addressing the issues and this process is continuing.

3.2 **Actions taken by FCA to address aftersales customer care issues arising from rapid growth**

In the latter part of 2012, FCA became aware of the aftersales customer care issues arising from rapid growth. Since early 2013, FCA has taken numerous steps to improve various aspects of its business associated with aftersales customer care and, more particularly, complaints handling. These changes have included the following:

- Doubling FCA's parts warehouse in size, including 24 hour operations Monday to Friday, as well as planned further expansion of the parts warehouse facilities in the immediate future
- More than doubling the value of FCA parts inventory, which is expected to further increase
- Enhanced international parts transportation arrangements for parts not stocked by FCA in Australia, sourced from overseas affiliates, particularly for parts required for vehicles off the road
- Expanding FCA's Dealer Technical Assistance Centre and Dealer Parts Assistance Centre, and creating a dedicated Resolutions Team with responsibility for resolving complex customer issues
- Improving dealership parts inventory including access to, and policies related to, essential and minimum parts stocking
- Doubling the number of District Parts Managers and the number of Service Managers to help dealers manage technical issues and provide resolutions to customers
- Commenced a trial of Dealer Service Coaching, to educate and better equip dealers with techniques to improve management of their workshops and better meet the service needs of their customers. FCA intends to roll this program out nationally.

3.3 **Ongoing Improvement of Dealer Standards**

FCA has taken a number of steps to improve dealer standards in regards to addressing customers' service needs and concerns.

For example:

- **Dealer performance management:** FCA's periodic assessment of dealers' standards and performance increasingly focuses on areas directly and indirectly relevant to customer aftersales care, including facilities, staffing and parts stock holding.
- **Dealer incentives:** In the past, dealer incentives provided by FCA to dealers have been directed towards promoting sales of vehicles and parts. Since 1 January 2015, FCA has provided dealers with incentives based on criteria including a "Net Promoter Score". In each case, a dealer's "Net Promoter Score" reflects feedback from customers based on their dealer experiences, in terms of both sales and service.
- **Dealer training:** FCA sees dealer training as critical to customer satisfaction in general and to the effective resolution of customer complaints in particular. To enable FCA to improve dealer training, all dealer training has been consolidated under one management area, being Network Development. A core focus of dealer training is in technical areas to enable dealers to quickly and effectively resolve customers' issues with their vehicles.
- **Parts delivery:** An issue in some complaints has concerned delays by FCA in delivering parts to dealers to enable them to carry out repairs. FCA has focused considerable attention on improving its performance in fulfilling dealers' parts orders to enable dealers to improve their performance in addressing customers' concerns about their vehicles in a timely manner.
- **FCA's Field Support capability:** As well as head office teams to support dealers, FCA has a number of field support roles and has doubled its aftersales field teams. The **district service manager team** and the **district parts manager team** have each grown substantially since 2014, resulting in a significant improvement to FCA's dealer support capability, enabling dealers to better perform their responsibilities in relation to overall customer satisfaction.
- **Courtesy vehicles:** In 2015, FCA introduced a courtesy vehicle program to enhance the capacity of the dealer network to provide customers with courtesy vehicles with minimum fuss. This program has further reduced customer complaints by minimising the inconvenience of being without a vehicle while a customer's vehicle is undergoing repairs.

3.4 Growth in dealer representation

FCA's dealer network, including service-only dealers, has grown significantly in recent years, from 62 dealers in 2011 to 212 current dealers. FCA believes that this strong growth in dealer representation, combined with the ongoing improvement in dealer standards and performance referred to in section 3.3 above, has and will continue to enhance aftersales customer care and thereby reduce customer complaints.

4. FURTHER ACTIONS TO ENHANCE FCA'S AFTERSALES CUSTOMER CARE

FCA is committed to continuing the process of enhancing aftersales customer care by:

- Maintaining the actions which commenced in 2013, outlined in section 3.2 above, or similar actions;

- Implementing the actions it has undertaken to the ACCC to take.

In accordance with FCA's administrative undertaking with the ACCC, FCA will:

- Implement a Consumer Redress Program;
- Implement a Compliance Program, including a Complaints Handling System.

