

A N N U A L R E P O R T

2015

THE MOTOR INDUSTRY OMBUDSMAN OF SOUTH AFRICA

THE ONLY INDEPENDENT DISPUTE RESOLUTION FORUM FOR THE SOUTH AFRICAN
AUTOMOTIVE INDUSTRY AND ITS CUSTOMERS



MOTOR INDUSTRY OMBUDSMAN
OF SOUTH AFRICA

TOGETHER WE GROW





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CHAIRPERSON

ADVISORY COMMITTEE



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CONTENTS

CHAIRPERSON'S COMMENTS	2
THE OMBUDSMAN'S REPORT	4
CONSTITUTION, VISION, MISSION	5
THE WAY FORWARD	6
FAILURE TO COOPERATE	7
REVIEW OF THE SYSTEMS	8
COMPLAINT PROCEDURE	11
MAIN CAUSES OF COMPLAINTS	12
COMPLAINTS RECEIVED	13
CASE STUDIES	14
LETTERS RECEIVED BY THE MIOSA	16
MIOSA THANK YOU	17

CHAIRPERSON'S COMMENTS

DR. MATHEWS PHOSA

CHAIRPERSON



The significance of the under-performance of the South African economy during 2015 cannot be wished away. The harsh reality is that South Africa is not alone in its plight. The rest of the world found itself in much the same situation. The outlook for the next few years is not much better and to find solutions to inject some life into the economy, has become paramount. The macro factors are against all developing countries and our ratings have also shown a steady decline during 2015.

To find the light at the end of the tunnel has been quite a challenge, yet it was with relief and confidence that we saw the South African motor industry putting up its hand as a collective to bring confidence and hope to the economy. As always, the manufacturers, importers and retailers have taken up the challenge. Although fewer vehicles were sold compared to 2014, the 600 000 plus mark was once again achieved. This is a feather in the cap of the motor industry.

As chairperson of the Motor Industry Ombudsman of South Africa's advisory committee, it gives me great pleasure to be able to report that since accreditation was awarded to the office of the ombudsman, the progress was, to say the least, remarkable. It was clear that the years spent in preparation for the new era of the ombudsman's office had not been in vain and it certainly proved that the Consumer Protection Act, in conjunction with the automotive Code of Conduct, greatly contributed to the success of the office during 2015.

Once again, the office of the MIOSA has been able to utilise the vast experience gained over 15 years to make the transition, from a voluntary organisation to

a compulsory organisation, seamless. I would like to again extend my heartfelt thanks to all the participants in the motor industry who accepted the responsibility of ensuring that South African consumers are treated fairly in their dealings with the industry.

The support that the MIOSA enjoys is ample proof of this. I would also like to thank Johan van Vreden and his competent staff for their tireless efforts over the past year. They had to cope with the new challenges brought about by the accreditation process.

We all realise that 2016 is not going to be easier. But, if we apply the same dedication as was shown in the year under review, I am confident that the office of the MIOSA will continue to serve the South African consumer and the South African motor industry with the dedication and commitment to fairness for many years to come.

THE OMBUDSMAN'S REPORT

JOHAN VAN VREDEN OMBUDSMAN



January 17, 2015 marked the start of a new challenge for the office of the Motor Industry Ombudsman of South Africa (MIOSA). It marked the beginning of the MIOSA as an accredited dispute resolution agency and also the custodian of the South African Automotive Code of Conduct – a regulation that forms an integral part of the Consumer Protection Act of 2008.

The management and staff at the office of the MIOSA were prepared to face these challenges as well as dealing with the increase in the number of cases. Although the increased volumes had been anticipated, it resulted in a steep learning curve the office had to contend with as the year played out.

It soon became clear that the MIOSA had to fulfil not only a dispute resolution function but had to provide consumers with a knowledgeable advisory team. This resulted in the establishment of an information and liaison office. Needless to say, this office soon proved its worth by being able to identify consumers' problems and advise them accordingly.

This greatly reduced the case load on the case managers who are now able to spend more time on lodged complaints. Thanks to these developments, the office is slowly but surely managing to meet the required deadlines as stipulated by the Code.

The good relationship with the National Consumer Commission (NCC) and the National Consumer Tribunal (NCT) continues. Dedicated staff liaise directly with the NCC, thereby expediting matters to the advantage of consumers and the automotive industry alike.

A sincere word of thanks to the commissioner, deputy commissioner and the staff of the NCC for their support during the first year after accreditation.

