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UPDATE

NEWSLETTER OF THE MOTOR INDUSTRY OMBUDSMAN OF SOUTH AFRICA



**MOTOR INDUSTRY OMBUDSMAN
OF SOUTH AFRICA**

THE ROAD AHEAD

NEW VEHICLE SALES AND EXPORTS AUGUST 2022

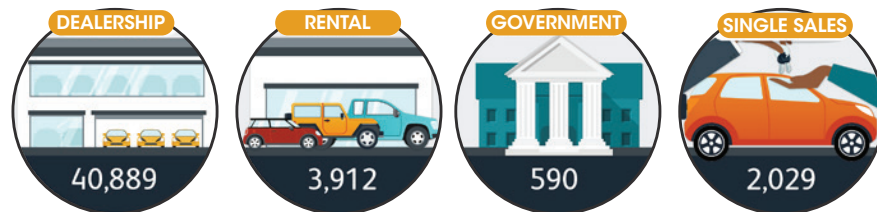
Vehicle sales by segment



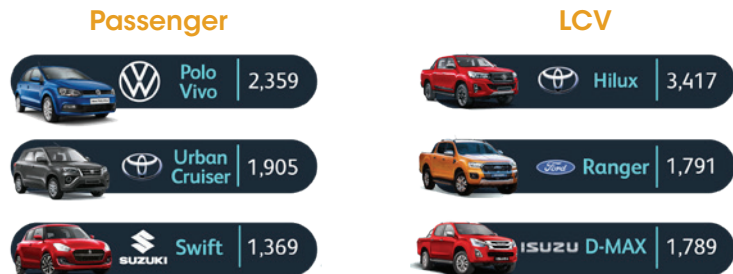
Total sales

Aug 2022 | 47,420 **Aug 2021 | 41,533**

Vehicle sales by channel



Top 3 selling vehicles



Application volumes

New cars
59,096

Used cars
119,061

Average value of new cars financed

Aug 2022 | R377,252
Aug 2021 | R378,749

MESSAGE FROM THE OMBUDSMAN

Johan van Vreden
Motor Industry
Ombudsman of
South Africa



A reminder

The automotive and related industries are often berated as sailing close to the wind in terms of ethical behaviour. Ethical behaviour is defined in the dictionary as a system of moral principles. In other words, it is a behaviour that is in tandem with what is acceptable in everyday society.

So, for the sake of reminding everyone that – in the light of our current economic climate – it is more important than ever to operate in an ethical manner, I would like to repeat this message to our readers.

In the automotive and related industries, as in most others, it can be described as the acceptance of certain professional standards. Well, there are many consumers who would strongly argue that the standards practised every day are not up to scratch. It is extremely frustrating to hear consumers comment on how they were treated, when you know full well that the service provider was only trying to provide a service within his or her means at the time.

The service provider has an ethical responsibility to stay within the limits clearly prescribed by the Consumer Protection Act No. 68 of 2008 (CPA) and the South African Automotive Industry Code of Conduct (Code). This is an important guideline for not only service providers, though, but also

for consumers. It is vital that parties confine their perceived differences to within the guidelines of the CPA and Code.

The above-mentioned Code, as well as the CPA, was established to provide guidelines to ensure the ethical behaviour of not only the service provider but also the consumer. It is therefore of paramount importance that both parties familiarise themselves with these practical guidelines provided by the authorities.

However, ethical behaviour in the automotive and related industries demands that service providers not only provide a service within the guidelines of the Code, but also a service that can be associated with the general definition of ethical behaviour. In these difficult times it is of even greater importance to treat consumers with the respect and dignity that they, as paying customers, deserve.

With the above in mind, knowledge of the Code, as well as a general understanding of the CPA, will assist both parties in their dealings with one another. This will result in better communication between the relevant parties, as well as better relationships between service providers and consumers, to the benefit of all concerned. ●



FROM THE DESK OF KOBIE KRAUSE

Implied Warranty

According to Section 55 of the Consumer Protection Act No. 68 of 2008 (CPA), every consumer has the right to receive goods that:

- i. Are reasonably suitable for the purposes for which they are generally intended;
- ii. Are of good quality, in good working order and free of any defects;
- iii. Will be useable and durable for a reasonable period of time, having regard to the use they would normally be put and all surrounding circumstances of their supply; and
- iv. Comply with any applicable standards set under the Standards Act, 1993 (Act No. 29 of 1993), or any public regulation.

So, what is the period of reasonable time mentioned in (iii) above?

