



MOTOR INDUSTRY OMBUDSMAN  
OF SOUTH AFRICA

# ANNUAL REPORT 2017

THE MOTOR INDUSTRY OMBUDSMAN OF SOUTH AFRICA

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

# ADVISORY COMMITTEE

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**Dr M Phosa**  
CHAIRPERSON



**J van Vreden**  
OMBUDSMAN



**K Krause**  
DEPUTY OMBUDSMAN



**A Bezuidenhout**



**P Molefe**



**R Moothilal**



**I Opperman**



**B Pretorius**



**N Vermeulen**

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## CONSTITUTION

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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 and related industries in South Africa and consumers, as well as among participants in the automotive and related industries.

## VISION

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

## MISSION

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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 automotive and related industries.



**MOTOR INDUSTRY OMBUDSMAN  
OF SOUTH AFRICA**



# CHAIRPERSON'S COMMENTS

**DR MATHEWS PHOSA**  
CHAIRPERSON

The year under review will be remembered for many negative occurrences, but what again stood out was the steadfastness of the automotive and related industries. Even though some automotive brands decided to leave our shores, it was exciting to note that new players showed interest and brought with them substantial investments to fill the gap.

South Africa, despite its recent chequered past still offers investors a country with first world standards in business infrastructure. With this, South Africa also offers the opportunities of an emerging market which can result in the ideal formula for growth and profitability.

The automotive and related industries – as the largest industries – remain crucially important to South Africa's socio-economic prosperity. Despite the challenges, the South African government's efforts to industrialise and re-industrialise the country's economy are laudable. The manufacturing industry, through its growth, stimulates the growth of other industries, such as services, employment creation and economic empowerment.

Central to the above is the South African consumer who has been under tremendous pressure over the last couple of years with very little to look forward to unless the growth of the country continues to be stimulated by industries like the automotive and related industries. With this in mind, the treatment of South African consumers in their dealings with the automotive and related industries should be paramount in the minds of these industries. The Motor Industry Ombudsman of South Africa (MIOSA) continues to play a major role to ensure that consumers are treated with care, respect and fairness at all times.

This in itself is not an easy task and calls for experience, knowledge of the automotive and related industries and a dedication beyond the norm. With this, I would like to once again extend my thanks and regards to be associated as chairperson of the MIOSA. And it is with this feeling of confidence and gratitude that I wish to thank members of the advisory committee, Johan van Vreden the ombudsman of the motor industry, deputy ombudsman Kobie Krause and the staff of the MIOSA. ●



## MIOSA STAFF

**From left to right:** Marielle Ferris, Lizette Kruger, Valencia Kgophane, Lucious Bodibe, Annelie Mienie

# OMBUDSMAN'S REPORT

**JOHAN VAN VREDEN**

OMBUDSMAN

The office of the Motor Industry Ombudsman of South Africa (MIOSA) was established as first a voluntary organisation 18 years ago. The manufacturing and importing industries were very quick to recognise the advantages of having a well-versed independent ombud scheme.

The retailers took a little longer to understand the concept and at times felt that the ombud scheme will present a threat to their businesses.

Of course, it was mostly the “under belly” of the industry that showed reluctance to support the independent MIOSA and this was to be expected.

An alternative dispute resolution in a new form of addressing consumer complaints was considered. It was viewed with a lot of suspicion in the beginning by the parties concerned.

As the confidence in the independent MIOSA grew and the successes became more apparent, consumers made use of the MIOSA to resolve their issues. To resolve disputes that arose within the industries, more and more automotive and related industries started to make use of the dispute resolution service provided by the MIOSA.

A new era dawned when the Consumer Protection Act No. 68 of 2008 (CPA) was

promulgated. The MIOSA was now faced with the challenge that necessitated ongoing study and training of its staff in the intricacies of the new act and its possible consequences for the automotive and related industries.

The MIOSA was then charged with the duty of putting together a task team that would draw up a code of conduct for the automotive and related industries. The eventual document was written into law in 2014 and in October 2014 the MIOSA was accredited by the minister of trade and industries, making the MIOSA a parastatal organisation that had to advise and make recommendations to the National Consumer Commission (NCC) regarding consumer complaints within the automotive and related industries.

During the three years of accreditation, the MIOSA has had to grow its infrastructure to enable it to deal with the ever-increasing consumer complaints. As the presence of the MIOSA became even better known amongst consumers and consumer organisations, calls to its information and liaison office grew to a staggering 194 845 during 2017. This culminated in 7 693 cases being opened and we are pleased to report that we are up to date and that we have cleared our pre-accreditation backlog by completing and closing a total of 16 448 cases during 2017.

It is our pleasure to report that the MIOSA is compliant with the South African automotive industry code of conduct and is aspiring to become, as far as possible, compliant with King IV code of corporate governance.

A big thank you to chairperson Dr Mathews Phosa, the advisory committee members, deputy ombudsman Kobie Krause, non-executive director Adri Bezuidenhout and the MIOSA staff for their hard work.

As in the past, deputy ombudsman Kobie Krause, as well as sagely advice from Adri Bezuidenhout and the members of the advisory committee, has been of great assistance to me as ombudsman. ●



# FINANCIAL REPORT

The MIOSA's governance framework is based on the principles of accountability, transparency, ethical management and fairness. A philosophy of sound governance is entrenched across the business. The governing body recognises that good governance, achieved through an ethical culture, competitive performance, effective control and legitimacy, can create sustainable value and enhance long-term equity performance.