Registration at the office of the MIOSA has been brisk, although some of the smaller operators in the industry still require guidance as to their compliance responsibilities. This educational programme is an ongoing effort by the inspectorate and staff of the MIOSA, with the much appreciated cooperation of the media.

Thank you also to the loyal staff members of the MIOSA who have taken on the challenges without fear and with professionalism.

I would also like to thank the deputy ombudsman, Kobie Krause, for his continued dedication and support. I cannot thank our chairperson, Dr. Mathews Phosa, enough for his support and advice during the period. The support given by the advisory committee members is most appreciated and the diversity of the individuals that serve on the advisory committee proved to make a huge difference in assisting us to maintain perspective and focus. I am sure that we will be able to count on their unselfish support in the coming year.

CONSTITUTION

The office of the Motor Industry Ombudsman of South Africa (MIOSA) is an institution that regulates the interaction and provides for alternative dispute resolution between persons conducting business within the automotive industry in South Africa and consumers, as well as among participants in the motor and related industries.

VISION

As its vision, the MIOSA is striving to contribute to the continuous improvement of customer care, as well as relationships among participants in the motor industry to the benefit of all parties.

MISSION

Its mission is to defend the independence of the MIOSA office while tirelessly striving to educate consumers and motor related service providers alike, in achieving higher levels of customer care and cordial relationships within the motor industry.

THE WAY FORWARD

Expansion programmes for the Motor Industry Ombudsman of South Africa (MIOSA) are carried out with two objectives in mind. Keeping a close watch on expenditure while still fulfilling the mandate and obligations of the office in terms of the Automotive Code of Conduct (the Code). However, with the ever increasing number of registrations, the MIOSA will continue to expand facilities to accommodate consumers and the automotive industry alike.

One of the main priorities for 2016 is to appoint more inspectors to ensure that registration remains at a high level. The importance thereof cannot be stressed enough as the funding that is derived from the registration of automotive and related businesses is the very lifeblood of the MIOSA.

In order to keep finances under control, the finance department is staffed with well-qualified staff who not only controls the income and expenditure, but also takes responsibility to collect outstanding levies.

Due to the new and increased responsibilities of the MIOSA, representatives were unable to attend as many conferences during the year as was planned. This will be remedied in future.

As treasurer of the Ombudsman Association of South Africa, this office has the added responsibility that we

gladly accept. It has served to cement the impact of the MIOSA. We also convey a word of thanks to the other members of the ombudsman association for their support and advice.

The upgrading of the systems at the MIOSA is an ongoing process and the office is continually researching the latest technologies to ensure the best service within the organisation's means and abilities.

The expansion of the information and liaison department is also a priority and this will take place in the second quarter of 2016.

As was the case in years gone by, the MIOSA remains excited and motivated by the sheer pace of development of the office and the ever increasing number of consumers and industry players that will benefit from the much-needed service provided.

Lastly, the personal development of the staff of the MIOSA remains a priority to ensure that the service they provide is of the highest standard. With this in mind, ongoing training takes place on a daily basis and has proved to be very successful. This will remain a priority.

FAILURE TO COOPERATE

Notwithstanding years of consulting, educating and promoting, there are still certain businesses that will not accept the recommendations of the Motor Industry Ombudsman of South Africa (MIOSA). Although rare, this does happen, resulting in a straightforward case becoming complicated. This is of course to the detriment of both the consumer and the business involved.

The consumer can pursue the matter further through the National Consumer Commission (NCC). This can lead to a lengthy process of re-investigation by the NCC. What's more, the case will often be referred back to the MIOSA whose expert recommendation will most probably be used to refer the matter to the National Consumer Tribunal (NCT) for a final ruling. All this is subject to a process that can be time consuming and frustrating, especially for the consumer.

Alternatively, the consumer can request a referral from the NCC to the NCT to allow for the NCT to rule on a case. The consumer can also follow the costly legal route, by making use of the services of an attorney to pursue the case. All this is a clear indication of how important it is for cases to be resolved by the MIOSA and for the parties involved to accept the findings and recommendations of the MIOSA. As with the other ombudsman offices, the MIOSA intends also to monitor the situation closely and decide whether it

ought to recommend that the law be changed to ensure compliance by all suppliers within the ambit of the motor industry code of conduct.