In terms of Section 56(2) of the CPA, the consumer may return the goods to the supplier within six months after delivery, without penalty and at the supplier's risk and expense, should the goods fail to satisfy the requirements and standards contemplated in Section 55 of the CPA, as mentioned above.



Kobie Krause
Deputy Ombudsman



This warranty is also further referred to in Section 56(4) of the CPA. The implied warranty imposed by Section 56(1), and the right to return goods are each in addition to:

- a. Any other implied warranty or condition imposed by the common law, this Act or any other public regulation; and
- b. Any express warranty or condition stipulated by the producer or importer, distributor, or retailer, as the case may be.

Suppliers should therefore realise that when a consumer is offered a warranty which is subsequently refused by the consumer, the implied warranty still exists. Even if the manufacturer's warranty still exists, the implied warranty prevails. It would therefore be a contravention of Section 51(1) to agree with a consumer to relinquish his/her right to the implied warranty. The implied warranty can only be relinquished under certain circumstances not discussed in this article.

In terms of Section 57 of the CPA, an implied warranty also exists in respect of goods and services rendered for a period of three months after delivery of the goods to the consumer.

Getting a consumer to sign a purchase agreement that declares the vehicle is being sold as 'scrap', does not hold legal water if the vehicle is then driven away. 'Scrap' defines the vehicle as inoperative or discarded metal for reprocessing. 'Scrap' cannot drive, nor can it be road worthy. It is recommended that dealers familiarise themselves with the Road Traffic Act as well as NaTIS regarding the code system of vehicles before entering into transactions of this nature.●

A CASE IN POINT

COMPLAINT

The day after purchase, the vehicle broke down. The complainant had fuel gauge and alternator wiring related repairs carried out through a repairer of his own choice, without notifying the respondent. He wanted the respondent to refund him the repair costs that he had incurred, for the sales transaction to be cancelled and to be refunded the deposit paid towards the purchase of the vehicle.

CONCLUSION

The MIOA advised that, although the concerns noted had arisen within the

parameters of the implied six months warranty provision of Section 56 Subsection 2 of the Consumer Protection Act No 68 of 2008 (CPA), by having the goods – in this case the vehicle – altered contrary to the instructions, or after leaving the control of the respondent, the implied warranty was rendered null and void as per Section 56 Subsection 1 of the CPA. Furthermore, due to limitations in jurisdiction, the MIOA is not mandated to solicit refunds and/or financial compensation of the nature sought by the complainant.

The MIOA therefore could not support the complainant's expectations as stated in the submission made.●



PEOPLE, PUNS AND PRODUCTS

Commercial vehicles go electric

Using commercial electric vehicles (CEVs) in transport fleets is still a new concept in South Africa. However, local transport operators are quickly warming up to the idea because of the massive savings in operational costs. EnviroWheels plans to launch its battery-electric panel van in November and its one-tonne forward-cab bakkie early in 2023. The DFSK EC35 battery-electric panel van will lead EnviroWheels' charge in the local market. It offers a payload of 1 015 kg and a loading space of 4.8 m³. The EC35 features ABS (Anti-lock Braking System) and electric power steering. It boasts a selection of modern-day driver comforts, including air-conditioning, a reverse camera, rear parking sensors, Bluetooth, and a touchscreen infotainment system. Charging the EC35's battery will cost as little as R56.50 and yield a travel distance of up to 270 km, depending on load and traffic conditions.



New MD for VWSA

Martina Biene is set to take over as the Chairperson and Managing Director of VWSA once all the necessary regulatory approvals have been attended to. Biene is returning to VWSA for her second spell, following her tenure as the Head of Volkswagen Passenger Brand from October 2018 until August 2020. She has 20 years of experience in the Volkswagen Group, having worked in sales, marketing, product planning and product marketing for luxury vehicles and the Volkswagen brand in Germany, Belgium, Luxembourg and South Africa.

Kingsley Holgate completes another epic odyssey

Nine months ago, Land Rover ambassador, Kingsley Holgate, and his humanitarian expedition team set out from Cape Agulhas on the southern tip of Africa with the objective of reaching the birthplace of Land Rover on the Isle of Anglesey in Wales. Around



40 000 km later, they have successfully completed the Defender Transcontinental Expedition. He and his team brought their latest epic journey to a ceremonial finish by driving their three expedition-kitted new Land Rover Defenders onto the beaches of Red Wharf Bay. This is the place where the first Land Rover design was sketched in the sand by engineer Maurice Wilks in 1947. Seawater collected from Africa's southern tip where the Indian and Atlantic Oceans meet, was symbolically emptied onto the beach from the team's iconic Zulu calabash, which accompanies the Holgates on every trip.

