

SUBMISSION TO THE SENATE EDUCATION AND EMPLOYMENT AND REFERENCES COMMITTEE INQUIRY INTO GENERAL MOTORS HOLDEN OPERATIONS IN AUSTRALIA (AS EXPANDED).

Introduction

Mercedes-Benz Australia/Pacific Pty Ltd (**MBAuP**) welcomes the opportunity to provide this submission to the Senate's Education and Employment Reference Committee Inquiry into General Motors Holden Operations in Australia (the **Inquiry**).

On 7 October 2020, the Committee resolved to further investigate the regulation of the relationship between car manufacturers and car dealership models in Australia. While the Inquiry substantially relates to General Motors' withdrawal of the Holden brand from Australia and its dealings with its dealer network, the broadening of the terms of reference provides MBAuP with an important opportunity to make this submission.

About MBAuP

Mercedes-Benz has a 134-year history of inventing, manufacturing and distributing premium motor vehicles worldwide. The Mercedes-Benz brand is synonymous with luxury, innovative design and technology, as well as a premium customer experience.

Daimler AG (**DAG**), MBAuP's ultimate parent company, based in Germany owns the Mercedes-Benz brand together with a number of other brands.

MBAuP was formed in 1958 and, under licence from DAG, currently operates as the importer and wholesaler of new Mercedes-Benz passenger cars and vans in Australia. Headquartered in Mulgrave, Victoria, MBAuP employs in excess of 300 people.

MBAuP's success is intrinsically linked to that of its dealer network. MBAuP's relationship with dealers is based on respect and transparency. It communicates with the network early and regularly, often engaging with dealers through the national dealer council made up of elected dealer representatives.

Over the past 60 years, MBAuP, together with its dealer network, has achieved exceptional results. However, like many vehicle brands around the world, Mercedes-Benz is facing a mix of challenges, both domestically and globally, that have the potential to impact profitability, competition, retailer profits as well as customer retention and satisfaction.

The environment in which MBAuP operates, is changing, as are its customers and competitors.

To respond to these changes and remain successful and sustainable into the future is a priority. Therefore MBAuP needs to evolve and adapt.



MBAuP Dealers, Operations and Arrangements

MBAuP Dealers

MBAuP's new passenger car and van dealer network is comprised of just over 50 new sales, services and parts dealerships located in each state and territory and is well-established with over half of the dealer network in operation for more than 10 years.

Our dealers are well-resourced businesspeople with proven acumen and success. Several are publicly listed companies, some backed by private equity firms. Most own and/or control their dealership sites and employ large numbers of staff, many operate multi-branded dealerships and have the ability to freely access appropriate legal and financial advisors as and when required. This includes prior to signing legal documents pertaining to their business, such as dealer agreements, so that they are clear as to their rights regarding key aspects of the arrangement i.e. agreement terms and renewal mechanisms, end of term arrangements and the like.

MBAuP Dealer Operations

In Australia, new motor vehicles are predominantly sold by one of three methods:

1. The 'factory store' model whereby manufacturers sell vehicles direct to customers through corporate-owned dealerships or channels with no dealer involvement.
2. The 'traditional' model whereby a dealer enters into a licensing arrangement with a manufacturer or a manufacturer's authorised wholesaler, entitling them to purchase new vehicles from a manufacturer/wholesaler and selling the vehicles to customers. This model would see a dealer making a margin on the sale of each vehicle depending on the price at which the vehicle is sold.

Regulated by the Franchising Code of Conduct (**Code**), MBAuP dealers currently operate under this model (with a small number of dealers appointed as agents for the sale of Mercedes-Benz EQ (electric) motor vehicles).

3. The 'agency' model whereby a manufacturer/wholesaler appoints agents to facilitate a direct sale of new vehicles to customers on behalf of the manufacturer/wholesaler. Under this model, the manufacturer/wholesaler, as the seller, will determine the conditions for sale, including the price. The agents will earn a return based on a remuneration schedule. The agency will need to have suitable premises to operate but it will not have the financial risk of having to acquire vehicles for on-sale to customers. Rather, this risk sits with the manufacturer/wholesaler.

Regulated by the Franchising Code of Conduct, MBAuP is in the process of transitioning its dealer network to this model, as part of its vision for *Retail of the Future* discussed later in this submission.