Meanwhile, the MIOSA is adamant in its threat to publicise findings and businesses that fail to comply with the recommendations made by the MIOSA. It is hoped that reason will prevail and that both consumers and motor-related businesses will see the advantages available to them through the processes of the MIOSA.

REVIEW OF THE SYSTEMS

OPERATIONS

Thanks to the printed media, radio and television announcing the accreditation of the Motor Industry Ombudsman of South Africa (MIOSA) in 2014, there has been an influx of consumers and persons within the motor industry seeking advice or guidance with regards to disputes within the industry.

The major manufacturers, importers, distributors, retailers, service providers and associations have been tremendously supportive in the transitional phase from date of accreditation. For this reason the inspectorate department continues to grow, helping those in the motor industry who have not yet registered with the MIOSA.

The MIOSA will continue to improve and upgrade its systems over the coming year in order to serve consumers and the motor industry with advice and handling disputes.

CASE MANAGEMENT DEPARTMENT

The core duty of the department is to investigate and resolve consumer complaints and to facilitate conciliations. This is done in accordance with the Consumer Protection Act of 2008 and the South African Automotive Industry Code of Conduct. It is under this Code that the

office of the Motor Industry Ombudsman of South Africa (MIOSA) is required to resolve complaints within eight weeks.

In addition to investigating and resolving consumer complaints, the case management department of the MIOSA is also involved with consumer education and consumer awareness programmes.

The MIOSA has also partnered with all provincial consumer protection offices and government departments to conduct much needed education programmes. This led to a greater footprint for the MIOSA in rural areas where consumers have limited access to information.

One of the highlights of the year was the MIOSA's participation in the international World Consumer Rights Day in the Limpopo province.

THE ADMINISTRATION DEPARTMENT

Since the accreditation of the office of the Motor Industry Ombudsman of South Africa (MIOSA) in 2014, meaningful changes and upgrades were carried out in the administration department.

Logging and processing of cases from date of submission are now compliant to the requirements of the Code. By restructuring the office demographic and increasing the staff complement,

productivity has increased to the benefit of the motoring public.

One of the main delaying factors when dealing with a complaint is the failure of consumers to complete the complaint form in full. This causes a significant delay in the processing of the complaint.

The office has therefore adopted a progressive approach of informing the public when first contact is made with the information and liaison office where consumers are advised on how to proceed with a complaint.

INFORMATION AND LIAISON OFFICE

The number of calls received by the office of the Motor Industry Ombudsman of South Africa (MIOSA) during the 2014 financial year totalled 41 894. This number increased to 175 932 during 2015 and is due to the fact that the ombudsman's office achieved accreditation at the end of 2014. This necessitated an increase in staff complement and the establishing of an office dedicated to receiving calls from the public. The main objective is to provide advice and guidance on whether or not a consumer's dispute has recourse and, if so, how to proceed with action accordingly.

The information and liaison office's current staff complement consists of

a manager and four officers. Once the industry, in its entirety, is registered with the MIOSA, the office, through its intended staffing of nine officers, will have the ability to assist more consumers.

MIOSA staff attend regular training courses in both mechanical matters and the Consumer Protection Act and the regulations thereto. This intense training provides officers with the necessary knowledge to advise consumers regarding their complaints.

REGISTRATIONS. MARCH 2015 TO FEBRUARY 2016

The office of the Motor Industry Ombudsman of SA (MIOSA) and the Code for the motor industry were accredited by the Department of Trade and Industry in October 2014. The Code states that all participants in the motor industry must register with the MIOSA and pay a monthly levy.

Emails were sent out from December 2014 to these participants, informing them of their statutory obligation to register with the MIOSA and to pay the levy. Major manufacturers, importers of vehicles and major vehicle retailers were the first to commit to the new registration and levy process.

During the following months, registration of the retail market such as

REVIEW OF THE SYSTEMS

REGISTRATIONS. MARCH 2015 TO FEBRUARY 2016 (CONTINUED)

workshops and fitment centres, gained momentum. The strong upward curve in the number of new registrations experienced during August 2015 to October 2015 continued in the last months of 2015 with the workshop and fitment-centre sector, used vehicle dealers and parts retailers coming on board in ever increasing numbers. Some motorcycle dealers and towing operators have also registered, while registration by some fuel retailers was recorded.

During the first two months of 2016, registrations returned to acceptable levels compared to the same period in 2015.

The MIOSA is therefore confident that, with the continuous growing understanding within the industry of the importance of registering, targets set for March 2016 to February 2017 should be met.

