Submission to the Senate Education and Employment References Committee Inquiry into General Motors Holden Operations in Australia

Joint Submission from the Department of Industry, Science, Energy and Resources and the Department of Education, Skills and Employment

July 2020

Disclaimer:

The Australian Government as represented by the Department of Industry, Science, Energy and Resources and the Department of Education, Skills and Employment, has exercised due care and skill in the preparation and compilation of the information and data in this publication.

Notwithstanding, the Commonwealth of Australia, its officers, employees, or agents disclaim any liability, including liability for negligence, loss howsoever caused, damage, injury, expense or cost incurred by any person as a result of accessing, using or relying upon any of the information or data in this publication to the maximum extent permitted by law. No representation expressed or implied is made as to the currency, accuracy, reliability or completeness of the information contained in this publication. The reader should rely on their own inquiries to independently confirm the information and comment on which they intend to act. This publication does not indicate commitment by the Australian Government to a particular course of action.

Contents

1.0 Introduction

This submission provides a factual overview and makes use of evidence based research from DISER, as well as other sources, to address the Senate Inquiry Terms of Reference (ToR):

- The impacts of the General Motors (GM)' decision to withdraw the Holden brand and operations from Australia with particular reference to (ToR a.):
    - Holden employees (ToR a.i.)
    - Holden dealership network (ToR a.ii.)
    - Holden research and development facilities (ToR a.iii.)
- The role of the Franchising Code of Conduct and the Government's proposed dealership amendments to the Franchising Code (ToR b.)
- Other Government processes which impact the automotive industry (ToR b.c.)
- Government or other policy settings on manufacturing, research and development, business support, transition and employee support (ToR c.)
- Matters relating to cultural heritage preservation and trade mark protection (ToR d.)

On 17 February 2020, General Motors (GM) announced that it will be retiring the Holden brand in Australia and New Zealand. As the committee has identified through its terms of reference, the announcement will have an impact on Holden employees, the Holden dealership network, and owners of Holden vehicles.

GM made the decision in 2013 to cease manufacturing operations in Australia by 2017, at the time citing the sustained strength of the Aussie dollar against most major trading currencies, the relatively high cost of production and the relatively small scale of the local domestic market[1].

GM indicates its decision to withdraw the brand from Australia is due to highly fragmented right-hand-drive-markets, the economics required to support growing the brand and inability to deliver an appropriate return on investment.[2]

---

[1] Griffiths, Emma, Holden to cease manufacturing operations in Australia in 2017 https://www.abc.net.au/news/2013-12-11/holden-to-cease-manufacturing-operations-in-australia-by-2017/5150034 14 January 2014

[2] Holden vehicle sales, design and engineering to cease in Australia and New Zealand, https://media.gm.com/media/au/en/holden/home.detail.html/content/Pages/news/au/en/2020/feb/0217_Holden.html, Holden Pressroom, 17 February 2020

The Government has a number of programs and policies to support manufacturing and research and development, while providing business support and assisting industries and businesses to transition. These are detailed at Appendix 1. The Government also has a number of programs which focus on providing employee support, detailed at Appendix 2.

There are a number of reform processes being recently undertaken across the government which will positively impact the automotive industry and are outlined in detail in this submission. These include automotive franchising regulation reforms effective from 1 June 2020, a broader inquiry into the operation and effectiveness of the Franchising Code of Conduct, a mandatory vehicle service and repair information sharing scheme, and the development of a National Electric Vehicle Strategy.

Over 1 million new cars were sold during 2019, including at more than 1500 new car dealers operating more than 3000 retail outlets. The Australian market contains 72 brands and 400 models.[3] Car dealer revenues in 2019 are estimated at $56 billion.[4] Australia is one of the most open, competitive and deregulated car markets in the world.

The Australian new car retailing industry is currently going through a period of significant change, as the sector adapts to the closure of local vehicle manufacturing, advances in technology (such as electric vehicles) and changes in consumer preferences as well as significant changes in sales channels and associate business models. There has also been consolidation in the dealership sector, with larger dealer groups taking over smaller, independent dealers to take advantage of economies of scale. This is expected to continue. Further background on the new car retailing industry is at Appendix 3.

Most recently, the Coronavirus (COVID-19) has presented a fast evolving and significant challenge to global health systems and economies. The Government's economic support package has provided timely support to affected workers, businesses and the broader community, and has kept Australians in work, and businesses in business. The Government continues to monitor the impacts of COVID-19 on all businesses, including those in the automotive industry.

---

[3] AADA 2018, Inquiry into the operations & effectiveness of the Franchising Code of Conduct, AADA, May 2018, pp. 4-5.
[4] AADA website, viewed 19 March 2020 <https://www.aada.asn.au/about/#what-we-do>

The Australian Government is concerned that the combination of declining car sales, the closure and restructure of major brands and the economic impact of COVID-19, create significant pressure on the car manufacturing and retailing sector.

The Government currently supports the automotive industry through the Franchising Code of Conduct[5], including the development of an automotive-specific schedule to the Code, and through programs administered by DISER. The Government also has an interest in protecting Holden's extensive and historically significant collection of motor vehicles and other associated materials. This is discussed in further detail in this submission.

This is a joint submission from the Department of Industry, Science, Energy and Resources and the Department of Education, Skills and Employment, with additional input from the Treasury, the Australian Competition and Consumer Commission and the Office of the Arts from the Department of Infrastructure, Transport, Regional Development and Communications.

2.0 Holden employees

At the time of the announcement in February 2020, Holden employed approximately 800 full and part-time staff in Australia with approximately 600 directly affected by the decision to retire the brand[6], many based at Holden's design and engineering facilities at Port Melbourne and the Lang Lang proving ground[7]. The department understands affected staff are made up of 222 engineers and 113 designers with the other 259 staff in management and administrative roles. Holden has announced it will provide separation packages and employment transition support to staff affected by the closures[8].

---

[5] *Competition and Consumer (Industry Codes—Franchising) Regulation 2014*, Schedule 1.

[6] Holden is being closed by General Motors, but what happens to current owners and employees? https://www.abc.net.au/news/2020-02-17/what-happens-to-my-holden-now-a-quick-look-at-what-comes-next/11972296, ABC, 18 February 2020

[7] Nicholson, Tim 2020, What the Holden shutdown means for car owners, https://www.racv.com.au/royalauto/moving/news-information/holden-shutdown-faqs.html, RACV, 18 February 2020

[8] Holden vehicle sales, design and engineering to cease in Australia and New Zealand, https://media.gm.com/media/au/en/holden/home.detail.html/content/Pages/news/au/en/2020/feb/0217_Holden.html, Holden Pressroom, 17 February 2020

Potential employment opportunities for engineering and design staff include working on national shipbuilding projects for the Department of Defence[9] or being hired by Ford Australia, as put forward by its CEO[10]. In addition to any support provided by Holden, the Government is fully committed to assisting retrenched workers and their partners.

The Department of Education, Skills and Employment (DESE) delivers a range of Government programs and policies that are relevant to supporting workers impacted by the withdrawal of the Holden brand and operations from Australia. These are outlined at Appendix 2.

3.0 Holden dealership network

185 dealers across Australia are predicted to be affected by GM's decision to retire the Holden brand with existing dealer franchise agreements originally to extend through to the end of 2022[11].

The extent of job losses at Holden dealerships is yet to be determined, with conflicting estimates from Holden and the Holden Dealer Council[12]. GM have publicly stated that they are making offers to dealers, which will take into consideration the specific circumstances of the individual dealer.[13]

DISER understands that Holden will provide its dealerships with the opportunity to continue as service outlets as part of its compensation package.