The governing body for the MIOSA, welcomes improvements in governance codes which facilitate value creation without adding burdensome compliance requirements. The requirement for reporting under King IV code of corporate governance differs from reporting under King III in various respects – including that where King III required an entity to apply the code or explain why it had not done so, King IV requires that the entity report on how it has applied the code and explain the instances where it has not done so. The MIOSA is in the process of implementing King IV in areas where applicable. There is an increased focus on sustainability and on promoting systems thinking in the governance of entities and in the conduct of businesses.

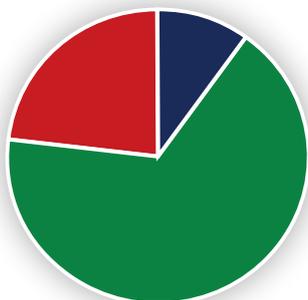
MIOSA, through its corporate code of conduct is committed to:

- The highest standards of integrity and behaviour in all dealings with society at large;
- Conducting business based on fair commercial competitive practices;
- Trading with industry participants and suppliers who subscribe to ethical business practices;
- Non-discriminatory employment practices and the promotion of employees to realise their potential through training and development of their skills; and being proactive towards environmental, social and sustainability issues.

The MIOSA has enjoyed a year of continuity and benefits from the collective expertise of the staff complement that actively engaged with the business during the period under review.

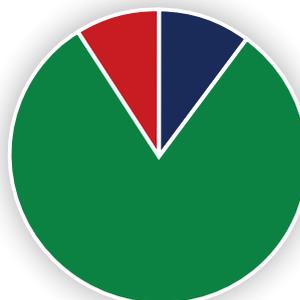
## RECORDED INDUSTRY PARTICIPANTS

### ORIGINAL EQUIPMENT MANUFACTURERS AND IMPORTERS



	2015/16	2016/17	2017/18
OEMs and importers	67%	23%	10%

### RETAILERS



	2015/16	2016/17	2017/18
Retailers	81%	9%	10%

## STATEMENT OF FINANCIAL POSITION

Figures in rand	2017/18	2016/17
<b>CURRENT ASSETS</b>		
Trade and other receivables	19 566 116	18 687 075
Cash and cash equivalents	639 805	10 000
<b>TOTAL ASSETS</b>	<b>20 205 921</b>	<b>18 697 075</b>
<b>EQUITY AND LIABILITIES</b>		
<b>EQUITY</b>		
Retained earnings	17 222 248	17 726 489
<b>CURRENT LIABILITIES</b>		
Trade and other payables	2 983 673	970 586
<b>TOTAL ASSETS</b>	<b>20 205 921</b>	<b>18 697 075</b>

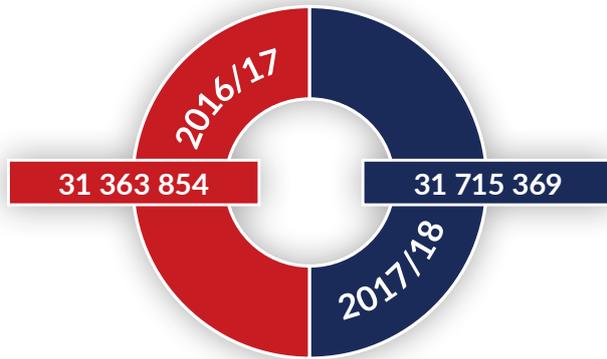
## ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 28 FEBRUARY 2018

### STATEMENT OF COMPREHENSIVE INCOME

Figures in rand	2017/18	2016/17
Revenue	31 715 369	31 363 854
<b>OTHER INCOME</b>	112 775	0
Interest received	79 335	0
Sundry income	33 440	0
<b>OPERATING EXPENSES</b>		
Accounting fees	98 175	244 027
Advertising fees	148 582	42 597
Bad debts	503 963	0
Bank charges	120 198	111 331
Chairman fees	120 000	120 000
Collection fee in regards to contributions	4 155 460	3 136 385
Computer costs and website development	228 798	352 586
Consulting fees	142 908	22 359
Directors remuneration	3 894 406	3 240 000
Employment costs	16 243 980	9 770 487
Finance costs	13 698	0
Insurance costs	328 364	60 009
Lease rental of premises	1 352 309	597 941
Legal costs	289 542	147 938
Motor vehicle inspection costs	364 872	64 212
Postage	44 495	20 545
Printing, stationery and hire of printers	496 784	412 725
Repair and maintenance / security costs	-175 818	605 023
Storage and archiving costs	37 894	37 544
Subscriptions	115 249	47 315
Expansion costs	3 345 110	0
Telephone and communication costs	384 861	354 804
Training costs	2 600	27 443
Travel and accommodation costs	75 956	121 903
<b>TOTAL OPERATING EXPENSES</b>	<b>32 332 386</b>	<b>19 537 174</b>
<b>DEFICIT / SURPLUS</b>	<b>-504 242</b>	<b>11 826 680</b>

The MIOSA employed more staff members during the 2017/18 financial year. The MIOSA further invested in its employees during the 2017/18 financial year by implementing a pension fund and medical aid benefits for all employees, as the employees are the MIOSA's most valuable assets.

## REVENUE

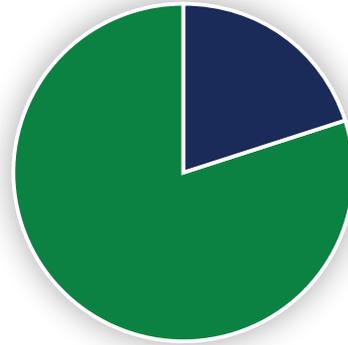


The total revenue increased by R351 515.00 during the 2017/18 financial year. During this year, the contribution was decreased by 10 percent, thus having a net growth effect of 9.6 percent of revenue.

Due to the pressure of the current economic situation in South Africa, many industry related businesses have regrettably been forced to close their doors.