THE ROLE OF MIOSA INSPECTORS IN THE REGISTRATION PROCESS

The office of the Motor Industry Ombudsman of SA (MIOSA) has, since accreditation by the Department of Trade and Industry, appointed inspectors in all the provinces with the highest activity in the motor industry.

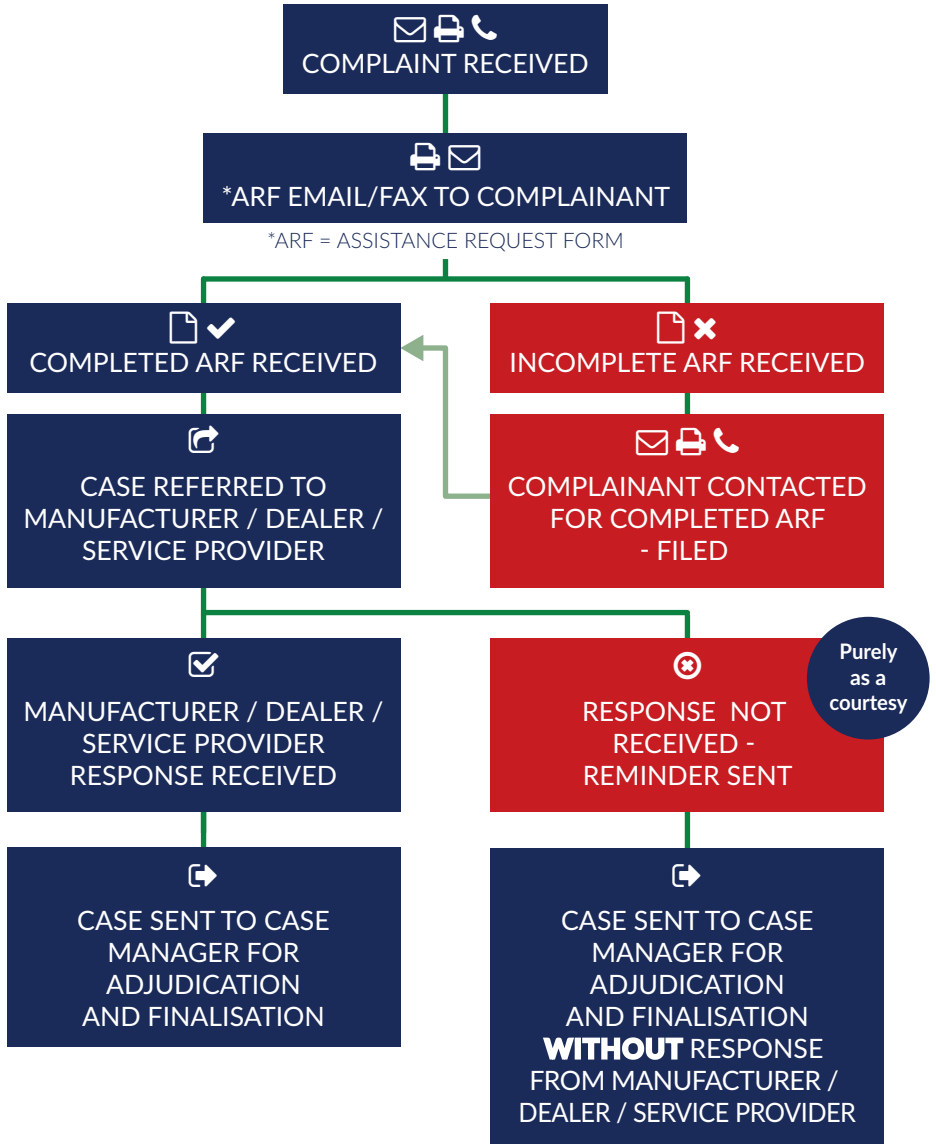
In the coming months inspectors will be appointed in the remaining provinces.

The main focus of the MIOSA inspectors is to visit participants in the automotive industry and to assist them in the registration process, since paying the levy is a legal requirement. They also explain the benefits that participants derive from their registration with the MIOSA and also explain the workings of the office of the MIOSA.