---

[9] Milne, Sandy, 2020, Minister for Defence Industry spruiks SA submarine jobs for ex-Holden engineers, https://www.defenceconnect.com.au/key-enablers/5685-minister-for-defence-industry-spruiks-sa-sub-jobs-for-ex-holden-engineers, 4 March 2020

[10] Cordony, Louis, 2020, Holden closure: What happens now? <https://www.whichcar.com.au/news/holden-closure-what-happens-now-questions>, Which Car, 27 February 2020

[11] Robson, Tim, 2020, Holden dealers meet PM over poor General Motors compo offer, <https://www.whichcar.com.au/car-news/holden-dealers-meet-pm-scott-morrison>, Which Car, 26 February 2020

[12] Dowling, Joshua, 2020, Holden dealers unite against General Motors to negotiate better compensation deal, <https://www.drive.com.au/news/holden-dealers-unite-against-general-motors-to-negotiate-better-compensation-deal-123362>, drive.com, 12 March 2020

[13] Dowling, Joshua, 2020, Holden dealers unite against General Motors to negotiate better compensation deal, <https://www.drive.com.au/news/holden-dealers-unite-against-general-motors-to-negotiate-better-compensation-deal-123362>, drive.com, 12 March 2020

DISER is aware of media reports that as of 1 July 2020 Holden has agreed terms on a compensation package with a significant portion of its dealer network and that a number of dealers have not accepted Holden's offer[14],[15]. DISER continues to engage with relevant stakeholders.

The Government has made clear its unequivocal expectation that GM negotiate in good faith.

The Australian Competition and Consumer Commission (ACCC) continues to monitor the negotiations between the parties and is in communication with them.

4.0 Holden research and development facilities

Most of Holden's operations will close at the end of June this year, including the design and engineering units. Holden's Lang Lang proving ground southeast of Melbourne will wind up in August 2020, although GM is yet to announce what will become of the testing facility[16].

Since opening the Proving Ground in 1957, Holden test drivers and engineers have driven more than 120 million kilometres, evaluating prototype, pre-production and current production vehicles on its diverse road network. In 2018, Holden updated the state-of-the-art vehicle emissions lab at the Proving Ground, capable of measuring cars to Euro6 regulations, including the measurement of exhaust gas particulates[17].

GM Design Australia and GM Holden Engineering will both cease local operations in June 2020.

The Government has engaged with Holden and is monitoring the situation.

---

[14] Nicholson, David, 2020, More than 120 Holden dealers reluctantly accept GM compensation, Australian Holden Dealer Council Media Release, 1 July 2020.

[15] Moffet Gray, Lachlan, 2020, You'll be next, say Holden dealers, The Australian, 2 July 2020.

[16] Nicholson, Tim 2020, What the Holden shutdown means for car owners, https://www.racv.com.au/royalauto/moving/news-information/holden-shutdown-faqs.html, RACV, 18 February 2020

[17] Holden's famous Lang Lang proving ground ready for next-gen Holden nameplates, <https://media.gm.com/media/au/en/holden/news.detail.html/content/Pages/news/au/en/2018/august/0823_HoldenFamousLangLang.html>, Holden Pressroom, 21 August 2018

5.0 Owners of Holden vehicles (including service and repair)

There are an estimated 1.6 million existing Holden vehicles on the road in Australia[18] and a few thousand cars either currently for sale or about to come out of the production line[19]. Holden has publicly committed to meet its legal obligations and to support customers by:

- Honouring all existing warranties and guarantees;
- Honouring all free scheduled servicing offers;
- Providing ongoing call centre support;
- Providing servicing and spare parts for at least 10 years, through national aftersales networks in Australia and New Zealand; and
- Managing recalls or safety-related issues as they arise.[20]

The Government will monitor GM's commitment to facilitate a positive outcome for consumers. Further, under section 59 of the Australian Consumer Law (ACL), a warranty provided by a supplier (dealer) and/or manufacturer is enforceable as a statutory consumer guarantee. The ACL also provides additional statutory consumer guarantees including, for example, that goods are of an acceptable quality (i.e. fit for their purpose, acceptable in appearance/finish, free from defects, safe and durable). Statutory consumer guarantees cannot be excluded, restricted or modified by contract (section 64 of the ACL). Further information regarding the Government's work in this area is detailed in the 'Other Government processes which impact the automotive industry' section of this submission.

[18] Seo, Bo, 2020, Holden closure could be a boon for the local Autobarn, viewed 17 March 2020, https://www.afr.com/politics/federal/holden-closure-could-be-a-boon-for-the-local-autobarn-20200218-p541uo, Financial Review, 18 February 2020
[19] Holden is being closed by General Motors, but what happens to current owners and employees? https://www.abc.net.au/news/2020-02-17/what-happens-to-my-holden-now-a-quick-look-at-what-comes-next/11972296, ABC, 18 February 2020
[20] Holden Announcement, viewed 17 March, <https://www.holden.com.au/announcement>

6.0 The role of the Franchising Code of Conduct and the Government's recent dealership amendments to the Franchising Code

6.1 Regulation of the franchising sector

The franchising relationship between car manufacturers, as franchisors, and dealers, as franchisees, is subject to the Franchising Code of Conduct[21] (the Franchising Code), a mandatory industry code under the *Competition and Consumer Act 2010* (CCA).

The Australian Small Business and Family Enterprise Ombudsman provides administrative assistance to the Franchising Mediation Adviser in the delivery of dispute resolution services under the Franchising Code.

The ACCC regulates the Franchising Code and investigates alleged breaches.[22] Breaches of the Franchising Code could lead to the ACCC issuing an infringement notice or asking a court to impose a pecuniary penalty.[23]

6.2 Broader legislation

In addition to the Franchising Code, participants in the sector are subject to the general laws governing business relationships and fair trading in Australia. These laws include prohibitions on unconscionable conduct, false or misleading representations, and the regulation of unfair contract terms in standard form contracts under the ACL.

Franchisors and franchisees are also subject to other laws affecting businesses in Australia, including the CCA, the *Corporations Act 2001* and the *Fair Work Act 2009*.

[21] *Competition and Consumer (Industry Codes—Franchising) Regulation 2014*, Schedule 1, clause 5(2)(c).
[22] ACCC, *Franchising Code,* https://www.accc.gov.au/business/industry-codes/franchising-code-of-conduct/franchising-code
[23] ACCC, *Franchising Code,* https://www.accc.gov.au/business/industry-codes/franchising-code-of-conduct/franchising-code

6.3 The applicability of the Franchising Code to the automotive industry

While some common features of franchising may be missing within automotive franchising, such as payment of royalties, motor vehicle dealers are covered by the Franchising Code since it is recognised that dealership agreements and the relationship between dealers and car manufacturers were characterised by other features common within franchising, namely the power imbalance and information asymmetry which favours franchisors.[24]

Three industry associations represent the franchisors and franchisees in the new car sector. The Federal Chamber of Automotive Industries (FCAI) represents companies who import and distribute new passenger vehicles, light commercial vehicles, and motorcycles. The Motor Trades Association of Australia (MTAA) represents retail motor trades businesses including sales, service, repair, recycling and associated industries. The Australian Automotive Dealers Association (AADA) represents franchised new car dealers.