Monza celebrates centenary

The Monza Circuit turned 100 recently, making it the third oldest racetrack in the world still in use, and the oldest in Europe. To celebrate this auspicious occasion, the Municipality of Monza held a series of historical events, including a celebration of the brands – cars and motorbikes alike – that took part in the first Grand Prix contested on the Monza circuit a century ago.

The honour of taking to the top step of the podium among the cars fell to Fiat, for its 6-cylinder 804 driven by Pietro Bordino on 10 September 1922. Equipped with a 95-hp 2.0-liter inline 6-cylinder engine paired with a four-speed manual transmission, the Fiat 804 could reach a top speed of 170 km/h and was very difficult to drive as a result of its limited weight (650 kg).



Have Porsche, will camp

Here's a conundrum: you own a Porsche, but you also love camping. The two don't really go together. Or do they? Porsche Tequipment has revealed a new rooftop tent with a hardcase design, which can be installed on the roof transport systems of certain 911 models, the Macan, the Cayenne, the Panamera and the Taycan. The two-person tent is quite the room with a view, with two side windows and a roof window as standard. A high-density polyfoam mattress is integrated and the tent walls are made of a breathable cotton blend. The side walls mimic the flyline of the 911 and feature a Porsche logo.

Manufacturing of new Ranger engines commences

The Ford Struandale Engine Plant in Gqeberha has commenced production of the the 3.0L V6 Diesel, which will power the range-topping new Ranger bakkie models to be produced at the Silverton Assembly Plant in Pretoria. This forms part of Ford's R600-million investment in operations at the engine plant, which has also facilitated upgrades to the existing assembly line for the 2.0L Single Turbo and Bi-Turbo diesel engines. Design changes and additional derivatives of the engines have been added for the next-generation Ranger, which will be sold locally and exported to more than 100 global markets. The Struandale plant is also responsible for machining of the cylinder heads for the 3.0L V6 Diesel, which is performed in a completely revamped facility using new and redeployed machines that have been updated with the latest tooling, operating and quality control systems.



PUBLIC AFFAIRS UPDATE

Activities during Youth Month and Women's Month

Lucious Bodibe
Public Affairs
Manager of the
MIOSA



Youth Month activities usually overlap into Youth Literacy Month. During this period, the Motor Industry Ombudsman of South Africa (MIOSA) participates in various activities that are aimed at inspiring the youth in general. The presence of the MIOSA at these campaigns also serves as a platform to educate consumers in general about their rights. Many of the consumers encountered during these events had already allegedly fallen victim to unscrupulous dealerships and service providers. So, these campaigns provided them with the opportunity to interact with the MIOSA face to face, and thus restore their faith in consumer protection. Each time the MIOSA is confronted with a complaint, it assists the consumer to lodge a complaint online and the Case Management Department is immediately informed of the case. A case in point is a conciliation that was held in Mafikeng, where the MIOSA assisted the consumer and the dealership to reach an amicable solution. As a result, the OEM offered to replace the engine of the consumer's vehicle with a new one as a gesture of goodwill without prejudice. In another case, the MIOSA recovered a spare key for a consumer.

When the month of August dawned, the MIOSA joined millions of South Africans to celebrate women's rights and achievements. The centre of attraction was the MIOSA's 'Know your Car

Programme' for women. This programme is aimed at educating women on the basics of a vehicle and vehicle maintenance. This includes replacing a wheel, observing vital signs and warning lights, and the importance of regular maintenance. The programme originated as a thought and gained momentum after it was piloted at a women's event in Bronkhorstspuit. It came as no surprise when the Provincial Consumer Protection Offices included it in its Women's Month events. As such, the MIOSA spent a week in the Free State Province and visited Bethlehem, Bloemfontein, and Welkom.

In each session, the MIOSA representatives were approached by women that were not happy with the way selling dealerships handled their complaints. The representatives acted speedily in order to assist them. The two interventions already mentioned in this article are testimony to the fact that the MIOSA processes are properly coordinated, synchronised and harmonised in order to deliver speedy resolutions, and to restore a good relationship between consumers and members of the automotive and related industries.

The visibility of the MIOSA continues to attract media attention and this is the reason why the organisation is on radio and television on a regular basis. In the wake of gender-based violence, the MIOSA continues to support every effort that is aimed at condemning this conduct. Viva amakhosikazi. ●