

F. C. and J. C. Bond

Ph: [REDACTED]

Email: [REDACTED]

To
The Chair of Legal Affairs and Safety Committee,

By Email: lacsc@parliament.qld.gov.au

Dear Sir / Madam

Re: Lemon Law Submission

I am writing in relation to the lemon laws enquiry being undertaken by you and other Members of Parliament.

In June, 2013, my wife purchased a Holden Captiva 7 Diesel LX All Wheel Drive ("AWD") from [REDACTED] Brisbane.

The reason we purchased this vehicle was due to a workplace injury which restricted my ability to travel in our sedan (which was only 2 years old) for more than 20 minutes at a time. I sustained a serious back injury with permanent nerve damage which restricted my ability to walk, sit, stand and travel for more than approximately 20 minutes at a time. The purchase of this vehicle provided me with extra comfort that allowed me to travel greater distances than that in our sedan.

The sales representative was aware of my injuries and the reason we were purchasing this vehicle. Apart from the extra room and comfort, this vehicle was advertised by Holden at the time as being a car suitable to the family for mums to do school runs, an everyday car. We have since discovered that this is not the case.

The problems we have experienced with the vehicle are as follows:-

1. DIESEL PARTICULATE FILTER ("DPF")

Within a month of purchasing the vehicle we started having trouble with the Diesel Particulate Filter (DPF). The DPF is part of the emission control on the vehicle.

A warning light appeared on the dash. Upon reading the manual we discovered what the light was for. "To activate the cleaning process continued driving and when the road conditions and traffic permits increase vehicle speed above 50 km per hour until the ...warning light symbol shown in manual... turns off (10 to 25 minutes)".

After driving the vehicle for more than 45 minutes at speeds varying from 80 to 100 km per hour, as we were driving on the highway at the time, the light would still not turn off. We called the dealership. The service department was closed and no one else knew anything about the DPF. The manual warns against turning the engine off "Do not switch off the engine until the cleaning process is complete. ... Turning the engine off while the light is on or flashing will prevent the cleaning process from completing. This will result in increased fuel consumption and a reduction in engine oil life. If the engine light also illuminates cleaning is not possible and contact a Holden Dealer".

The car was returned to the dealership. This then involved over 21 months of having to repeatedly return the vehicle to the dealership for the same reason. Sometimes the light would go out after 1 to 1.5 hours of driving and other times we were forced to just turn the engine off. This reached the point where it occurred almost on a weekly basis and as the problem progressed it was happening 3 and 4 times a week. For someone who cannot drive a vehicle for more than 20 minutes at a time, this caused me considerable pain and I would be required to take increased dosages of prescribed narcotic pain killers and require bed rest, sometimes for more than a day.

In April 2015, after the dealership had had the vehicle repeatedly during the 21 month period and sometimes for more than a week at a time, an air leak was discovered in the turbo intercooler and a replacement part was installed. We were hopeful that this would fix the issue.

The defect with the DPF has unfortunately not been fixed. We still had issues with the DPF. The same defect we have been fighting to get fixed for more than 26 months now.

None of these errors have ever been recorded on the car's computer. My wife was advised by the Assistant Service Manager on 16 June, 2015 that the error codes are removed from the vehicle's computer after several start ups after the warning light goes out.

My wife was advised by Holden Customer Service that the vehicle is not suited for around town running and is a highway vehicle. The Service Manager and Assistant Service Manager of the dealership have both told us on numerous occasions the same thing. This is not the reason for which we purchased the vehicle.

Also, as this is an AWD vehicle, there are features in the car that are only to be used off road and not on a sealed surface.

2. INFOTAINMENT/NAVIGATION SYSTEM

- (i) The vehicle we purchased was manufactured on 20 March, 2013, however the navigation maps were from before 2008. When we complained about this we were told by the dealership that this is the current maps for the vehicle and that it would cost \$458.00 per annum (increasing annually) to upgrade the maps. We were never informed of this when we purchased the vehicle.

My wife contacted Holden Australia Customer Care to complain about this. She was told that Holden did not supply the maps. They were supplied by Sensus and that there was nothing they were prepared to do about it. Further enquiry revealed that you cannot purchase the upgrades directly from Sensus. You have to purchase the upgrades through a Holden dealership. One would have thought that if you purchased a 2013 build vehicle you would expect to have at least 2012 maps installed (Sensus only update their maps in August annually).

- (ii) Within approximately 6 weeks we started having problems with the Navigation/Trip Information screen. It was permanently in night mode and could not be changed. This screen was replaced in October, 2013, however the maps installed were still not the current version of maps.