## FUNDING FROM DATE OF ACCREDITATION:



	Vehicle manufacturers / importers / distributors
	Retailers

With reference to the South African automotive industry code of conduct, funding is allocated as follows:

The OEMs and importers shall be liable to contribute 20 percent of the approved budget.

The retailers shall be liable to contribute 80 percent of the approved budget.

## DELIVERING FOR OUR STAKEHOLDERS

Our strategy responds directly to the market in order to realise the significant opportunities available. We are transforming our business to accommodate the growth in our database. We endeavor to improve the quality of growth, always ensuring we keep our industry participants, colleagues and stakeholders at the heart of what we do.

The next twelve months will represent another year of tireless efforts to continue on our path of transformation and growth, whilst continuing to deliver to all our stakeholders.

### MIOSA STAFF

**From left to right:** Theresa Maree, Leanne Lubbe, Naomi Nemavhadwe, Robin Wright, Refilwe Phala

# THE WAY FORWARD

**D**uring the three years since accreditation, the Motor Industry Ombudsman of South Africa (MIOSA) has had to grow its infrastructure to enable it to deal with the increase in consumer complaints. As the presence of the MIOSA became even better known amongst consumers and consumer organisations, calls to the information and liaison department grew to a staggering 194 845 in 2017. This culminated in 7 693 new cases being opened.

The pre-accreditation backlog has been cleared by completing and closing a total of 16 448 cases in 2017.

The MIOSA is compliant with the South African automotive industry code of conduct (Code) and is aspiring to become, as far as possible, compliant with King IV Code of Corporate Governance. Despite a few detractors, the foundations of the MIOSA have been well laid and it remains the most effective and successful dispute resolution service within the automotive and related industries.

The new year will be challenging, to say the least, and the MIOSA will be utilising all avenues to further safeguard its independence. This will include more regular meetings with the governing body to gain their input. More contact with the National Consumer Commission (NCC) and the National Consumer Tribunal (NCT) will ensure that the MIOSA maintains the good relationship that currently exists.

Meetings will be set up with the CEOs of the manufacturing industries as well as the retailers and related service providers to ensure that the current good relationships remain intact.

A more concerted effort will be made during the new year to increase the database of the MIOSA. This is extremely important as it will result in the reduction of contributions by the automotive and related industries. In these difficult economic times it is of extreme importance for cooperation from all the parties involved. To strengthen efforts to improve contribution collection, the MIOSA will not hesitate to make use of legal action and has already planned in this regard. It is most unfair to expect law-abiding businesses to subsidise defaulters. The above action is seen in a very serious light by all the participants and the MIOSA appreciated the whistle blowers who kept the organisation informed of clandestine service providers.

The public affairs department has made great strides and is continuing its efforts to maintain and expand good relations with the national and provincial government departments. This will hopefully expand even further to the local government level in future. ●



## MIOSA STAFF

**From left to right:** Maryke Fourie, Antoinette Swartz, Jenny Johnson, Pragasi Nayagar, Nick Brandt, Rejoice Ngwenya

# LEGAL DEPARTMENT

The legal department of the Motor Industry Ombudsman of South Africa (MIOSA) consists of a director, a professional assistant and a personal assistant.

Lectures on the Consumer Protection Act No. 68 of 2008 (CPA), the regulations thereto and the South African automotive industry code of conduct (Code) are given bi-weekly to the case managers, case manager assistants, information and liaison officers and various other key personnel.

These lectures vary in style and form as per the need of the employees. Problematic cases are discussed and employees are advised on their approach to make these sessions practical in nature. When interpretation is needed on other legislation, e.g. company law and law of contracts it is discussed and employees are equipped with the knowledge to deal with the different cases they manage.

Lectures are also given to the MIOSA inspectorate. These lectures stretch over a couple of days where the whole of the CPA, regulations and the Code are discussed and important guidelines are given to assist the inspectors when they are in the field. New employees are fully trained and the knowledge of other employees is brushed up regularly.

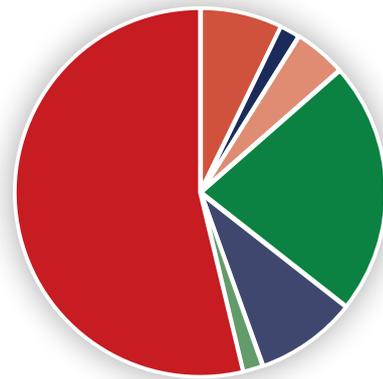
Debt collection takes up the largest part of the day. The legal department advises the finance department and inspectorate on legal matters pertaining to the collection of monies, the process of capturing industry participants' information and the database, as well as the requirements by the CPA and the Code and other legislation.

A procedure for the collection of debt has been established and is still in the process of being developed to be even more effective. Regular consultation is conducted with attorneys and legal counsel in regards to court cases. Further instructions are given on collection procedures where the circumstances and facts are concerned that influence the outcome of legal/litigation procedures.

The legal department also liaise with the National Consumer Commission (NCC) as well

as associations in the automotive and related industries. The legal department held workshops with dealer groups and advise dealers from time to time on the implementation of the CPA.

## LEGAL DEPARTMENT STATISTICS



- Default judgment
- Defended matters
- Summons dispatched awaiting return
- Paid and closed
- Payment arrangements total value
- Matters held in abeyance / FRA
- Letters of demand / no response or payment

# MIOSA ACTIVITIES

The MIOSA is continuously interacting with government players, bodies and institutions in the local motor industry to enhance relationships. As the MIOSA motto states: TOGETHER WE GROW, to the benefit of supplier and consumer alike.



Ombudsman Johan van Vreden and deputy ombudsman Kobie Krause visited parliament in Cape Town to address the portfolio committee for the Department of Trade and Industry on the Ford Kuga issue.