In franchising there is typically a power imbalance between franchisees and franchisors, this is also true for dealings between car dealers, as franchisees and car manufacturers, as franchisors, within new car retailing. Motor vehicle dealerships are highly fragmented with many privately owned and operating only a single dealership.[25] The industry has a couple of major dealership players with the Automotive Holdings Group Limited (AHG) and AP Eagers Limited, Australian publicly listed companies, having almost $6 and $4 billion in revenue in 2018-19 and 2019 respectively.[26] The estimated market shares for AHG and AP Eagers Limited are respectively around 9.9 per cent and 6.5 per cent[27] therefore the proposed acquisition of AHG by AP Eagers would result in the merged entity having around 16.4 per cent market share.[28] The AADA in its submission to the Parliamentary Joint Committee on Corporations and Financial Services (the PJC) Inquiry states that 1,275 dealerships (85 per cent) are owned and

[24] See the House Standing Committee on Industry, Science and Resources, *Finding a balance: Towards fair trading in Australia,* May 1997.
[25] IBISWorld Industry Report G3911, *Motor Vehicle Dealers in Australia*, June 2019.
[26] IBISWorld Industry Report G3911, *Motor Vehicle Dealers in Australia*, June 2019.
[27] IBISWorld Industry Report G3911, *Motor Vehicle Dealers in Australia*, June 2019.
[28] We note that on 25 July 2019 the ACCC issued a determination granting conditional authorisation of the proposed acquisition for 12 months until 16 August 2020 <https://www.accc.gov.au/public-registers/mergers-registers/merger-authorisations-register/ap-eagers-limited-proposed-acquisition-of-automotive-holdings-group-limited>

operated by individuals or are family businesses[29], although being a family owned business does not necessarily mean that the business is a small business they remain small relative to its overseas manufacturers. The FCAI in its submission to the ACCC on AP Eager Limited's merger application notes 'should the acquisition proceed, it further challenges the notion of a perceived power imbalance between automotive dealers and their suppliers, many of whom are considerably smaller than the two above-mentioned dealer groups.'[30] However, this does not necessarily apply to the 85 per cent which are individual or family owned businesses.

During consultation (as detailed below on the draft Regulation Impact Statement (RIS)), views differed on the extent to which there is a power imbalance between new car dealers and manufacturers. Manufacturers generally considered that there was no power imbalance, given that dealers are typically large and sophisticated businesses who control access to prime real estate to showcase manufacturers' products. On the other hand, dealers and the ACCC are of the view there is a power imbalance in the favour of manufacturers, given that dealers are presented with agreements on a take or leave it basis, renewal of the agreement is at the discretion of the manufacturer, and that dealers are required to undertake significant capital expenditure, the costs of which may not be able to be recouped during the term of a single agreement.[31]

During DISER's extensive consultation (as detailed below) resulting from the ACCC's 2017 market study of new car retailing[32], stakeholders considered that the Franchising Code required additional considerations for the new car retailing sector. The high-value products supplied by new car dealers, commonly representing the second largest outlay and ongoing expense for a household apart from housing costs, along with the high outlay of capital by dealers to showcase car manufacturers' products is unique to the sector. A large portion of franchisees are small retail outlets that provide fast moving consumable goods. The Franchising Code is designed to suit these types of businesses. In most franchise arrangements, the franchisor has very close control over the operation of their franchisees with goods,

[29] AADA 2018, Inquiry into the operation & effectiveness of the Franchising Code of Conduct, AADA, May 2018, p. 7.
[30] ACCC merger authorisations register, accessed 21 June 2019, <https://www.accc.gov.au/public-registers/mergers-registers/merger-authorisations-register/ap-eagers-limited-proposed-acquisition-of-automotive-holdings-group-limited>
[31] See AADA, MTAA and ACCC submissions.
[32] Australian Competition and Consumer Commission, *New car retailing industry market study* - final report, 2017, ACCC.

services and staffing levels identical between sites. This is not always the case with car dealerships and the power imbalance can vary depending on the circumstances.

6.4 Automotive industry specific amendments to the Franchising Code

The government amended the Franchising Code of Conduct on 1 June 2020 to introduce automotive specific elements to the code.[33] The amendments made changes to the end of term obligations, capital expenditure requirements, and dispute resolution.

6.4.1 Background

DISER has been extensively reviewing automotive specific issues in franchising. The key processes related to this work are shown below in Figure 1, with details of the stages described in the following sections. The key report that instigated this work, the ACCC market study of new car retailing also led to a number of other reviews that are described further in the other work described in section 7.

2017

- ACCC Market Study identifies concerns in new car retailing market

2018

- Pre-Regulation Impact Statement (RIS) consultations on franchising issues for new car dealerships
- Public consultation on draft RIS commence

2019

- Parliamentary Joint Committee completed its inquiry into the operation and effectiveness of the Franchising Code of Conduct
- Targeted consultation to refine RIS options

2020

- Consultation on draft regulations
- Amended regulations commence

Also instigates reviews on sharing of service and repair information, unfair contract terms, consumer guarantees and supplier indemnification

Figure 1 – History of consultations on franchising arrangements in new car dealerships

[33] Media release, The Hon Karen Andrews MP, Supporting the new car retailing market https://www.minister.industry.gov.au/ministers/karenandrews/media-releases/supporting-new-car-retailing-market 1 June 2020

6.4.1.1 ACCC Market Study

In its 2017 market study[34] of new car retailing (market study), the ACCC made a number of recommendations aimed at addressing concerns within the new car retailing market which were leading to suboptimal outcomes for consumers and hindering effective competition.

As part of its market study, the ACCC examined the inter-relationships between the three key groups of entities in the car retailing supply chain – large multi-national car manufacturers (who are often represented by locally based distributors); new car dealers; and independent businesses that service and repair cars.[35] The ACCC noted that some of the competition concerns within the new car retailing market stem from the power imbalance in the commercial relationships between the large car manufacturers and new car dealers.[36]

6.4.1.2 Pre-RIS consultations

In 2018, DISER consulted on a one-on-one basis with industry representatives and new car dealers to obtain their perspectives on franchising issues for new car dealerships to develop the draft RIS: Franchise relationships between car manufacturers and new car dealers.

6.4.1.3 Public consultations on the draft RIS

Following the consultations, from 20 December 2018 to 13 February 2019, DISER undertook public consultation on a draft RIS. The draft RIS identified four options as having a positive net benefit, and were targeted at addressing the issues raised during consultations. DISER met one-on-one with 21 stakeholders and received 15 submissions. Meetings were held with a wide range of stakeholders, including industry associations, small rural dealerships, larger dealers and car manufacturers. An industry roundtable was also held on 8 February 2019.

6.4.1.4 The PJC Inquiry into the Operation and Effectiveness of the Franchising Code of Conduct

The PJC completed its Inquiry into the operation and effectiveness of the Franchising Code of Conduct (PJC Inquiry) and released its report '*Fairness in Franchising*' on 14 March 2019 (PJC Report). The PJC

---

[34] Australian Competition and Consumer Commission, *New car retailing industry market study* - final report, 2017, ACCC.
[35] Australian Competition and Consumer Commission, *New car retailing industry market study* - final report, 2017, ACCC.
[36] Australian Competition and Consumer Commission, *New car retailing industry market study* - final report, 2017, ACCC.

report examined the existing regulatory framework for franchises and the suitability of the protections provided to franchisees.

