



MOTOR INDUSTRY OMBUDSMAN
OF SOUTH AFRICA

Annual Report 2008

The only independent dispute resolution forum for
the South African motor industry and its customers



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MIO vision

The vision of the independent Motor Industry Ombudsman of South Africa (MIO) is to offer an easily accessible dispute resolution forum at no cost to the motoring public at large, thereby enhancing the levels of customer care in the industry to the benefit of all concerned.

MIO mission

The mission of the independent MIO of South Africa is to base its processes on objectivity, fairness, good engineering practice and to adhere to the requirements of the South African Law. It also strives to provide transparent and effective redress for all role players that might be subjected to exploitation in the automotive marketplace. Furthermore, it endeavours to educate consumers and motor related service providers alike to ensure high levels of customer care.

Chairman's comments

South Africa's economy in 2008 was subject to a volatility of such magnitude that according to media figures saw the Johannesburg Stock Exchange (JSE) All Share down 13 percent in January soaring 32 percent in the period January to May, then hitting the skids and dropping by 45 percent in the period May to November. The effects of rising interest rates and the squeeze of the National Credit Act were not conditions that invoked confidence and the motor industry which always serves as a good indicator of the nation's economic health, responded by selling almost 30 percent fewer vehicles. This resulted in the retail industry having to reduce the numbers of outlets to lessen the effect of the general economic slow down.

The sharp drop in the price of fuel in December 2008 as well as an easing off in the interest rate, left South Africans with a little more disposable income at years end. However, the end of the downturn is still not in sight with the volatility in the international markets continuing to lash larger economies and this will inevitably result in developing economies also ending up in the firing line.

Surprisingly, however, when viewed holistically, the outlook is not all doom and gloom and while the motor industry is in a period of consolidation with a plus-minus 30 percent drop in year to date sales, it is still selling more cars than in any period before 2000. With markets predicted to be turning for the better in the latter half of this year, all indications are that the motor industry as an economic indicator will surely be leading the charge to economic recovery.

As a member of the advisory board of the MIO and now its chairman, I have had the opportunity to watch the development of the office and the outstanding work carried out by the Ombudsman, his colleagues and staff. 2008 was a trying year for everybody and it was once again the sustained unconditional support of the manufacturing, importing and retail industries that have made it possible for

this remarkable institution, the MIO, to continue as the only independent dispute resolution forum that is recognised by its industry, consumers and all other stakeholders.

The MIO will continue to provide the forum for necessary independent dispute resolution, as well as advising industry and educating consumers on consumer and automotive related matters.

The operational effectiveness and efficiency of the MIO continues to improve resulting in the high standards of previous years being upheld during 2008. For this I would like to thank the executive directors and staff. My heartfelt thanks go to my predecessor Mr. Theo Swart for the advice and leadership he has shown, and to the advisory board members for their wise council during the past year.

On a sad note, 2008 saw the passing away of Isabel Jones. Isabel was an advisory board member and an uncompromising supporter of the MIO. This well loved proponent of consumerism continued her tireless fight for consumer rights right to the end and her exploits are well documented. Her wise council and support will be sorely missed by the chairman, advisory board, executive directors and staff.



Dr. M Phosa - **Chairman**

MIO's Report – 2008

Introduction

For the MIO entering its ninth year of service to consumers and the motor industry, the past eight years have turned out to be a period of continued growth and remarkable achievement. The year under review was predicted to be a year of economic slowdown and consolidation. It would be incorrect to say that the downturn although predicted in especially car sales, did not cause consternation in many quarters.

Taking stock at the end of 2008 it was clear that the MIO, with limited resources, had to contend with yet another sharp rise in the number of calls for its services. The fallout of the National Credit Act and the rise in interest rates were now the order of the day. While we were still busy dealing with the inevitable aftermath of the above, a new threat appeared over the horizon, the international "credit crunch".

The MIO's commitment to its strategy of continuous improvement and the sustained support from all stakeholders has enabled the MIO to remain focussed on carrying out its mandate even in these very trying times. It has never been more important for industry and consumers to have an independent forum that can investigate, adjudicate and rule to ensure that their needs and expectations are met. By improving the efficiency of our resource utilization the MIO has always acted and continues to act in a social responsible way.

As a practical advice and education centre for motor related issues, the MIO has during the year under review, experienced ever increasing calls for its services. However, the expanded call centre managed to absorb the expected increases in calls for advice and dispute resolution and maintained the MIO's good record for quick turnaround times.