The chairperson of the Outdoor Power Product Association of South Africa (OPPASA) Melt van Schoor (right), paid a visit to the MIOSA to discuss matters of mutual interest with ombudsman Johan van Vreden.



The in-house public affairs information desk was established to keep staff members of the MIOSA informed. It contains a variety of informative publications such as the constitution, the Secondhand Goods Act and the Consumer Protection Act No. 68 of 2008. Staff members emptied the information desk on the first day of its inception!

Shown here is Lucious Bodibe (manager of public affairs) and Naomi Nemavhadwe who is responsible to keep the information desk up to date.



The advisory committee of the MIOSA held its annual meeting at the end of 2017. Present were (front row left to right) Kobie Krause (deputy ombudsman), Dr Mathews Phosa (chairperson), Johan van Vreden (ombudsman) and Ina Opperman. Standing left to right Renai Moothilal (NAACAM), Brand Pretorius, Nico Vermeulen (NAAMSA) and Adri Bezuidenhout (MIOSA).

The Consumer Protection Forum (CPF) is comprised of all the provincial consumer protection offices and the regulators across the country. It has three committees namely: policy and strategy; education and awareness; compliance and enforcement. The MIOSA recently hosted the compliance and enforcement committee for a three day conference. Those present had the opportunity to meet with the ombudsman, Johan van Vreden, deputy ombudsman, Kobie Krause and the departmental managers. They also had the opportunity to view the operations of the MIOSA.



**Above, from left to right.** Ombudsman Johan van Vreden, Lucious Bodibe, manager of public affairs at the MIOSA and Findo Motimele, convenor of the compliance committee.



**Above, from left to right.** Lucious Bodibe, Reeva Wellman, Gauteng public protector and Reuben Sedibane, deputy director proactive investigations Gauteng consumer affairs.

## MIOSA STAFF

**Below from left to right:** Cathrine Baloyi, Terry Kent, Tshelang Motaung, Mercia van Niekerk, Beverley Schwabe, Basetsana Moroane

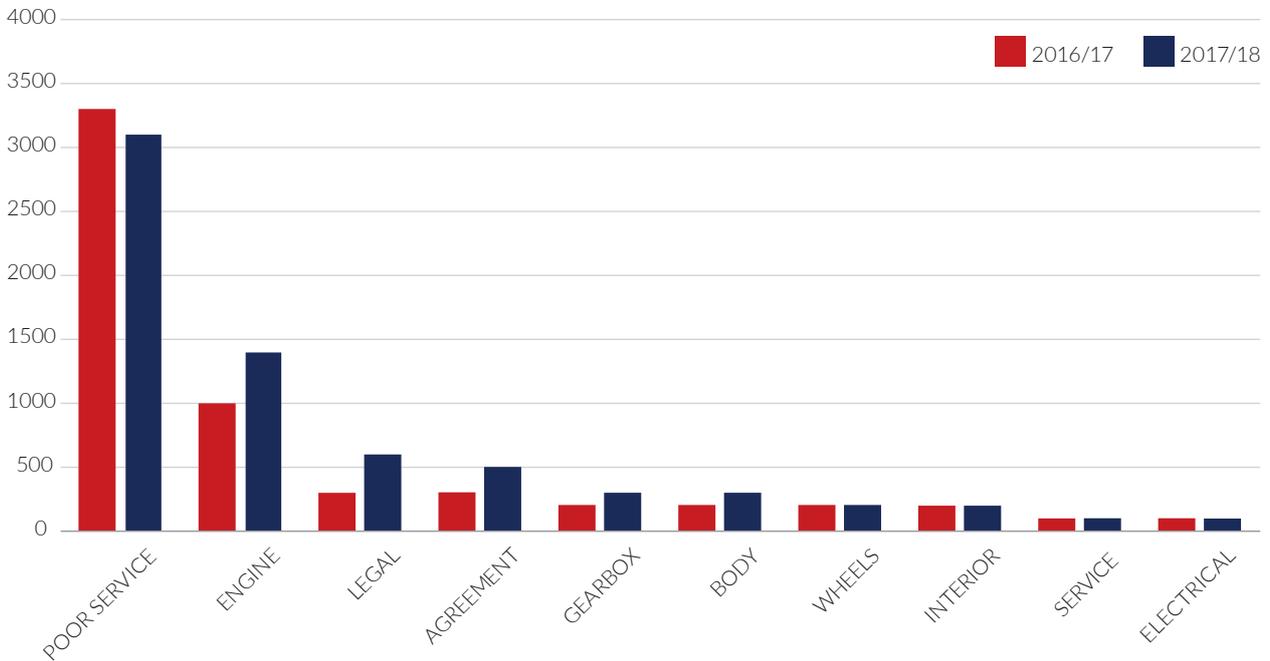


**Below from left to right:** Kevin Brandt, Caroline Damons, Marsanne Cloete, Solomon Malla, Prudence Buys, Ellen Engelbrecht