Since early 2014 we have had the following problems with the infotainment/navigation system:-

- (iii) Whilst driving with the trip information screen on, the screen shuts down and the navigation operation warning appears for no reason.
- (iv) Using the volume control for the radio on the steering wheel controls dials the last number dialled on the phone through blue tooth instead of adjusting the volume of the radio.
- (v) When this happens using the disconnect button on the steering wheel controls to disconnect the call does not work.
- (vi) Using the answer and hang up buttons on the steering wheel controls for the phone do not always work so you have to use try controls on the infotainment system.
- (vii) The infotainment screen shuts down during driving which shuts down the radio.
- (viii) When this happens (item vii) we have trouble getting the radio to turn back on.
- (ix) Sometimes we need to turn the vehicle off to get the radio and infotainment system to reset and start working again.
- (x) When starting the vehicle the infotainment computer does not always load and sometimes it can take 5 or more minutes before it turns on.
- (xi) When you turn off the radio it shuts down the navigation/trip information system.
- (xii) There are so many variations of problems we are having with the infotainment system. These are intermittent but repetitive and reoccurring and quite dangerous at times when you have to look at the infotainment system to work out which buttons to push because the hand controls on the steering wheel are defective. It is a distraction and dangerous.

Despite testing the system on innumerable occasions, no defects could be found by the dealership. The audio unit was replaced by ██████ in April, 2015 as an “act of good will” but we have never thought the audio unit was the problem. We have always believed it to be a computer issue. The computer is not accurately recording trip information and fuel consumption nor is it accurately recording error codes such as the DPF and engine warning lights when they appear on the dash.

The replacement of the audio unit has not rectified the issues.

A faulty “clock spring” was replaced in July in the hand controls on the steering wheel but this also has not rectified the problems we are having.

3. FUEL CONSUMPTION

We have had poor fuel consumption with the vehicle since purchasing the vehicle. We average 12 to 13 litres per 100 km around town and still 11 to 12 litres per 100 km on highway running. This is far in excess of the manufactures specifications, being “8.1L per 100 km fuel efficiency figure based on ... combined highway/urban testing. Results may vary depending on driving style, road condition and vehicle load”.

The computer registers fuel consumption on highway running around 8.5 to 9.5L per 100 km but when you calculate the actual fuel usage when filling the tank (and also doing this to Holden’s testing specifications of driving 100 km and then filling the tank) the usage is in excess of 11L and often around the 12L to 13L per 100 km.

One of the reasons why we purchased the vehicle as a diesel was because of the fuel economy.

As the engine’s computer incorrectly records the lower fuel consumption the dealership and Holden have basically called us liars.

4. ENGINE OIL LEAKS

In March, 2015 the engine developed an oil leak. The oil leak was from the front timing belt cover. This involved the vehicle being returned to the dealership for 5 days for repair.

We now have another oil leak.

5. DRIVER’S SEAT

Within a few weeks of owning the vehicle the electric driver’s seat was not moving freely. This was repaired.

Within a very short period this happened again and the driver’s seat was replaced as the base was broken.

The driver’s seat was again replaced in April, 2015. This is the fifth time the car has been returned to [REDACTED] for problems with the driver’s seat and the third time the seat has been replaced in less than 2 years. We ask that this be checked when the vehicle was returned in July, 2015 but this was not attended to.

We have been advised by the [REDACTED] that there is a manufacturer’s fault with the seat base.

Replacing the driver’s seat has only temporarily fixed the defect as the seat is showing signs that it is again broken and will need replacement for the 4th time.

The past 5 times the car has been returned for this problem it starts with the electronic controls not working properly and then the seat base becomes unsteady and then finally the seat starts moving forward on braking and backwards on acceleration.

If there is a manufacturer's defect with the seat base then why has this not been rectified? Continual replacement of the driver's seat is not acceptable.

6. **NON-RESPONSE OF ENGINE DURING ACCELERATION**

Earlier this year my wife was driving on the Centenary Highway and changed lanes from the left to the right hand lane doing 90 km in the 100 km per hour. She put her foot on the accelerator to speed up but lost all power to the engine and had no acceleration. Thankfully the vehicle behind her was able to slow down and the car in the left hand lane had not sped up so she could move back into the left hand lane. After several seconds there was a loud bang and the power was restored to the engine and she had acceleration again.

In May this year this happened to me 4 times in 2 days and it has been happening ever since. The other day I was stopped at a set of lights, the light went green, I put my foot on the accelerator pedal and lost all power. After several seconds acceleration was restored.

This is a very serious defect. We have had several occasions on the highway where we have lost power as well as going around a roundabout in a busy intersection. We have been very fortunate not to have been involved in the accident. My wife is scared to drive the car in fear of this happening again.

██████ have not been able to find the reason for this fault nor any evidence of it has been recorded on the vehicle's computer.

7. **BRAKES**

In March 2014 the engine warning light appeared on the dash after repeated failures of the DPF cleaning process. The vehicle was returned to the dealership. We were accused of driving the vehicle with our foot on both the brake and the accelerator at the same time. We do not and have never done this.

After much arguing with the dealership its ████████ service department finally found that we had a faulty brake pedal sensor switch.

When the car was returned in July this year for various repairs we were again accused of the same thing. My wife emailed the Service Manager at the dealership and asked whether the brake pedal sensor switch had been tested. She did not receive a reply. Further telephone calls to both the Service Manager and the Assistant Service Manager have not been returned.

There is now a shudder in the steering on braking and the vehicle will need to be returned to the dealership again.