Activities

Customer care has become one of the most important cornerstones that will determine who will continue to sell cars in these trying times and who will most probably not. The MIO through its continuous improvement strategy has managed to maintain its communication procedures with industry despite changes and reductions in industry personnel. This has resulted in uninterrupted communications between customer and service provider as well as a continuous

reduction in matters where confrontation used to be almost inevitable. Customer retention has been the final result and the MIO has, managed to contribute greatly to this.

The MIO as an organisation that is not managed for gain has despite its limited resources managed to maintain public awareness through television radio and the print media. This was achieved by providing educational material that was made available to consumers through these media. The good relationship between the MIO and the media has thus ensured that motoring consumers are kept abreast of their rights.

The MIO continues to work closely with National and Provincial Government departments in assisting them with motor related matters. One of the current projects is the Consumer Code for Motor Vehicles. This code will be based on the soon to be promulgated Consumer Protection Act. Relations with neighbouring countries have expanded and resulted in the MIO being active in providing advice and education on motor related matters to these countries.

Several conferences were attended by the MIO where well received presentations were made. The MIO remains the treasurer of the Ombud Association of South Africa and, with its established reputation as an independent dispute resolution forum, is able to continue the enormous but gratifying task of ensuring that consumers and the motor industry receive "a fair deal." (Tribute to Isabel Jones)

The MIO would like to take this opportunity to thank retired chairman Mr. Theo Swart for the enormous contribution he has made to the growth and progress of this Office. While wishing him a less stressful retirement, we are fortunate to retain his council on the advisory board.

Main causes of complaints

Description	Percentage of total for 2008	Number of complaints for 2008	Percentage of total for 2007	Number of complaints for 2007
Engine	8,0%	1 360	8,6%	1 241
Poor service	11,1%	1 895	12,3%	1 780
Joints	6,8%	1 153	7,4%	1 072
Electrical	5,6%	961	5,5%	795
Clutch	8,8%	1 495	9,5%	1 377
Tyres	6,9%	1 180	7,4%	1 063
Cooling systems	7,2%	1 225	7,7%	1 109
Gearbox	5,2%	892	5,4%	786
Wheels	5,9%	1 004	6,2%	889
Fuel system	3,5%	590	3,3%	475
Body	2,0%	335	1,5%	221
Brakes	4,9%	834	5,0%	719
Shafts	3,0%	520	2,8%	413
Starting	2,7%	462	2,4%	344
Steering	2,0%	351	1,6%	237
Trim	1,1%	190	0,8%	111
Differential	1,8%	310	1,3%	184
Suspension	2,8%	485	2,5%	367
Instrumentation	3,3%	554	3,1%	440
Legal	2,4%	400	1,9%	272
Transfer case	0,5%	90	0,4%	59
Ignition system	3,1%	523	2,6%	375
Lights	1,4%	230	0,8%	111
TOTAL	100%	17 039	100%	14 440

- Although the expected downturn in vehicle sales during 2008 was confirmed, complaints lodged and contacts made during the year under review rose by 15,25 percent.
- Complaints received were once again dominated by external factors such as congestion, ongoing road works, construction of the Gautrain, generally deteriorating roads and the continued pressure of larger numbers of vehicles on our roads. The roads in Gauteng Province and the Western Cape were the most affected by road works while other parts of the country are subject to deterioration that has greatly contributed to vehicle breakdowns. Damage to wheels and tyres were more prevalent in these areas.
- These factors resulted in a chain reaction of events starting with breakdowns, subsequent repairs and services and then the inevitable conflict when repairs or services were not carried out or provided to the satisfaction of consumers.
- Consumers also played their role in the conflict situations during 2008 by not complying with service schedules, warranty terms and conditions, failing to honour monthly instalments and in some cases purposely or unconsciously abusing their vehicles.
- It is heartening to know that complaints in most cases did not originate from product defect and it was clear from the general nature of complaints that unusual wear and tear brought about by external factors were mostly at the root of breakdowns. Component failure due to these conditions generally included clutches, suspensions, brakes, wheels, tyres, cooling systems, joints and shafts.
- The result of credit conditions before the promulgation of the National Credit Act continued to dog consumers during 2008. Again the over extending of household budgets resulted in many consumers wanting to return the vehicles they purchased and in a number of cases, this formed the basis for complaints received by the MIO.
- It was noteworthy that turnaround times in many cases were improved on despite the severe shortage of skilled technicians. A contributing factor was that the waiting period for spares was reduced as the year progressed. However, frustration with poor service still rated high and continued to sustain the high annoyance factor of consumers. This naturally resulted in an increase of the number of complaints received by the MIO. In some cases these complaints resulted in serious conflict so aptly described by ex-president Nelson Mandela

when he said: "All enduring conflicts, even if they start with right on one or other side, reach a point at which neither side is wholly right or wrong."