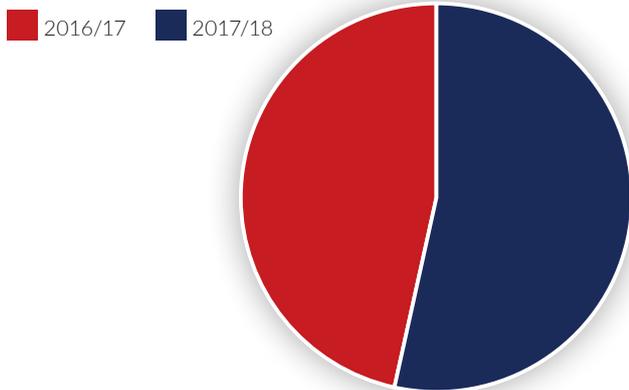


# STATISTICS

## MIOSA TOP TEN PROBLEM GROUPS



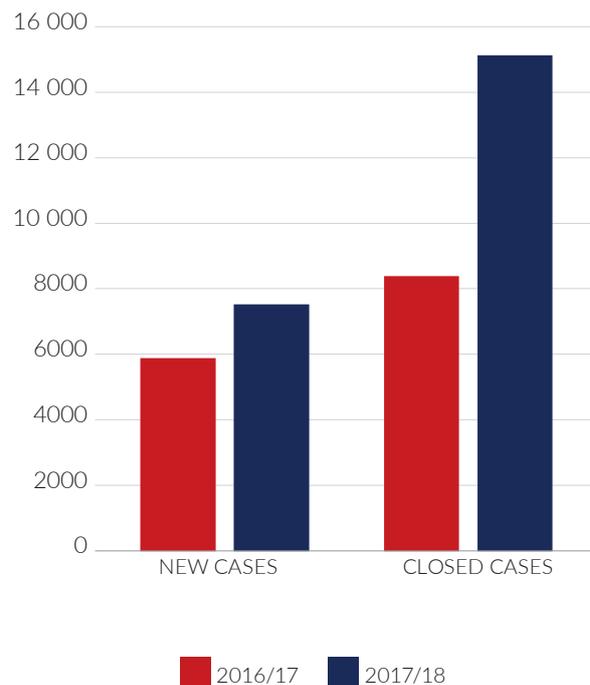
## MIOSA INCOMING CALLS



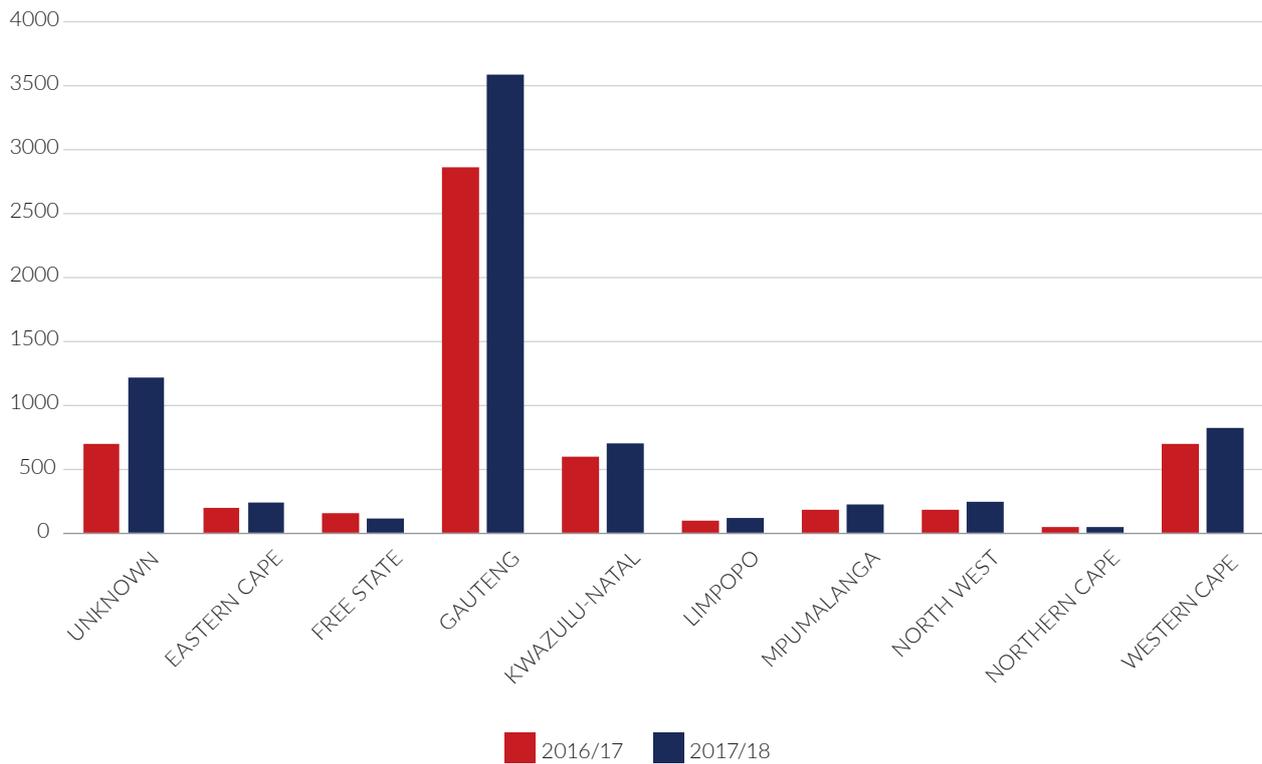
The majority of the above incoming calls can be divided between the following departments:

- Information and liaison office
- Automotive industry registration department
- Inspectorate department
- Finance department
- Case management department
- Legal department

## MIOSA COMPLAINTS



## MIOSA PROVINCE OF COMPLAINT



### MIOSA STAFF

**From left to right:** Graham Botha, Onkgopotse Tau, Monique Hendrikse, Jackie Gildenhuys, Thava Chinsamy

### MIOSA STAFF

**From left to right:** Janine McFaden, Kenneth Makatu, Carol Snyman, Darren Smith, Innocentia Nene



# REVIEW OF THE SYSTEMS

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## **CASE MANAGEMENT DEPARTMENT**

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The purpose of the case management department is to provide a free and effective platform in resolving disputes without consumers or industry incurring massive legal costs in trying to bring about resolution. The case management department is an independent and impartial unit with expertise in both law and technical issues.