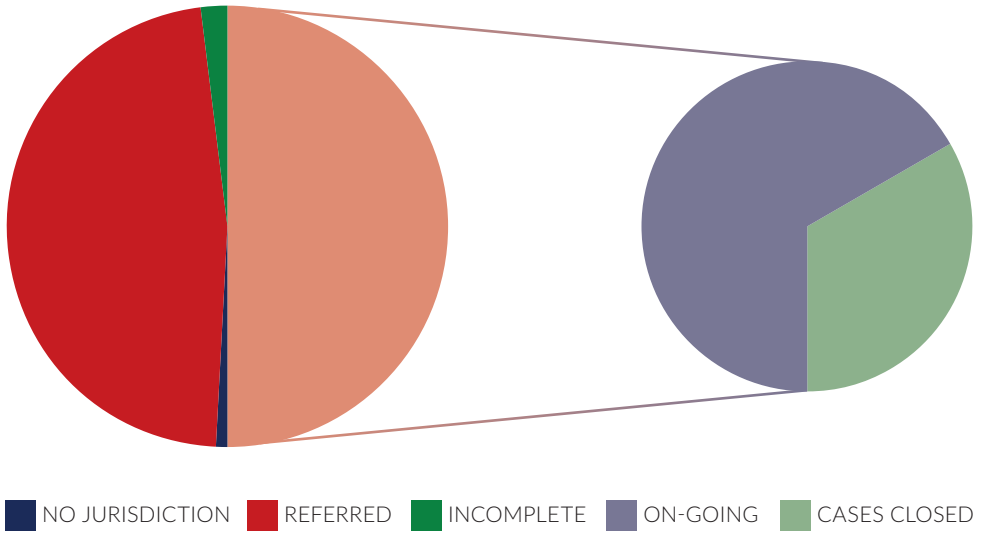
In the normal execution of their daily tasks, inspectors also check if participants are registered with the MIOSA and are paying the levy. In cases where businesses have indicated that the business no longer trades, inspectors are sent out to confirm closure.

MIOSA inspectors currently visit approximately 15 to 20 dealers and service providers on a daily basis.