The number of requests for assistance made to the office of the MIO during the year increased to 17 039. Of these, 6100 were resolved at first contact, while 10 939 resulted in written complaints that were referred to the relevant manufacturers, dealers and importers by the MIO. Of these, the MIO made 5 433 recommendations and adjudicated in 306 cases. The remaining 5 200 cases reported to the MIO, were resolved between the parties with facilitation and advice by the MIO.

In all cases where adjudications had to be carried out, the parties were contractually committed to accept rulings made by the MIO.

During the year under review, it became clear that it was becoming increasingly difficult for consumers to finance vehicles and that the investment in some cases made out an abnormal proportion of the household budget. Despite this, most consumers continue to ignore terms and conditions of sales and finance agreements as well as warranties that are part and parcel of most transactions. The MIO continued its educational programme in this regard and by having the support of the media, the MIO was able to reach a vast number of consumers during 2008.

Value of complaints dealt with

The estimated value of complaints dealt with during 2008, increased by 18, 5 percent to R109 042 499. The corresponding figure for the previous year was R92 018 987. The increase is attributed to rising interest rates, the cost of labour and spares, as well as the number of vehicles sold. Deteriorating infrastructures in terms of roads, large scale construction on Gauteng's and the southern hemisphere's busiest highway all resulted in congestion that contributed to this repair bill dealt with by the MIO.

Case studies

The following comprises examples of cases dealt with by the MIO. In the interest of the vehicle owners and manufacturers involved, specific names and brands are withheld. It is also appropriate to repeat some of the cases that remain relevant despite education and advice over the years.

- It is often the case that consumers confuse the roles of the financial institutions and the motor dealers. In a number of cases, vehicle owners would stop payment to the financial institution when they experience problems with their vehicles. In these cases, the MIO would assist the consumer to recognise the fact that the financial institution purely provided the finance and that the consumer is contractually responsible for the welfare of the vehicle and the loan repayment. The result is normally that an arrangement is made with the financial institution and the focus is shifted to the relationship between the consumer and the motor dealer or repairer to reach a result acceptable to the parties.
- The question of the so called loan-car, where a consumer is under the impression that a motor dealer has an obligation to provide transport when the consumer's vehicle is undergoing a service or repairs. In fairness to the motor dealer, it would be impossible to expect motor dealers to keep and maintain a fleet of vehicles to be provided to consumers as alternative transport in the event that a vehicle is in for a service or repairs. Where complaints such as the above reach the MIO, each case is treated on its own merit and a number of factors are taken into account. Some of these are the nature of the repair, the time it is going to take to carry out the repair and the relationship between the parties. In these cases the MIO would purely make a recommendation to guide the parties.
- Consumers are often compelled to return a vehicle over and over for the same repair, causing the consumer great inconvenience. In these cases, the MIO will guide both parties as to their rights regarding the terms and conditions of the warranty or service plans and will advise on the action to correct the situation.
- In this case, the consumer reported that he was not aware or advised that the warranty on his motorcycle covered parts only and not the labour costs for the repairs. The MIO explained the consumer's obligations and rights to him. After discussions with the service provider, it was agreed that the costs would be shared as a goodwill gesture from the service provider between the parties.
- The consumer purchased a vehicle from a dealer. Part of the sales agreement was that the service and repair programme as well as the warranty would be transferred to the new owner. The vehicle suffered engine damage and the manufacturer would not repair the vehicle under the service and repair programme as the engine was

deemed to be equipped with non approved performance parts. After investigation by the MIO it was discovered that the vehicle was inspected by the franchised dealer who gave the vehicle an all clear that included the transference of the service and repair programme as well as the warranty. Upon the recommendation of the MIO, the balance of the warranty and the service and repair programme was reinstated despite the performance parts being fitted before the engine failed. The MIO further recommended that the parties each contribute a third towards the repair bill. The recommendation was accepted and the case resolved.

- In this case, the consumer complained that the vehicle had severe paint defects that were not visible when the vehicle was purchased. It was also discovered that the vehicle's year model was incorrect. After confirming the facts, the MIO ruled that the vehicle should be substituted for another suitable vehicle. The dealer complied and the case was resolved.