The Motor Industry Ombudsman of South Africa (MIOSA) represents neither party and adheres to a policy of transparency keeping clear channels of communication open between parties in dispute, with the understanding of the responsibilities as conciliators in terms of the Consumer Protection Act No. 68 of 2008. After careful scrutiny of all submissions and relevant evidence and documentation, case managers do their utmost to bring about resolution by applying the principles of law and good engineering practice.

Through hard work and commitment by the case management staff and with the help of all departments within the MIOSA, it was possible to bring the closing rate in line with the South African Automotive Industry Code of Conduct and catch up any backlog which was still outstanding. The complaint closing rate from date submitted to closure is approximately 30 days, depending on the circumstances and complexity of each individual case.

The department has been working tirelessly to provide a timeous method of recourse beneficial to both consumers and industry alike. The MIOSA accepts its role and responsibility of being the foremost expert in alternative dispute resolution within the automotive industry. This includes all motorised equipment disputes, i.e. lawnmowers, farming equipment, motorboats, trucks and motor vehicles.

## **SYSTEMS AND ADMINISTRATION DEPARTMENT**

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Over the years, through trial and tribulation, the office of the MIOSA has had the luxury of

developing and perfecting the administration procedures, particularly in the systems and administration department. Specialised personality types have been placed in particular strategic positions, tasked with specific objectives. In order that the cooperation between the information and liaison office, the case management department and the systems and administration department optimises the work flow allowing the office to be industry code compliant.

The MIOSA announced in its 2016/17 annual report the creation of an online application system where consumers could apply for assistance from the MIOSA with less effort and in accordance with the MIOSA's long-term goal in becoming paperless.

Since the inception of the new online application system on 1 February 2017, the MIOSA has received 4 558 online applications from consumers all over South Africa and from across the borders. The main objective for the changes and upgrades to the systems is to improve efficiency and increase productivity. This enables the MIOSA to provide consumers and industry participants with an effective means of redress. The total number of complaints received by the MIOSA for the year is 7 693, making the online application system a resounding success.

The administration department deals with thousands of complaints at any given time. By making use of the customised filing system, quick access of files on request is possible.

## **INFORMATION AND LIAISON OFFICE**

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The information and liaison office remains one of the most important phases in the dispute resolution process. It is the first contact with a neutral third party. In an attempt to resolve their disagreement, consumers and industry participants can get information on their rights and responsibilities while conciliation is taking place.

This is also where the consumer is informed regarding his/her rights versus the industry participants' responsibility in terms of the South African legislation.

Considering that minimal information is provided telephonically, it is the responsibility of the information and liaison office to ensure that the support and information provided to consumers and the industry participants is as accurate and applicable as possible to their individual situation.

Consumers are able to obtain first-hand advice on how to proceed should they wish to pursue recourse. This is to ensure that their rights are protected, after failing to reach an amicable solution between them and industry participants within the motor industry.

The information and liaison office also works closely with the case management department. This is to provide accurate and adequate updates to any party seeking information on relevant cases.

Year-on-year the office succeeded in giving immediate assistance to a larger number of consumers as well as industry participants. This has been achieved through continuous training of the staff and good management.

The number of calls received by the MIOSA during the 2016 financial year totalled 169 703. This number increased to 194 845 during 2017. This can be attributed to the number of recalls by various manufacturers and their customers' concerns regarding them. Due to a policy of open and honest communication with the vehicle manufacturing sector, the MIOSA was in a position to provide consumers with accurate and up-to-date information and advice regarding their recall procedures.

## **RECORDING OF BUSINESS INFORMATION WITH THE MIOSA**

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Recording of business information for the period covered by the 2017/18 annual report was dominated by the compliance with the legislation by the used vehicle dealer sector. Some vehicle finance houses now insist on proof that the dealership has recorded its business information with the MIOSA. This resulted in a flood of recordings from this sector. It is important to note that the new vehicle dealer sector, groups as well as independents, with a few exceptions, have all recorded their information with the MIOSA.

For the second year running the mechanical workshop sector put in a steady showing. It was

encouraging to note the number of fitment centres, panel shops and spares shops that recorded their business information with the MIOSA.

Nearly all vehicle importers and manufacturers, including motorcycles, have recorded their business information with the MIOSA and are making their contribution.

In a judgement by the National Consumer Tribunal during 2017, a dealer that did not adhere to the finding of the MIOSA in a complaint case was interdicted from using any terms in its contract which contravened the Consumer Protection Act No. 68 of 2008 and was ordered to pay an administrative fine. This had an influence on non-compliant dealers and played a role in increased recording of business information with the MIOSA.

The work that the MIOSA inspectors are doing by assisting companies involved in the automotive industry countrywide, to record their information with the MIOSA, is proving invaluable and will during 2018 give special attention to businesses in the rural areas of the RSA.

The contribution for 2018 has been lowered by five percent in certain categories and this will have a positive effect on the number of businesses recording their information with the MIOSA.

## **THE ROLE OF MIOSA INSPECTORS IN THE RECORDING OF BUSINESS INFORMATION PROCESS**

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The office of the MIOSA has, since accreditation by the Department of Trade and Industry, appointed inspectors in the provinces with the highest activity in the automotive industry.

The main focus of the MIOSA inspectors is to collect information and to visit industry participants in the automotive industry and assist them in the recording process, since making the contribution is a legal requirement. They also explain the benefits that contributors derive from their recording with the MIOSA.

The MIOSA inspectorate department works closely with the compliance offices of the National Consumer Commission, Consumer Affairs, National Credit Regulator and the South African Police Service to ensure compliance within the automotive industry.

In cases where industry participants have

indicated that the business no longer trades, an inspector will visit the premises to confirm closure.