The recommendations regarding the automotive industry broadly aligned with the options supported in the final RIS for franchise relationships between distributors and new car dealers. The PJC Report also recommended[37] that the Government consider 'establishing a core franchising code that applies generally, with industry-specific aspects in schedules or sub-codes', noting that the issues raised are not unique to the automotive industry and addressing them through the Franchising Code is appropriate.

DISER consulted stakeholders on the different implementation options, such as a standalone code, amending the Franchising Code and a voluntary code. In consideration of the PJC findings and feedback received from stakeholders during the RIS consultation, the RIS supported implementation of the reforms through industry specific amendments to the Franchising Code in line with the PJC recommendations.

6.4.1.5 Targeted consultation to refine RIS options

In June 2019, DISER met with the MTAA and the AADA to provide an update on progress and to maintain open channels of communication. On 14 August 2019, the Government announced reforms for the new car retailing sector, to make the system fairer for consumers, dealers and manufacturers.[38] Following the announcement, DISER conducted further consultation with the AADA, MTAA and FCAI to obtain their feedback on the preferred implementation method and amendments to the options which were to be included in the final RIS.

6.4.1.6 Consultation on automotive franchising draft regulations

On 14 February 2020, the Government announced the release of draft regulations which sought to amend the Franchising Code to introduce an automotive specific section with tailored requirements.[39] DISER undertook a public consultation on the draft regulations from 14 February 2020 to 13 March

---

[37] Recommendation 17.2, Parliamentary Joint Committee on Corporations and Financial Services 2019, Fairness in Franchising, March 2019, pp. 235.

[38] Media release, The Hon Karen Andrews MP, Delivering a fair and competitive car retailing sector, 14 August 2019 <https://www.minister.industry.gov.au/ministers/karenandrews/media-releases/delivering-fair-and-competitive-car-retailing-sector>

[39] Media release, The Hon Karen Andrews MP, Reforming the new car retail market, 14 February 2020 <https://www.minister.industry.gov.au/ministers/karenandrews/media-releases/reforming-new-car-retail-market>

2020. The draft regulations sought to amend the Franchising Code to implement the automotive industry specific amendments recommended in DISER's final RIS.

6.4.2 Provisions in the automotive franchising regulations

Informed by the submissions received, the final RIS identified four options for regulatory intervention which have a positive net benefit. The regulatory changes made included:

- As supported by the PJC Inquiry, manufacturers are required to provide 12 months' notice prior to non-renewing an agreement, if the agreement is 12 months or longer. In the final RIS, this requirement to provide 12 months' notice was also extended to dealers.
    - When a non-renewal notice is issued, the manufacturers and dealer are required to develop a plan and agree, with milestones, to end their agreement with an obligation on both parties to work co-operatively to settle arrangements.
    - The plan needs to address how stock levels (including spare parts, service equipment and new vehicles) will be managed.
    - Both parties may agree in writing to vary the notice period.
- The party not renewing the agreement is required to provide a statement to the other party outlining why the agreement is not being renewed.
- Capital expenditure disclosure obligations seek to ensure dealers have sufficient information available to make an informed decision about the investment required and be clear on opportunity to recoup the investments. This includes:
    - Manufacturers providing tailored disclosure in advance about the likely significant capital expenditure required during the term of the agreement.
    - Manufacturers are obliged to disclose all available information necessary for the dealer to make an informed decision.
    - This disclosure could include indicative per square metre costs for materials and a general overview of the type of upgrades required.
    - The manufacturer and dealers discussing capital expenditure in detail, including how the costs of investment may be recouped during the agreement on offer.

- Limiting the ability of manufacturers to direct dealers to undertake significant capital expenditure that is not disclosed prior to entering the agreement.

The PJC Report recommended dealers not be compelled to upgrade the dealership after notice of non-renewal or termination has been given to the dealer.[40] DISER has sought to address the essence of the PJC report's recommendation through its regulatory reforms. During consultation, DISER heard that rather than being compelled to upgrade the dealership after a notice of non-renewal was provided, a dealer was being compelled to upgrade a dealership prior to a notice being provided. This change in timing means that in the first scenario, a dealer could be able to assess whether or not to undertake the capital expenditure in light of the non-renewal. Whereas in the latter scenario the dealer is unaware of the non-renewal and therefore more likely to feel compelled to undertake the capital expenditure for fear of non-renewal.

- Explicitly allow for franchisees to request multi-franchisee mediation with a franchisor.

This is consistent with the PJC Report's recommendation[41] to allow a mediator to undertake multi-franchisee mediation.

The final RIS was published on DISER's website[42] and contains DISER's cost benefit analysis of each of the options. The amended regulations took effect from 1 June 2020 and are published on the Federal Register[43].

7.0 Other Government processes which impact the automotive industry

7.1 Government response to the PJC Report

In accordance with the PJC Report's first recommendation, an inter-agency Franchising Taskforce (the Taskforce) was established to advise the Government on its response to the Report. The Taskforce is made

[40] Recommendation 17.1, Parliamentary Joint Committee on Corporations and Financial Services 2019, Fairness in Franchising, March 2019 p. 234
[41] Recommendation 15.2, Parliamentary Joint Committee on Corporations and Financial Services 2019, Fairness in Franchising, March 2019, p. 217
[42] Found at: https://consult.industry.gov.au/industry-growth/automotive-franchising-draft-regulations-2019/
[43] Competition and Consumer (Industry Codes—Franchising) Amendment (New Vehicle Dealership Agreements) Regulations 2020 https://www.legislation.gov.au/Details/F2020L00636

up of senior officers from DISER, the Department of the Treasury (Treasury) and the Department of the Prime Minister and Cabinet. It is co-chaired by DISER and Treasury.

The Franchising Taskforce released an Issues Paper on 23 August 2019 and a RIS on 11 November 2019 seeking feedback on options for reform. The Taskforce received 75 responses to the Issues Paper and 73 submissions to the RIS. It also met with 90 stakeholders. The Taskforce is not considering recommendations that are subject to other government processes, including those addressed here relating to franchising in the automotive sector.

7.2 Collective bargaining

The ACCC proposes to develop a 'class exemption' that would provide legal protection for:

- businesses with an annual turnover of less than $10 million in the preceding financial year to collectively bargain with customers or suppliers; and
- all franchisees to collectively bargain with their franchisor regardless of their size or other characteristics, without them having to apply to the ACCC.[44]

In June 2019, the ACCC released a draft version of the class exemption, and associated documents, for public consultation. The ACCC is considering the results of the consultation with the view to making a final decision about the class exemption.

7.3 Mandatory service and repair information sharing scheme

In line with the ACCC's findings in its market study, in 2018 the Government committed to develop a mandatory service and repair information sharing scheme. The Treasury consulted publicly on key elements of the scheme in February-March 2019. In October 2019, outcomes from consultation were published and the Government announced that it would progress the scheme through primary legislation. The Treasury is continuing work on the design of the scheme in close consultation with industry stakeholders and relevant departments across Government.

7.4 Consumer Guarantees

The ACL contains automatic rights (consumer guarantees) in relation to certain goods and services to support consumers' purchasing confidence and ensure that consumers get what they pay for. The

[44] Collective bargaining class exemption, viewed 27 September 2019 <https://www.accc.gov.au/public-registers/class-exemptions-register/collective-bargaining-class-exemption>

consumer guarantees provide that goods and services must meet statutory minimum standards (Part 3-2 of the ACL). For example, goods must be of acceptable quality (section 54 of the ACL), which includes that they are: fit for all the purposes for which that kind of good is commonly supplied; acceptable in appearance and finish; free from defect; safe; and durable. If a good does not meet these standards, the consumer is entitled to a remedy.