The MIO's initiative for pre-owned buyers

The success of the MIO's Transaction Protected Project (TPP) continues in leaps and bounds. As motor related businesses and consumers become aware of the advantages of this project the impact that it has on motor related transactions are becoming significant. What is especially noteworthy is that everywhere the project is implemented, conflict situations have been greatly reduced and misunderstandings between consumers and their participating service providers are minimised.

With the exception of technical inspections, all services provided to consumers by the MIO are free of charge.

During these difficult times, it makes sense to support and purchase your vehicle from a motor dealer that is a participant of the MIO's Transaction Protected Project. With this in mind, it is noteworthy that from the feedback received from consumers and motor dealers alike a growing confidence is prevalent that can only result in mutual respect and customer retention.

An outstanding feature of the TPP is that all the motor related businesses for whom customer service is a priority are participants. It is clear that they have recognised the value and advantages that their participation in the project has brought about.

For more information, the MIO can be contacted directly or details can be viewed on the MIO website.

The way forward

Independence is the strength of the MIO and this will be safe guarded as its first priority. However, as in past years, all organisations that contribute towards improved vehicle ownership will be supported and assisted by the MIO. The MIO will continue to foster the good relationships that it has built over the years with all the consumer forums, motor industry, appropriate government departments and motor related associations. The MIO will continue the educational programmes already in place and will utilise all means available to ensure that these programmes are implemented.

Acknowledgements

Over the past eight years, the MIO has enjoyed the support and cooperation of most role players. A number of organisations whose contribution and cooperation continue to ensure the success of the MIO in providing an independent forum for the resolution of complaints in the motor industry need to be mentioned. The MIO's heartfelt thanks go to:

- The South African motoring public who have ensured the ongoing growth of the MIO;
- Vehicle manufacturers, importers and the retail motor industry;
- Government through the Provincial Consumer Protection Agencies, the Tribunal, Consumer Protector, the Consumer Courts, the Department of Trade and Industry and the Department of Justice and Transport.
- The media for their very positive and ongoing support;
- The chairpersons and executive directors of NAAMSA, RMI, IDA and the Automobile Association;
- The South African Consumer Union and the South African fraternity of attorneys;
- The Ombudsman for Banking Services;
- The Ombudsman for Short Term Insurance;
- The FAIS Ombudsman;
- The Credit Information Ombudsman.

The MIO wishes also to extend its sincere thanks to the dealer groups and all those individual motor related businesses that realise the importance of



Johan van Vreden
Motor Industry Ombudsman

customer care and retention as the basis for their success. Their support and their continued acknowledgement of the important role fulfilled by the MIO have resulted in the office continuing to grow from strength to strength. We trust that our services will continue to be of benefit to all parties in 2009.

Letters received by the MIO

✉ J van der Merwe

I and (other people at work), were impressed with the MIO right from the first response.

✉ M Jansen

Thank you very much for your intervention and what you and your staff have done for me.

✉ SJ Weber

I wish to inform you that the dealer has re-imbursed me. Furthermore I would like to take the opportunity to thank you for the assistance in this case, it is much appreciated.

✉ M Durston

I would also like to extend my sincere gratitude to your office for your intervention on my behalf. I would like to congratulate you on your most professional manner in bringing this issue to a satisfactory conclusion.

✉ JFSM Geuns

I highly appreciate the successful intervention of the Ombudsman in resolving this longstanding issue.

✉ F Tintinger

Once again thank you very much and keep up the excellent work of protecting the consumers' rights. You are a credit to the nation of South Africa.

The MIO team



Front left to right: Catherine Khethabahe Baloyi (Admin), Jenny Johnson (Adjudicator), Dinah Dorah Baloyi (Receptionist), Beverley van Vreden (Senior Adjudicator/Finance)

Middle left to right: Coen Gouws (Senior Adjudicator), Lucious Bodibe (Call Centre Manager), Ken Visser (Adjudicator)

Back left to right: Johan van Vreden (Ombudsman), Kobie Krause (Director Legal), Adri Bezuidenhout (Director), Darren Smith (Adjudicator), Tjaart van der Walt (Liaison Manager).



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Non-Executive Director: A.A. Bezuidenhout
Advisory Board: Dr. P. Molefe, M. Moeletsi, R. Nethercott, T. J. Swart, N. Vermeulen