Below we set out in ***bold italics*** the specific issues raised in the Committee's letter to FCA and FCA's comments on each of them.

"FCA's commitment to establish a consumer redress program, including how the program is expected to function, such as how remedies recommended by the independent reviewer will be implemented"

Under the Consumer Redress Program, FCA will contact customers who made a complaint about their vehicle to FCA between 1 January 2013 and 31 December 2014, and who were refused a particular remedy by FCA (subject to limited exceptions), to advise them that they will be entitled to have their complaint reviewed. Those customers will be offered a review of their complaint by an independent reviewer. If a customer accepts the review offer, FCA will aim to complete the review within a month of receiving a customer's acceptance of the review offer.

FCA cannot conduct all of the reviews simultaneously and accordingly they will be conducted over a period of time. The period of time will largely depend on the number of customers who take up the review offer.

If the independent reviewer decides that FCA did not resolve the customer's complaint in accordance with the customer's rights under the applicable consumer laws, being the implied warranties in the *Trade Practices Act 1974* or the consumer guarantees and the Australian Consumer Law (whichever applies to the particular customer), the customer will be provided with a remedy or remedies as decided by the independent reviewer, consistent with those rights. Remedies recommended by the independent reviewer will be provided by FCA either directly or by FCA procuring a dealership to provide the remedy or remedies.

"FCA's commitment to review its handling of previous complaints, including how this review will be undertaken independently"

The review of previous complaints under the Consumer Redress Program will be carried out by the independent reviewer with the assistance of FCA personnel. The review will be based on information FCA has concerning the customer's vehicle and any additional information the customer provides when accepting the review offer. All decisions under the Consumer Redress Program concerning whether a customer is entitled to any remedy or remedies will be made by the independent reviewer.

"FCA's commitment to establish an Australian Consumer Law compliance program, including how the program is expected to function and how it will include a complaints handling system"

FCA has for many years provided relevant FCA personnel with training to ensure that FCA complies with its obligations under consumer laws, particularly insofar as they relate to the provision of aftersales customer service, such as dealing with customer queries and complaints.

FCA has undertaken to the ACCC to establish an Australian Consumer Law Compliance Program which will involve upgrading, documenting and formalising FCA's existing compliance measures. This Program will include the provision of staff training and dealer training each year.

FCA has also undertaken to the ACCC to review and upgrade its existing processes for handling consumer complaints and establish a formal complaints handling system by 10 March 2016.

"the distinct roles and obligations of the manufacturer, on one hand, and suppliers, including dealers, on the other"

The Consumer Redress Program concerns complaints lodged with FCA where FCA refused a particular remedy. Dealers have no obligations under the Consumer Redress Program.

"how FCA will treat customers who made a complaint about vehicle issues prior to 1 January 2013 or subsequent to 31 December 2014, and who were refused a particular remedy by FCA"

Customers who lodged complaints about vehicle issues prior to 1 January 2013 or after 31 December 2014 are not covered by the Consumer Redress Program. If any such customers have any residual concerns regarding FCA's handling of their complaint, they can of course raise the issue with FCA.

It should however be noted that FCA was not the distributor of Alfa Romeo and Fiat vehicles in Australia prior to May 2012.

5. SUMMARY AND CONCLUSION

FCA believes that the issues which have arisen in the past concerning its aftersales customer care and, more particularly, handling of customer complaints, are largely historical issues and largely attributable to unprecedented rapid sales growth in recent years.

FCA identified the issues in late 2012 and commenced the process of addressing them in early 2013. That process of enhancing customer's aftersales care experience is continuing. The implementation of new management plus the ACCC's involvement in this matter has provided FCA with additional impetus and introduced greater urgency to FCA's own efforts and will lead to FCA providing a far higher level of service to both its existing and future customers.

The issues concerning FCA's aftersales customer care, including those identified by the ACCC, relate to FCA's handling of consumer complaints. Those issues do not highlight any inadequacy in the remedies available to consumers under existing consumer laws or any inadequacy in the current regulatory framework concerning those laws.

Patrick Dougherty
President and Chief Executive Officer
FCA Australia Pty Ltd
October 2015