If the failure is minor, suppliers (e.g. motor vehicle dealers) can choose whether to provide a repair, replacement or refund under section 259 of the ACL. If the failure to comply with the guarantee is more significant (i.e. a 'major failure' - section 260 of the ACL), consumers are able to select their preferred remedy. In certain circumstances, consumers may also be able to obtain compensation for a reduction in the value of their goods and/or damages for reasonably foreseeable losses. In August 2019, the Legislative and Governance Forum on Consumer Affairs (CAF) noted that there are ongoing difficulties for consumers seeking remedies for goods that fail to meet the consumer guarantees. Ministers therefore asked officials to undertake a regulatory impact assessment containing options to ensure that businesses comply with the consumer guarantees and consumers can access the remedies to which they are entitled. This included assessing the costs and benefits of a proposed civil prohibition for failure to provide a consumer guarantee remedy in any sector of the economy, but also a specific assessment of its merits in relation to new motor vehicles.

The Treasury is leading work on the regulatory impact assessment in conjunction with state and territory officials, with an expectation of public consultation early in 2021.

7.5 Supplier indemnification

The supplier indemnification scheme in the ACL gives businesses (e.g. motor vehicle dealers) that supply goods and services a statutory right to reimbursement (indemnification) from the manufacturer where the manufacturer is responsible for a failure to comply with a consumer guarantee.[45] This applies to failures to comply with the guarantees that goods are of acceptable quality (sections 54), are fit for any disclosed purpose (section 55), and match their description (section 56).

In its market study, the ACCC identified that motor vehicle dealers were encountering difficulties with claiming the costs associated with remedying manufacturing defects to which they are entitled. The

[45] The indemnification is activated if a supplier is liable to pay damages to a consumer (section 259(4)) for reasonably foreseeable losses and the manufacturer is or would be liable (under section 271 of the ACL) to pay damages to the consumer for the same loss or damage (i.e. where the failure is the manufacturer's 'fault').

ACCC has taken a range of enforcement actions against car manufacturers to improve their compliance with the ACL and called for manufacturers to review their dealer agreements, policies and procedures to ensure that these commercial arrangements do not contain terms that go beyond what is reasonably necessary to protect their legitimate interests.

At the October 2018 Legislative and Governance Forum on Consumer Affairs (CAF) meeting, Ministers directed officials to undertake work on possible improvements to the supplier indemnification provisions in the ACL, with the objective of ensuring that suppliers are supported by manufacturers in carrying out their refund obligations.

At its next meeting in August 2019, Ministers considered the outcomes of this work and asked officials to undertake a public regulatory impact assessment of specific proposals to prohibit manufacturers from failing to indemnify suppliers and prohibit retribution by manufacturers against suppliers who seek compensation under the indemnification provisions. This included assessing the costs and benefits of a proposed civil prohibition for failure to provide indemnification in any sector of the economy, but also a specific assessment of its merits in relation to new motor vehicles.

Public consultation is expected to take place in early 2021. Officials will also develop an education campaign for business and strengthen guidance material.

7.6 Unfair Contract Term Protections

The ACL protects small businesses from unfair terms in standard for small business contracts by providing that if a court or tribunal finds that a term is 'unfair', the term will be void – this means it is not binding on the parties. The rest of the contract will continue to bind the parties to the extent it is capable of operating without the unfair term. The ACL sets out examples of terms that may be unfair, including: terms that enable one party (but not another) to avoid or limit their obligations under the contract; terms that enable one party (but not another) to terminate the contract; terms that penalise one party (but not another) for breaching or terminating the contract; terms that enable one party (but not another) to vary the terms of the contract.

The Treasury reviewed the unfair contract term protections for small business in late 2018. In light of the findings, the Government committed to consult on options to strengthen the protections. A consultation RIS on enhancements to the UCT protections was published in December 2019, and consultation roundtables were held in March 2020. The RIS considered several options to strengthen the existing UCT protections for small businesses, including an option to make UCTs unlawful and introduce civil penalties. As the ACL is jointly administered by the Commonwealth and the states and territories under an Intergovernmental Agreement, the Treasury will work with states and territories on any proposals to amend the ACL.

7.7 Electric Vehicle Strategy

The Australian Government is developing a National Electric Vehicle (EV) Strategy, as part of the Climate Solutions Package. The strategy will ensure the transition to new vehicle technology and infrastructure is planned and managed. The strategy is expected to be finalised by the end of 2020, and will focus on practical actions to address barriers to EV uptake. Through considering the issues and opportunities, the strategy will enable Australians to have confidence in deciding to purchase an EV. Australia's comparative advantages, such as strong design and technical skills, a strong resource sector, respected research capability and advanced manufacturing capability, could allow Australian businesses to benefit from the transition to electric vehicles.

8.0 Government or other policy settings on manufacturing, research and development, business support and transition, and employee support

The Government has a range of support programs for manufacturing, research and development, business support and transition. These programs are delivered by DISER and are detailed at Appendix 1. Some of these programs include the Advanced Manufacturing Fund, the Research and Development Tax Incentive and the Entrepreneurs' Programme.

The Government also provides a range of policies and programs that are relevant to supporting retrenched workers. These programs are delivered by DESE and are detailed at Appendix 2. Some of these programs include access to job search support through jobactive employment services and the delivery of Jobs Fairs.

9.0 Other Matters

9.1 Cultural Heritage Preservation and Trade Mark Protection

Holden holds an extensive and historically significant collection of motor vehicles and materials associated with the history of automotive manufacturing in Australia. These materials include engineering equipment and plans, photographs, film and sound material. In its announcement of 17 February 2020, Holden said it would preserve key heritage vehicles and that it was working through plans with GM and local partners and institutions.

On 24 February 2020, the Minister for Communications, Cyber Safety and the Arts wrote to Holden to express the Government's interest in protecting this heritage. The Minister indicated he expected to receive a clear plan from Holden about how the significant items in its collection were to be preserved and maintained in Australia. Discussions between Holden and the Office for the Arts concerning the development of such a plan are ongoing. Holden has also discussed these plans with the Minister, most recently on 17 June 2020.

The Minister's letter also advised Holden that the Protection of Movable Cultural Heritage Act 1986, administered by the Office for the Arts, protects Australia's movable cultural heritage by prohibiting or restricting the export of Australia's significant cultural heritage objects. Holden's heritage collection potentially includes a significant number of objects that will be subject to export control under the Act. The provisions in the Act likely to be most relevant to the Holden heritage collection protect certain types of objects that are: (a) of significance to Australia; (b) at least 30 years old; and (c) not represented in at least two public collections in Australia by an object of equivalent quality. If this is the case, the relevant object cannot be exported without a permit issued by the Minister or his delegate. A permit would not be issued if it was determined, following the receipt of expert advice, that the object's export would significantly diminish the cultural heritage of Australia.

In addition to cultural heritage preservation, GM holds a significant number of pending and registered trademarks in Australia relating to the Holden brand. Trade marks remain registered as long as they are renewed every 10 years, although a third party can apply to have a trade mark removed from the Register of Trade marks if it has not been used for three years. If GM continues to use its trade marks commercially in Australia, even on a smaller scale, the trade marks may continue to be protected in this country.

Appendix 1: Manufacturing, research and development, business support and transition

A1.1 Manufacturing

DISER delivers a range of Government programs and initiatives to support the manufacturing sector, with a focus on supporting advanced manufacturing and helping the manufacturing sector to transition away from traditional process led production. These are outlined below.