## **PUBLIC AFFAIRS DEPARTMENT**

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One of the duties of the public affairs department of the MIOSA is to manage stakeholder relationships. As in the past, the MIOSA has succeeded in building and maintaining relationships with the provinces, ombudsman schemes, media and the regulators across the country. The MIOSA kick-started the previous financial year by attending a launch of a Provincial Consumer Court in Mmabatho, North West Province, and also participated in awareness programmes and consumer education workshops across the country.

The public affairs department of the MIOSA collaborated with the National Consumer Commission (NCC) and the Gauteng office of Consumer Affairs and participated in the youth programmes around Mpumalanga and Gauteng.

The public affairs department of the MIOSA participated in the women's month activities that were organised by the Gauteng office of Consumer Affairs and presented at an event that was hosted by the Isago Foundation at Sun City. This event was attended by 650 women.

An in-house public affairs information desk was established to keep MIOSA staff informed. A variety of informative publications such as the constitution and the Second Hand Goods Act is on display.

The NCC saw a need to conduct compliance inspections on used car dealerships. This idea was motivated by a growing number of complaints that were reported to MIOSA and the NCC against used car dealerships. The MIOSA, the National Credit Regulator (NCR), the South African Police Service and Gauteng office of Consumer Affairs played a role in conceptualising the campaign document. This campaign was two pronged, being compliance and awareness. This campaign was successful in a sense that used car dealerships were educated about their responsibilities in terms of different legislations.

The MIOSA also took part in a two-day Consumer Protection Act (CPA) seminar that was proposed by the Consumer Protection Forum and hosted by the NCC. The aim of the

seminar was to clarify the role and the mandate of different stakeholders within the consumer protection space. The MIOSA, Consumer Goods and Services Ombudsman and Mpumalanga Consumer Protection Office were part of the panel that presented their mandates.

The MIOSA's good reputation and vast knowledge of the automotive industry earned media coverage and numerous radio interviews were done during the financial year.

## **OPERATIONS**

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The MIOSA responded to a number of challenges and intense changes during 2017 and there were many areas of exceptional performance during this period.

The case management department brought the closure rate of cases within the stipulations of the South African automotive industry code of conduct (Code). The administration department assisted the case management department with the increase in new cases lodged with the MIOSA. The information and liaison department handled the excessive increase of incoming calls for the year. The public affairs department worked closely with all the provincial departments spreading national awareness amongst consumers and industry participants on vehicle related matters. The inspectorate and finance department worked tirelessly to make sure that all industry participants were recorded and invoiced as per the Code and the legal department took legal action against those industry participants who thought they were above the law.

Technical, CPA No. 68 of 2008, the Code, systems and negotiation training is done with all staff members on a weekly basis. ●

# LETTERS RECEIVED BY MIOSA

Thank you so much for your kind assistance. I am extremely happy to see that there is still justice in a very corrupt world we are living in. Your hard work is much appreciated.

Kind regards

**S SICHERT**

I would like to thank the MIOSA in dealing with this matter professionally. I am happy at last. Keep up the good work.

Regards

**B MASILO**

Finance Economy and Enterprise Development would like to thank your office for supporting our consumer education programmes and resolution of consumer complaints.

Kind regards

**O SITHOLE**

## DEPARTMENT OF ENERGY

Thank you so much team MIOSA. Your speedy assistance in forwarding me details of my case is HIGHLY appreciated.

Regards

**G MOKOENE**

Thank you for your fast response to my query. Thank you for helping me to sort out this account and your offer to pay via debit order. I think that is a much better option.

Thank you for your friendly assistance with my account today.

Kind regards

**S. NDLOVU**

## MIOSA STAFF

**From left to right:** Kobus Rabie, Letissia Jansen, Tjaart van der Walt, Mareldiah Raymond, Deniella Briesies

I'd like to compliment your organisation for the excellent service provided to me. I was assisted and helped after I discovered that there had been several problems with a vehicle that I have just purchased a few weeks ago.

I am in awe at the professionalism, ability and diligence at which MIOSA handled the situation. Within a few days the problem was sorted out and my vehicle was as I had expected it to be.

Such a commitment to great customer service is to be commended. You can be sure that I will continue to spread the word of your organisation.

Sincerely

**MR T PILLAY**

I am impressed with your turnaround time regarding this complaint. I have dealt with the MIOSA for over seven years and I have never had the MIOSA make a ruling within two days. Well done to all. Much appreciated. Also knowing how hectically busy the MIOSA is, this came as a total surprise. I truly appreciate your urgency regarding this complaint.

Thank you

**PEUGEOT CITROËN SOUTH AFRICA**

I would like you to please convey my most sincere appreciation, gratitude and thanks to all of the parties at the MIOSA involved in providing a solution to the dispute involving the repair of my motor vehicle. I am also extremely happy with the outcome and, from my end, deem the case to be closed.