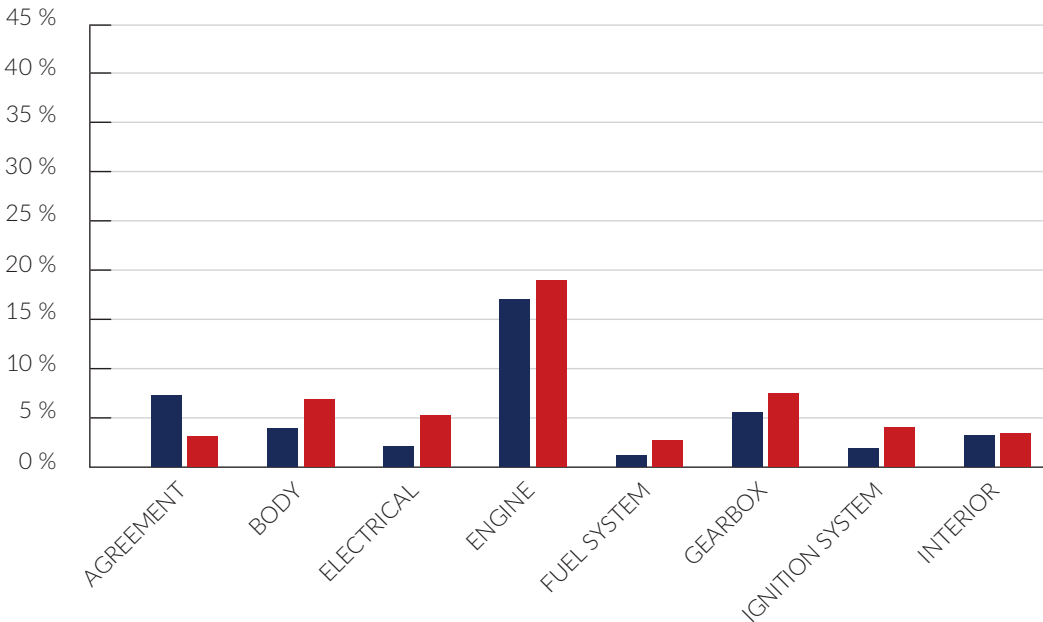
COMPLAINT PROCEDURE



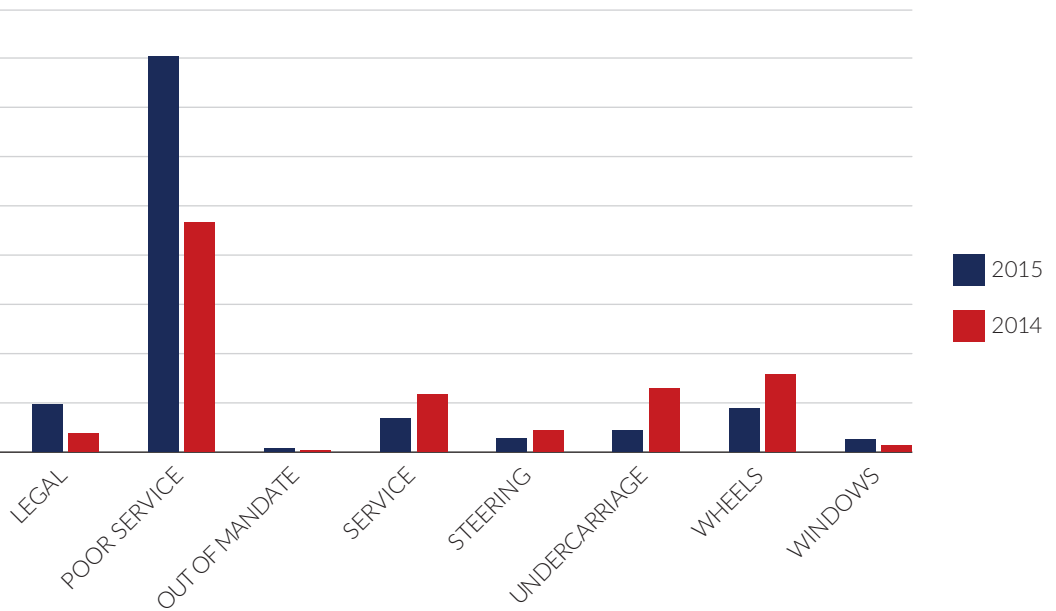
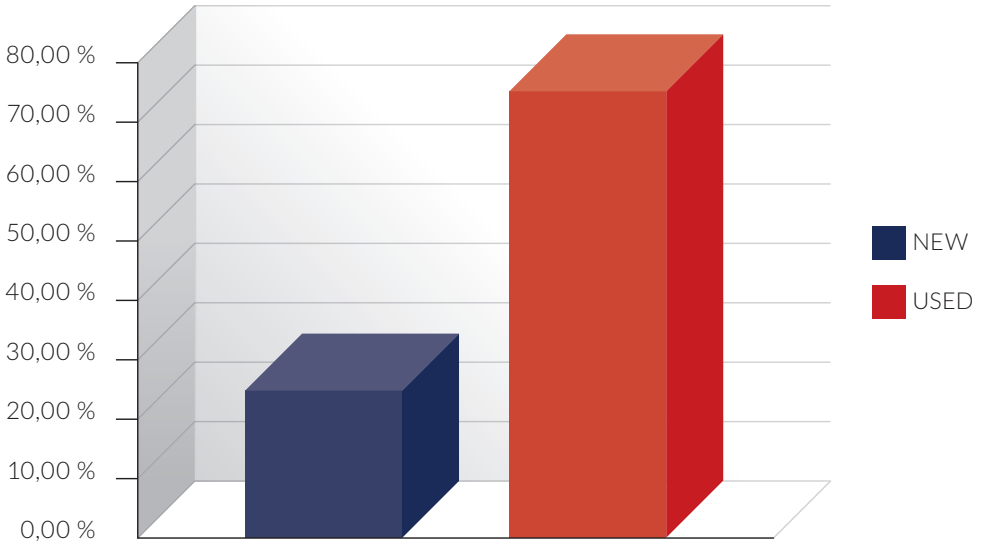
COMPLAINTS RECEIVED



MAIN CAUSES OF COMPLAINTS 2015



NEW VERSUS USED VEHICLE COMPLAINTS 2015



CASE STUDIES

COMPLAINT

A selling dealership did not disclose collision repairs carried out on the vehicle when the new owner took delivery. The consumer experienced problems with the vehicle and also informed the finance house that he was not happy with the monthly instalment. The finance house instructed the owner to take the vehicle to a specialist for inspection. It was discovered that the vehicle had signs of collision repairs. The Motor Industry Ombudsman of South Africa (MIOSA) investigations revealed that both the selling dealership and the finance house were aware of the collision repair before the sale agreement was concluded.

CONCLUSION

The MIOSA found that the selling dealer and the finance house did not act in accordance with sections 25 and 49 of the Consumer Protection Act of 2008. The MIOSA ruled that the selling dealership and the finance house must cancel the sale agreement with no cost to the consumer.