Advanced Manufacturing Growth Fund (as part of the Advanced Manufacturing Fund)

This $47.5 million fund is focused on driving innovation in manufacturing by providing grants that support capital equipment projects for small and medium enterprises in Victoria and South Australia. The fund supports the transition of the manufacturing sector from traditional, heavy industrial processes to knowledge-based manufacturing of higher value products. The fund has provided almost $41 million in grants to 32 businesses across South Australia and Victoria, resulting in an additional investment of $103 million from businesses, leveraging a total investment of $144 million.

Automotive Innovation Labs (as part of the Advanced Manufacturing Fund)

This $10 million fund contains two elements. The $7 million Automotive Innovation Lab Access Grants program supports businesses to access automotive product design and prototyping services and test facilities. This will support new automotive product development and enhance business capability for Australian businesses, building their capacity to deliver diversified product offerings and supply to local and international markets. Currently over $2.4 million in grants has been committed to 14 projects.

Also under the fund, the Australian Automotive Aftermarket Association (AAAA) received a $3 million grant to build automotive design and test facilities in South Australia and Victoria. The AAAA recently opened the Victorian Auto Innovation Centre (AIC) in December 2019, which promotes adoption of new technologies and provides testing facilities that will increase the capability of automotive companies and support new product development for local and export markets.

Automotive Engineering Graduate Program (as part of the Advanced Manufacturing Fund)

The $5 million Automotive Engineering Graduate Program is placing up to 107 post graduate engineers in industry-based automotive projects, developing the supply of job-ready engineers in the automotive industry.

Advanced Manufacturing Growth Centre

DISER funded centre aims to drive an industry-led approach to boost innovation, productivity and competitiveness. The growth centre funds projects to assist in commercialisation and encourage deeper collaboration between industry and research. Outcomes include increasing connections into global supply chains and promoting the development of advanced manufacturing skills.

Advanced Manufacturing Early Stage Research Fund

Delivered through the Advanced Manufacturing Growth Centre, this fund provides grants to support small to medium manufacturing enterprises with funding for rapid initial feasibility testing. This funding will allow projects to quickly move onto larger-scale research or commercialisation and enhance Australia's competitiveness in advanced manufacturing. The fund is supporting 10 collaborative research projects with a total value of $12.1 million.

Innovative Manufacturing Cooperative Research Centre (IMCRC)

Administered through DISER, this Cooperative Research Centre will develop, adapt and utilise new manufacturing processes, emerging enabling technology platforms and innovative business organisations for Australian businesses to exploit high value manufacturing markets of the future. The CRC co-funds industry-led research projects and has garnered $129 million from partners in cash and in-kind contributions, exceeding Commonwealth grant funds of $40 million.

Manufacturing Modernisation Fund

The $50 million Manufacturing Modernisation Fund is supporting small to medium manufacturers to modernize and adopt new technologies by co-funding capital investments and associated reskilling. This will lead to increased innovation and productivity in manufacturing and provide increased job opportunities in the sector. The fund closed to applications on 31 October 2019 and grant outcomes were announced on 30 April 2020.

Automotive Transformation Scheme

Through the Scheme DISER delivers financial support to the Australian automotive industry in the form of cash payments to registered Australian based motor vehicle producers, automotive component producers, automotive machine tool and automotive tooling producers; and automotive service providers. Assistance is paid against investment in eligible (automotive) plant and equipment and research and development; and for motor vehicle producers, allowable production (motor vehicles and engines). The Scheme aims to encourage competitive investment, innovation and economic sustainability in the Australian automotive industry. The Scheme concludes on 31 December 2020.

A1.2 R & D Tax Incentive

The Research and Development (R&D) tax incentive is the government's key mechanism to stimulate Australian industry's investment in R&D. The tax incentive offers a way for companies to reduce the effective cost of their R&D by offering tax offsets for eligible R&D expenditure. Companies with a turnover of less than $20 million receive a refundable tax offset, whilst other eligible companies receive a non-refundable tax offset to help reduce the tax they pay.

DISER (on behalf of Innovation and Science Australia) jointly manages the R&D tax Incentive with the Australian Taxation Office (ATO). It manages the registration of R&D activities, education and guidance on eligible activities and the integrity activities for the program, whilst the ATO is responsible for processing of companies income tax returns, through which the benefits of the program are claimed, including determining eligible expenditure.

A1.3 Business support

Through the various elements of the Entrepreneurs' Programme (EP) DISER provides start-ups and small and medium enterprises with access to expert business advice, funding and incentives to help them to innovate, commercialise and grow.

EP is the Australian Government's flagship initiative for business competitiveness and productivity at the firm level. With a national network of more than 100 private sector experienced Advisers and Facilitators, services are flexible, tailored and focused on high-value advice and support.

The programme delivers services and grants through four elements:

1. **Business Management** – advice and facilitation services to improve business management, capabilities and networks. Services and grants include:

- **Business Evaluations** – provides an analysis of the eligible business carried out on-site by skilled and experienced Business Advisers. This service may include advice, referrals and recommendations for improvement which is based on the customer's capacity, commitment and need to undertake significant improvements to their business.
- **Growth Services** – assists businesses who have growth opportunities by supporting them, over an engagement period of up to two years, to develop and embed the capabilities, strategies, culture and connections to capitalise on their growth.
- **Supply Chain Facilitation** – offers eligible businesses a practical approach to developing their capabilities and improving their ability to interact with and supply into new and existing markets
- **Business Growth Grants** – small, co funded grants to engage external expertise to assist businesses with implementing improvements recommended through a Business Evaluation, Supply Chain Facilitation, Growth Service or Tourism Partnership.

2. **Innovation Connections** – a facilitation service providing expert advice and solution pathways on knowledge-related issues, and a brokering service to connect businesses with appropriate knowledge providers and research organisations. This may include a co-funded grant that assists direct access to research capability.
3. **Accelerating Commercialisation** – providing expert guidance, connections and financial support to assist small and medium businesses, entrepreneurs and researchers to find the right commercialisation solutions for their novel product, process or service. This may include a matching funding grant to support commercialisation activities.
4. **Incubator Support** – New and Existing Incubators provides incubators with funding to help start-ups develop the capabilities to succeed in international markets.

The programmes highlighted in this submission are targeted at either supporting business with manufacturing or innovation. The Government provides additional support to business centred around the creation and ongoing operation of a business. The website https://business.gov.au/ provides details of these programs. Further information on specific programs can be provided at the request of the committee.

A1.4 Transition

In addition to the support DISER is providing to the manufacturing industry, DISER and DESE deliver a number of initiatives and grants primarily focused on transitioning businesses, sectors and communities away from traditional industries and modes of manufacturing. The automotive manufacturing industry is a key industry that has been targeted in the last decade for transition support. Support has also been provided to the sugar, advanced manufacturing, space, and cybersecurity industries/sectors to assist with economic transition across Australia.