An Overview of Current MBAuP Dealer Arrangements

Dealers typically join the MBAuP network by buying an existing dealership or converting an existing dealership to the Mercedes-Benz brand. Very occasionally, a dealer establishes a dealership on a greenfield site.

The MBAuP dealer network is stable and has been for a considerable period, with very few new entrants. Where there have been new entrants to our network, those parties have had significant dealership and/or dealership management experience across multiple brands.

The substantive capital expenditure for an MBAuP dealer typically relates to business acquisition or conversion costs and the ongoing costs associated with acquiring new vehicles for on-sale to customers under the traditional licensing model.

MBAuP has high-quality standards. Prior to joining the network, dealers are made aware of the requirements to represent our brand. Strategies are shared with dealers to ensure they are relevant and realistic, and MBAuP supports dealers to adapt their operations to create efficiencies and meet their objectives.

Dealers typically exit the MBAuP network by selling their dealership. MBAuP ensures any sale is consistent with the Franchising Code of Conduct, supporting dealers throughout the process.

There is no entitlement to compensation from MBAuP on the expiry or termination of their dealer agreements. Dealers are also not bound by any restraints on exiting MBAuP's network, and so are free to operate competing dealership businesses post exit, including from their existing dealership sites.

Even in the face of a changing environment, these arrangements, together with best practice approaches to data collection and use, have contributed to the ongoing stability and success of the MBAuP dealer network at a time when some brands are leaving Australia and others are contracting their dealer networks.

The need for change

Amid shifting global and local landscapes it has become clear that customers have different expectations and want to engage with the car buying process in new and evolving ways.

Independent market research commissioned by MBAuP in October 2019 found:

- 60% want a haggle free purchasing experience
- 74% see the negotiation process as a necessary evil and wish there was a better way
- 65% of people find the overall purchase process mistrustful and lacking transparency

To respond to market forces, technological advancements, digitalisation and customer feedback, MBAuP has a vision for the *Retail of the Future*. By adapting the agency model for Australia, it responds to changes in technology and the market while delivering benefits to customers, dealers and MBAuP.



Retail of the Future

MBAuP has adapted DAG's Retail of the Future strategy for the Australian market to benefit the customer, the dealer and MBAuP.

MBAuP has been considering and designing its *Retail of the Future* vision for a number of years and has done so in good faith, and in a manner that is consistent with its contractual and legal entitlements – and in a collaborative and consultative manner with the dealer network. Further, MBAuP has provided its dealer network with almost two years' notice of its intention to move to an agency model in relation to the sale of new vehicles. *Refer to the Attachment.*

All dealers will be given the opportunity to transition to the agency model when the tenure of their current Sales, Service and Parts Dealer agreements expire at the end of 2021, with each to decide if they wish to accept the offer. MBAuP anticipates that all dealers will elect to move forward with the new model which is expected to launch in 2022.

MBAuP has no current plans to contract or restructure its dealer network in order to transition to the agency model.

Dealers will continue to use the same facilities, signage and resources that exist within their current businesses as both agents for MBAuP, and importantly, in relation to the continued operation of other aspects of their business that will continue to operate under a traditional licensing model (i.e. sale of pre-owned vehicles, vehicle servicing, parts sales and vehicle financing).

MBAuP will not require agents to make any additional or significant capital expenditure specifically in connection with the transition to the agency model.

Customer benefits

Consumers are increasingly demanding – and expecting – pricing transparency. A number of global companies in the retail, telecommunications and technology spaces have successfully introduced sales models where pricing is set by the manufacturer and consistent across each of their outlets.

With MBAuP's vision for *Retail of the Future* each customer will have access to the same conditions, including the price (subject to state-determined fees and charges) and a selection of vehicles regardless of their postcode, or their personal capability to negotiate a final price. This will improve the product offering, particularly for regional and rural customers who currently do not have access to the same range and choice of vehicles as city-based customers.

Customers will no longer have to visit multiple dealers to find the model they need or negotiate the price they want. Under the Mercedes-Benz agency model, each customer will have access to all models, at the same price (subject to state-determined fees and charges).

By making the new vehicle buying process easier and quicker, Mercedes-Benz is putting the customer first. Showing the prices for new vehicles online makes the whole process more transparent. Agents will be able to search stock availability nationwide, so customers can buy the vehicle they want, not just what the dealer has in stock, as is currently the case.