COMPLAINT

The vehicle broke down the same day the consumer took delivery. The selling dealer offered to repair the vehicle. The vehicle was collected but the engine seized within a few days.

CONCLUSION

The MIOSA found that the vehicle did not meet the requirements as set out in section 55 of the Consumer Protection Act 68 of 2008. It ruled that the selling dealership must refund the consumer the purchase price less the cost of usage. Both parties confirmed that they had adhered to the MIOSA's ruling and reported that the selling dealership had refunded the consumer.

COMPLAINT

The consumer purchased a used vehicle from an insurance company. The insurance company informed the new owner that the vehicle was stolen and recovered and that the navigation system was not working. The consumer took the vehicle to a manufacturer approved dealership for an inspection and the vehicle passed the inspection. However, the report also stipulated that the mileage was tampered with when this vehicle was stolen. The consumer wanted the manufacturer to re-instate the service plan and the warranty. Alternatively, they should compensate him for the balance of the maintenance plan.

In terms of the manufacturer's warranty, should it be found that the odometer had been disconnected, tampered with or altered in any way whatsoever, or had not been repaired immediately or as soon as reasonably possible due to malfunction, the manufacturer will exercise its right in terms of the conditions of the warranty.

CONCLUSION

The MIOSA found that the circumstances presented by the consumer did not warrant re-instatement of the service plan and the factory warranty. In light of this, the MIOSA ruled in favour of the manufacturer.

COMPLAINT

The consumer complained about an unbearable smell in the vehicle. The manufacturer inspected the vehicle but could not simulate the odour. The MIOSA then called the consumer in order to discuss the findings of the manufacturer. The consumer informed the MIOSA that only his wife could feel the odour because she is allergic.

CONCLUSION

The MIOSA then advised the consumer to seek a second opinion because the MIOSA could not rule on this complaint based on assumptions.

LETTERS RECEIVED BY MIOSA

I hereby wish to express my sincere gratitude and appreciation for the most helpful and effective assistance rendered to me. The whole matter was resolved in 20 minutes – indeed a striking exception to the general standard of service in many other offices.

Kind regards

F BONTHUYS

A million thanks to all MIOSA staff for your prompt attendance to the matter.

Kind Regards

T GUGUSHE

I wish to extend my gratitude and commend the office of the ombudsman in the conclusion of my complaint. I can honestly state that the South African legal arbitration system does work and is fair and just.

Kind regards

L MATSOSO

Thank you for the positive feedback in this matter. I am satisfied that a fair outcome has been reached.

Kind regards

M SPANGENBERG

Thank you so much for your time and effort in this matter. I really do appreciate everything that you have done and hope that we can one day meet under better circumstances.

Thank you

Y LAHER

Thank you for your consideration and your objectivity. Please extend our gratitude to all involved.

Kind regards

Continental (Pty) Ltd

A great word of thanks to all at the MIOSA for their support and assistance.

Regards

E VAN NIEKERK

Thank you for an informative interview yesterday. The listeners want you back in the studio to educate them more.

Well done on disseminating the information that is so needed by both the consumers and the industry alike.

Kind regards

E SHAMATLA

Radio Pulpit interview

A WORD OF THANKS

The Motor Industry Ombudsman of South Africa (MIOSA) enjoys the full support of the formal automotive and related industries in South Africa. The MIOSA wishes to thank the following organisations and institutions for their generous support:

- Members of the South African motoring public, who have ensured the ongoing growth of the MIOSA;
- Vehicle manufacturers, importers and the retail motor industry;
- Government through the provincial consumer protection agencies, the National Consumer Tribunal, National Consumer Commission, provincial consumer protectors, the consumer courts, the Department of Trade and Industry and the Departments of Justice and Transport;
- The media through its positive and ongoing support;
- The chairpersons and executive directors of NAAMSA, NAACAM the Retail Motor Industry organisation, Independent Dealers Association and the Automobile Association of South Africa;
- 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 Consumer Goods and Services Ombudsman.

The MIOSA also wishes to extend its sincere thanks to the dealer groups and the greater number of individual motor-related businesses for realising the importance of consumer care and retention as the basis for success. Their support and continued acknowledgement have resulted in the MIOSA growing from strength to strength. We trust that our services will continue to benefit all parties in 2016.



MOTOR INDUSTRY OMBUDSMAN
OF SOUTH AFRICA

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