Automotive Manufacturing Industry

DISER's current and past initiatives to support transition from the automotive manufacturing industry include:

- Advanced Manufacturing Fund (see Manufacturing) – A $100 million fund that is assisting businesses to move into other industries, increase access to design and test facilities for automotive products, and increase the stream of graduate engineers into Australia's automotive sector.
- Automotive Industry Structural Adjustment Programme - This programme helped workers made redundant from the automotive industry to find new employment. The program provided a range of tailored assistance and services to support them to get new jobs. The programme closed on 30 June 2019.
- Automotive Diversification Programme – The Automotive Diversification Programme helps automotive supply chain firms that are capable of diversifying to find new markets.
- Next Generation Manufacturing Investment Programme – This $90 million program supported capital investment projects in areas of high value manufacturing with an aim to stimulate economic activity and business competitiveness in South Australia and Victoria. To achieve this it was designed to accelerate private sector investment and assist firms to build scale and capability in new and growing markets.
- Skills and Training Programme - Assisted automotive employees to have their skills recognised and provide training to transition into new jobs.

Appendix 2: Employee support

A2.1 jobactive

The Government's mainstream employment service, jobactive, has been meeting the needs of job seekers and employers and promoting stronger workforce participation since its introduction in July 2015. jobactive is delivered from over 1,700 sites across Australia with providers having the flexibility to deliver services that are tailored to local labour market conditions and the needs of job seekers and employers. Over the period 1 July 2015 to 31 December 2019, jobactive providers achieved over 1.5 million job placements in Australia.

A2.2 Support for all retrenched workers

The Government supports retrenched workers and their partners through jobactive. As part of this program, job seekers have access to tailored help, based on their assessed needs.

From 1 July 2019, all retrenched workers and their partners can immediately access job search support through jobactive, prior to becoming eligible for income support.

A2.3 Jobs Fairs

Jobs Fairs give people the chance to explore employment opportunities in their local community. They provide job seekers with an opportunity to talk directly to a range of employers about the skills they are looking for and available job opportunities in their region. DESE has held 15 Jobs Fairs since July 2018 with over 28,600 participants, exploring more than 15,500 employment opportunities provided by around 645 exhibitors.

A2.4 Employment Facilitators

At the time of submission, DESE has 15 Employment Facilitators across 13 regions in Australia to provide a local presence for DESE. Working directly with job seekers and workers impacted by redundancy to connect them with employment services, job opportunities, training and a range of other support services, they also play an important role in tailoring responses to transition events. The Employment Facilitators broker critical connections between key stakeholders, helping connect people to opportunities in the local labour market, including promoting jobs in growth sectors. The Employment Facilitators' activities complement jobactive services and provide important on the ground intelligence back to DESE.

Employment Facilitators are located in Far South Coast (NSW), Northern Inland (NSW), the Hunter Region (NSW), Geelong (VIC), Gippsland (VIC), Western Melbourne/North Western Melbourne (VIC), Mandurah (WA), Adelaide (SA), Murraylands and Riverland (SA), Yorke and Mid North (SA), North Queensland (located in Cairns and Townsville), Wide Bay Burnett (QLD), and North and North Western Tasmania.

A2.5 Transition support network

In addition to jobactive employment services, DESE supports retrenched workers to move into employment as quickly as possible. DESE delivers transition support through a network of employees from its national, state and territory offices and Employment Facilitators. This network works closely with Services Australia as well as State and Territory Governments.

Employers are required under the Fair Work Act 2009 to provide written notification to the government prior to retrenching 15 or more people. The network uses the information provided to engage with employers to support their retrenched workers.

Stage 1: This network contacts the affected employer to discuss their needs and provide information on existing government resources to support their workers. These resources can include information on DESE’s What’s Next? website, such as the Redundancy Information Statement, the Job Outlook website, the Australian Jobs publication and factsheets to workers to update their résumé, prepare for interviews, advice on how to find work and mental health and wellbeing support.

Stage 2: The transition support network, alongside State and Territory Governments, Services Australia and local stakeholders (including jobactive providers) provide on-site information sessions where requested. These sessions provide information on support available including assistance to find a new job, labour market information, financial support, eligibility for income support payments and eligibility for training support.

Stage 3: If the impact of a company’s retrenchment on the local economy or community is very significant, the Government may implement a tailored support program to help workers gain new employment as quickly as possible. This is assessed on a case by case basis for exceptional circumstances only.

A number of resources are utilised in providing support to retrenched workers, as well as resources to help employers engaging in socially responsible restructuring. These resources include:

- The What’s Next? website: a self-help resource for recently retrenched workers that offers information about finding work, help with finances and looking after yourself during this transition. The website also offers advice to employers on their obligations during retrenchment and information on socially responsible restructuring.
- The Skills Match Tool is available on the Job Outlook website to help workers understand their current, transferable skills and to link them with information on training, reskilling opportunities, wages, jobs in demand and local vacancies.
- The Redundancy Information Statement: provides a guide for retrenched workers of their rights, entitlements and available support services. This includes understanding their redundancy rights and entitlements and where to find government assistance and resources.
- The Good Practice in Socially Responsible Restructuring guide provides advice for employers who may be considering restructuring to make the best decisions for their staff and their business. The guide highlights how socially responsible restructuring can transform a stressful experience into a positive career transition for workers.

In addition to this immediate support provided to retrenched workers, the Government offers to work closely with employers undertaking restructuring, particularly those that result in large-scale retrenchment exercises. DESE offers to works with employers at an early stage to share best practice learnings and highlight the importance of providing a measured and well planned transition for their workers.

A2.6 Australian Apprenticeships Support Network

The Government contracts Australian Apprenticeships Support Network (AASN) providers to deliver support services nationally. AASN providers give personalised advice and support services throughout the course of the apprenticeship. Where apprentices are affected by the closure of Holden operations, they should contact their AASN provider to assist in discussing options include identifying a suitable host employer where they can continue their apprenticeship.

Appendix 3: Australian retail automotive industry

The Australian car industry consists of three main sectors:

- Manufacturers (represented by distributors) – import vehicles to distribute to dealers and commercial fleet buyers. Distributors are typically wholly owned subsidiaries of foreign car manufacturers and act as links between foreign manufacturers and Australian dealer networks.
- Dealers – sell new and used cars to consumers and businesses. While large businesses often purchase cars directly from distributors, smaller businesses typically purchase vehicles from dealers. Dealers also provide a range of other services, including servicing and repair, aftermarket sales and finance and insurance services.
- Independent repairers – typically small, independent establishments that service a local area.

Figure 1 shows the supply chain for new car retailing in Australia. Around 1.2 million new cars were sold during 2016–17, including at more than 1500 new car dealers operating more than 3500 retail outlets. The Australian market contains 72 brands and 400 models.[46] Car dealer revenues in 2016–17 are estimated at $64 billion. Australia is one of the most open, competitive and deregulated car markets in the world.[47] Industry participants face barriers to entry by way of access to capital, infrastructure and having a dealership agreement in place in the case of dealers but they are not generally restricted on the sales channels they employ.

[46] AADA 2018, Inquiry into the operations & effectiveness of the Franchising Code of Conduct, AADA, May 2018, pp. 4-5.
[47] IBISWorld Industry Report F3501 *Motor Vehicle Wholesaling in Australia*, May 2018, p. 30.