8. **Suitability of the Vehicle**

Holden Customer Care have advised my wife and the dealership has advised both of us that this vehicle is not suitable for our needs. This vehicle is designed as a highway running vehicle, not an around town vehicle. It was suggested that we should have purchased a petrol vehicle.

When we purchased the vehicle we specifically told the salesman at [REDACTED] what sort of travelling we do and what we needed the car for. That is that I had had a serious back injury with permanent nerve damage affecting my back, legs and feet. I cannot drive, sit, stand or walk for long periods (my limitations are restricted to about 20 minutes for sitting, driving, travelling as a passenger in a vehicle and, at the time, walking and standing was limited to 5 to 10 minutes at best). We needed a vehicle that was easier to enter and exit from, that had more leg room and was more comfortable for me to drive the short distances I needed to drive the vehicle.

Holden Australia needs to better train their dealership salespersons as we inquired at another Holden dealership about purchasing a suitable vehicle for me and they also recommended the Captiva. We told that dealership the reason why we needed to change cars and we were told that the Captiva was more than suitable to meet our needs. Holden advertised the vehicle as a vehicle well suited to mums doing school runs!

Having to constantly return the vehicle to the dealership is not an easy task. When [REDACTED] provides a loan car the return trip from home to dealership and home again is approximately 2 to 2 ¼ hours.

When Holden Australia provides the loan vehicle it takes in excess of 3 hours and I struggle to get the loan car home. I have to drive the car to [REDACTED], a staff member from [REDACTED] has to then drive me to the rental car company and then once the paperwork etc. is completed I have to drive the rental car home. This causes me extreme pain and discomfort and can affect me for several days requiring the need for me to increase my prescribed narcotic medication dosages and requires bed rest. This causes my wife a lot of stress, upset and concern as she knows how difficult it is for me.

This vehicle is not suitable to our needs and we would not have purchased the vehicle had we been advised of:-

(i) **DPF**

The vehicle had a DPF, and in particular the type of system that Holden uses that requires excessive driving to clean the DPF system.

It takes in excess of 60 minutes of driving and usually about 80 to 90 minutes of driving the vehicle for the DPF warning light on the dash to go out. For someone who can drive for about 20 minutes, having to endure driving of 60 to 90 minutes is next to an impossibility, although I have been forced to do this on so many occasions and sometimes 2 or 3 times a week.

With my limited driving ability this vehicle is not suitable and we would never have purchased the vehicle.

(ii) **Defective Driver's Seat**

Had we been advised that there was a manufacturer's defect with the drivers seat and it required the vehicle to be returned regularly for the seat base to be replaced we would never have purchased the vehicle.

(iii) **Navigation System**

Had we been advised when we purchased a 2013 model vehicle that the maps on the navigation system were from 2009 and will cost us (in 2013) \$458.00 to update the navigation system we would never have purchased the vehicle. This is an ongoing yearly expense which will only increase over time.

(iv) **Suitability of Vehicle Design**

Had we been advised that the vehicle is designed for highway running and not suitable for around town running we would never have purchased this vehicle. The reason we purchased the vehicle was for my benefit with my limited capacity.

This fact has been advised to us by not only several staff, including the Sservice Manager and Assistant Service Manager, in the service department at [REDACTED] but also the Customer Service Department of Holden Australia itself.

(v) **Loss of Acceleration of Vehicle**

Had we known that the engine would lose acceleration power randomly we would never have purchased the vehicle.

We have since learned that this problem has been occurring in other Captiva 7 vehicles as well so it is not a defect which affects solely our vehicle. This in itself is a major safety issue and is of great concern to us.

My wife, being the sole owner of the vehicle, has requested a refund from Holden Australia in accordance with Consumer Law. When she could not receive any satisfaction from Holden Australia we engaged a lawyer earlier this year to write to the dealership and Holden Australia demanding our money back. This has been met with denials from Holden Australia claiming that the defects were not major and were "fixed in a reasonable amount of time". We regard the issues with the DPF and in particular the engine, i.e. loss of acceleration, as major defects.

The last letter our lawyer received from Holden on 13 May, 2015 stated "In accordance with your client's Holden Voluntary Warranty and Statutory Rights, Holden does not agree to request to refund or replace the Vehicle". As at 13 April, 2015, the last service date "At this time your client's Vehicle was operating correctly."

Our vehicle was not operating correctly as they were unable to detect and therefore fix the defects of the vehicle so that it was operating correctly.

There was a Captiva 7 owned by a lady in Ipswich who had the same problems with her vehicle as we do. She lodged a petition through Change.Org in June, 2105 and eventually came to a confidential agreement with Holden Australia. There are many more complaints on the internet about this make of vehicle. This proves that it is not an isolated case and these are characteristics of the vehicle.

We are now pursuing avenues with the ACCC and Department of Fair Trading in an attempt to satisfactorily resolve the issue hopefully without the necessity of taking further legal action.

Should you require copies of any documents or further information, please do not hesitate to contact me on [REDACTED]

Yours faithfully

Frank Bond