Retail of the Future will also introduce an online sales platform which can be used by customers anywhere in Australia, any time. Whichever sales channel is preferred by customers for purchasing a new vehicle, agents will continue to play a vital role in managing the customer relationship.

By simplifying the buying process for our customers, we boost transparency and trust in the sales process.

Dealer benefits

The automotive sector is ripe for disruption.

The Mercedes-Benz agency model presents the MBAuP dealer network with an opportunity to boost efficiencies and be better placed to successfully navigate current and future challenges in the automotive industry.

The Mercedes-Benz agency model only relates to new vehicle sales. Based on industry data, the majority of a dealer's profit is derived from other parts of their business such as vehicle servicing, part sales, preowned vehicle sales and financing.

With MBAuP, rather than individual dealers, owning the vehicle stock it will reduce the agent's liabilities and reduces the challenges often experienced by dealers located in regional and rural communities. The agents will benefit from a reduced business risk with MBAuP taking over the entire vehicle inventory, eliminating the need for dealers to finance their inventories. Furthermore, agents will have access to MBAuP's entire new vehicle inventory and will be able to meet customer needs.

With the Mercedes-Benz agency model, agents will be better placed to focus on the core business of delivering an optimal customer experience during the purchase of their vehicle.

MBAuP benefits

Just as a sustainable and successful dealer network is fundamental to the success of any automotive manufacturer, so too is the success and sustainability of the manufacturer/wholesaler for the success of its dealer network. This is a fundamental driver of *Retail of the Future*.

The agency concept has been successfully introduced in New Zealand by several brands (each creating their own version of the concept), and by Mercedes-Benz e.g. in South Africa and Sweden, where stable sales figures show that the newly introduced sales model, including processes and systems, have been working well. The move to *Retail of the Future* will play an important role in future-proofing MBAuP's Australian operations and ensuring it is in a position to effectively respond to market disruptors, maintain its brand and business and sustain its profitability. MBAuP is confident this decision is in the best interest of customers, our dealer network and our organisation.

Having successfully operated in Australia for more than 60 years, the introduction of the Mercedes-Benz agency model will help ensure a successful and sustainable future for MBAuP and its dealer network.

When dealers' Sales, Service and Parts Dealer Agreements expire, MBAuP will give all current dealers the opportunity to become an agent, with each to decide if they wish to accept the offer.



Adequacy of the regulatory environment

Australia's franchising laws and regulations are considered to be some of the world's most comprehensive and protective regimes for franchisees.

MBAuP does not consider further regulation is warranted.

MBAuP has a good understanding of the Code and has embraced its requirements in our day-to-day operations and contractual arrangements with dealers. The amendments of the Code relevant to 'new motor vehicle dealership agreements' are recent and opportunity needs to be given in order for the impacts of those amendments to be realised.

As with any regulatory regime, a balance needs to be struck to protect the interests of all parties involved in the commercial relationship. Part of the reason that the dealership arrangements in Australia have been successful is the recognition of both the dealer and the manufacturer/wholesaler that each party comes to the table prepared to financially invest and take a level of commercial risk.

MBAuP would have significant concerns if regulatory changes were proposed that undermine or restrict (beyond what is currently imposed by the Code) a manufacturer/wholesaler's ability to negotiate commercially sensible and sustainable agreements with its dealers (for example, by requiring manufacturers/wholesalers to underwrite the success of dealers). If regulations became excessively prescribed and prohibitive, there is a risk that dealership arrangements may no longer be commercially viable and which has the potential to negatively impact all parties.

Conclusion

It is MBAuP's view that current government policy and the regulatory environment is adequate and working. Further to the recent withdrawal of GM Holden from the Australian market, care should be taken not to create a regulatory regime that discourages new entrants to the Australian market or overly complicates the administration of automotive franchises.

As MBAuP embarks on the *Retail of the Future* agency model, within the parameters of the Franchising Code of Conduct, we look forward to continuing to deliver excellent vehicles and service to our customers and, together with our agent network, operating sustainably and successfully in the future.

MBAuP is grateful for the opportunity to provide this submission. Please contact us if you wish to discuss this submission in further detail.

30 October 2020



Attachment:

MBAuP Agency model - Dealer Engagement