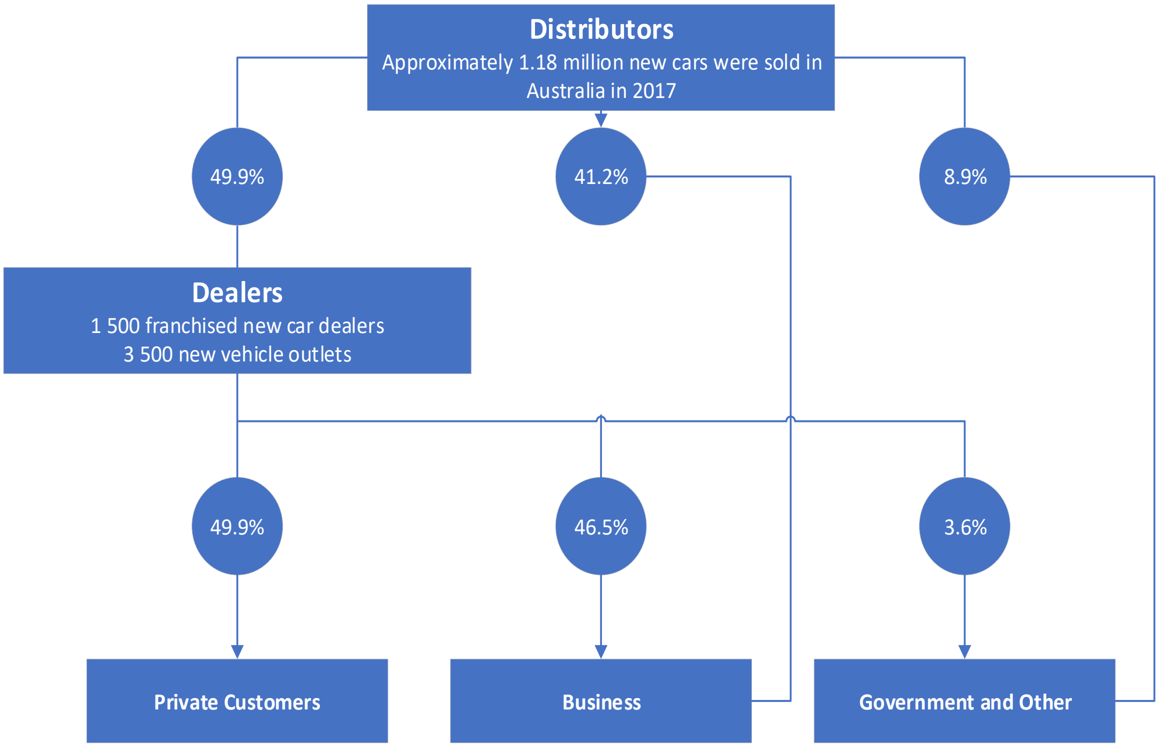

Figure 1: New Car Supply Chain.
Source: FCAI (VFACTS) motor vehicle sales data (as at December 2017); IBISWorld Industry Report F3501 Motor Vehicle Wholesaling in Australia, May 2018; *IBISWorld Industry Report G3911* Motor Vehicle Dealers in Australia, April 2018.

Industry analysts predict automotive retail will shift from being product-driven to a customer-centric approach with key supply chain participants (manufacturers, dealers and independent repairers) garnering consumer loyalty through responding to consumer behaviour and expectations.[48] The move of Toyota New Zealand away from a traditional dealership to an agency model is illustrative of this shift (**Box 2** refers).[49]

The global automotive industry is experiencing substantial change both globally and locally. New disruptions such as electric vehicles, automation, changing ownership models and other emerging technologies have the potential to transform the industry and how we view transportation.

Advances in new vehicle technologies are likely to have a profound impact on the productivity, safety and environmental performance of the economy.

---

[48] Innovating automotive retail, Journey towards a customer-centric, multi-format sales and service network, McKinsey, 2013; Future of automotive retail, Ernst & Young, 2015.
[49] Maetzig, Rob 2018, Toyota NZ ditches 'dealerships' for 'stores' in big changes to sales methods, <https://www.stuff.co.nz/business/102686931/toyota-nz-to-ditch-dealerships-will-sell-cars-from-three-hubs>, Stuff, 29 March 2018.

Vehicle manufacturers are beginning to adopt these new technologies, and are investing heavily into related research and development. All major vehicle manufactures are now working towards electric and automated vehicle offerings, and subsequently reducing production of conventional vehicles.

These new technologies are resulting in mobility as an outcome increasingly taking priority over the vehicle (Mobility as a Service (MaaS)), MaaS is a shift away from the traditional ownership of a vehicle as consumers choose a mix of services available for their transportation. The focus of the industry is shifting to support future mobility methods, with new vehicle ownership models emerging, and ride-sharing services continuing to build in popularity. Concurrently, a large number of automated vehicle trials are underway, while the Government is committed to ensuring there is a nationally consistent approach to the regulation and deployment of connected and automated vehicles to help the community realise the benefits of these emerging technologies, and to also keep Australians safe as these emerging technologies are developed and deployed.

The broader application of these technologies offers domestic and global opportunities for Australian industries to take advantage of our strengths in research and development, and advanced manufacturing. This is particularly the case in relation to automotive component makers who are well positioned to exploit high value-add manufacturing opportunities.

The following factors are predicted to result in significant change.[50]

- Shifting consumer mobility preferences, such as increased demand for car-sharing services.
- Increased digitalisation, which is changing the way consumers purchase vehicles. Even where a vehicle is purchased at a dealership, much of the consumer's research is taking place online.
- Increased use of data analytics enabling car manufacturers and dealers to respond to changes in demand.
- Altered supply chains resulting from the cessation of motor vehicle manufacturing in Australia in 2017 and new free trade agreements.
- An increased consumer preference for automated, electric/hybrid vehicles and downsizing of internal combustion engines (ICEs) and increased use of complex computer systems which will change consumer servicing needs. Specialised equipment and new skills are required to service cars with

[50] AADA, AADA 2017-18 Pre-budget submission, AADA, 19 January 2017 p. 4

complex computer systems and electric cars have fewer fluids and moving parts and require less servicing.

The MTAA, the national peak body for Australian automotive retail, service, repair and recycling industry states:[51]

> *'The retail, service, repair and recycling sectors of the Australian automotive industry are expected to face significant adjustment, or complete restructure, in the short to medium-term. This will profoundly reshape business models, products and service provision and consumer/stakeholder relationships. As a result of this adjustment, some businesses will be forced to exit the industry, while others will need to adapt to seize opportunities for growth and long-term sustainability.'*

Box 2: Toyota New Zealand (NZ) agency model

In March 2018 Toyota NZ announced moves away from a dealership model to an agency model where dealers are to become Toyota agents - called Stores - and they will be paid a fee to deal with customers. Vehicles will not carry recommended retail prices, which means there will no longer be any negotiation between dealers and consumers over price. Staff will be salaried product specialists and not commission-focussed sales people.

Toyota NZ intends to also continue to sell cars from dealerships and actually double the number of vehicles on yards but the stock at the stores will be demonstrators, and all cars purchased will then be delivered from one of its three hubs. Toyota states that the move was customer driven – customers can be assured about price transparency, do not have to feel like they have to bargain to get the best deal, recognises that most customers do on-line research before buying cars and expect the widest availability of choice and customisation.

Recent media coverage, submissions to the PJC Inquiry, and anecdotal evidence presented to DIIS in its one on one consultations has suggested that in response to increased competition distributors have made the decision to reduce their footprint in some areas of Australia. This has necessarily resulted in non-renewal of dealership agreements.[52]

[51] MTAA 2018, An industry at crossroads: Automotive 2018, MTAA, p. 2.
[52] Turnbull, Samantha; MacKenzie, Bruce; Shoebridge, Joanne 2017, Holden cuts dealership franchises across Australia, ABC, 17 August 2017; MTAA, *MTAA Limited Submission to the Parliamentary Joint Committee on Corporations and Financial Services on the operation and effectiveness of the Franchising Code of Conduct, May,* 2018 p. 5