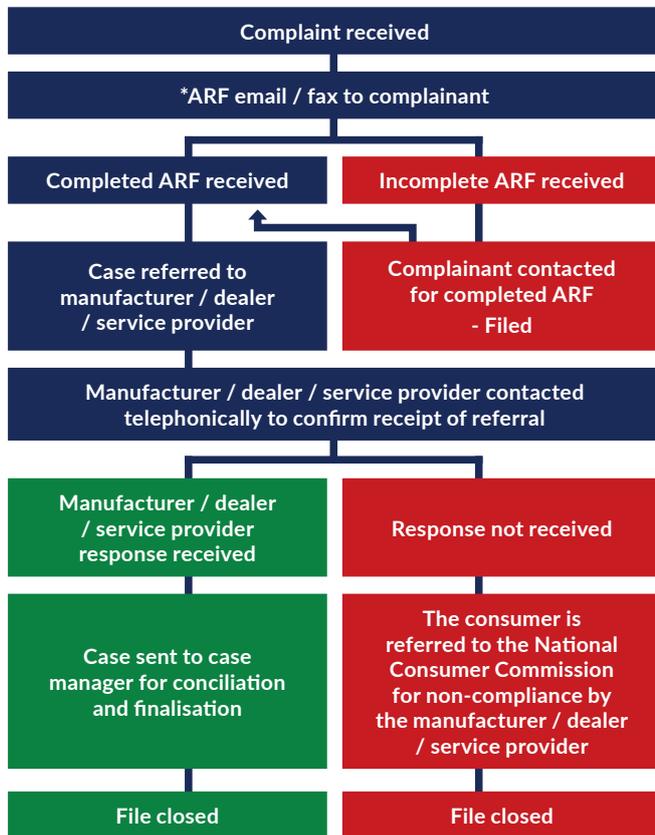
Yours sincerely

**M OCTOBER**



# COMPLAINT PROCEDURE

## THE MIOSA COMPLAINT PROCEDURE VIA EMAIL OR FAX – MANUALLY LOGGED ON THE SYSTEM



A dispute must be submitted on the official MIOSA “Assistance Request Form” (ARF) and filed with the office of the MIOSA by either facsimile, email or pre-paid registered post. Once received, the complaint is logged on our system and an sms and email is sent to the consumer reflecting their case reference number (which is to be used in all future correspondence). Should the MIOSA receive an incomplete ARF, the complainant is contacted and requested to complete the document and resend it to the MIOSA. The case cannot continue until a completed ARF is received. The complaint will then be forwarded under a covering letter to the other party involved for their comment. The other party will be contacted to confirm receipt of the referred complaint. The other party has 10 business days to send the MIOSA his/her comments. On receiving the response, the conciliation process will begin. If a response has not been received, the consumer is referred to the National Consumer Commission.

## THE MIOSA COMPLAINT PROCEDURE VIA ONLINE APPLICATION FORM ON OUR WEBSITE



The consumer completes the online application form found on the website of the MIOSA and submits it, which automatically logs the case on the MIOSA system and an automatic sms and email is sent to the consumer reflecting their case reference number (which is to be used in all future correspondence). The complaint will then be forwarded under a covering letter to the other party involved for their comment. The other party will be contacted to confirm receipt of the referred complaint. They have 10 business days to send the MIOSA his/her comments. On receiving the response, the case is then sent to a case manager for conciliation and finalisation. If the party refuses or neglects to respond, the matter is referred to the National Consumer Commission. ●

# CASE STUDIES

## COMPLAINT

A consumer purchased a new vehicle from a dealer. After a while the consumer had numerous problems with the vehicle, which included engine component defects and/or failure. The required repairs were carried out under the manufacturer's warranty over the course of ownership. After the manufacturer's warranty ended, the turbo and engine failed.

The consumer was of the opinion that if the initial repairs done under warranty were of a high standard, the subsequent failures could have been avoided. The manufacturer had no obligation to assist the consumer regarding the cost to repair the vehicle, but as a gesture of goodwill and without prejudice they offered to incur the majority of the costs to replace the engine.

The consumer was of the opinion that the manufacturer should be held liable for the whole amount as he/she was under the impression that the engine failure occurred due to bad workmanship when the vehicle was under the manufacturer's warranty.

## CONCLUSION

The MIOSA's recommendation was that the manufacturer had no liability to enter into any negotiations to incur costs after the warranty had ended in terms of the warranty agreement.

## COMPLAINT

The consumer purchased a vehicle from a dealer with 135 000 kilometres on the odometer. The consumer started experiencing issues with the vehicle from the second day of purchase. The vehicle eventually broke down and was taken to the dealer for repairs. These were carried out and the dealer offered the consumer a two-year extended mechanical warranty at no cost. The consumer was requested to return the vehicle after driving 1 000 kilometres with the new replaced engine. However, the vehicle broke down prior to the consumer taking the vehicle in. The

dealer then advised the consumer that it was an electronic fault and the throttle body had failed. This issue was not part of the original repair and the vehicle was outside the six months Consumer Protection Act No. 68 of 2008 (CPA) criteria to repair. The dealer offered to assist with half of the repair costs, which was unacceptable to the consumer.

## CONCLUSION

Upon investigating the matter, the MIOSA found that the vehicle still falls within the six-month implied warranty as stipulated in the CPA. Section 56, subsection 2 of the CPA states that a warranty on any used vehicle is valid for a period of six months after the delivery of any goods to a consumer. In light of the above it was recommended that the dealer should repair the vehicle at no cost to the consumer.

## COMPLAINT

The MIOSA received a complaint from a consumer regarding an outboard engine for a motorboat that had failed after repairs. The MIOSA assessed all the information submitted, including photographic evidence that indicated that the engine in question was subjected to excessive overheating. These photos also showed plastic components that had melted. They also showed that the pistons and cylinders had heat seizure marks on them. It was established that the water intake tubes became blocked during the operation of the engine by a foreign matter which caused the engine to overheat and seize.

## CONCLUSION

The MIOSA concluded that from the evidence and submission the operator ignored the warning signs and the continued usage of the engine resulted in total failure. The MIOSA was therefore of the opinion that the engine in question was operated in conditions over which the repairer had no control. Therefore the MIOSA could not support the expectation of the consumer that the service provider be held liable for the failure.

### **COMPLAINT**

A consumer purchased a new Ducati motorcycle with a two-year warranty. Approximately ten months later the big end bearings and a cylinder collapsed. Inspection showed that the consumer had voided the manufacturer terms and conditions by having water leaks repaired by a non-approved service provider, failing to carry out the obligatory oil services. There was also proof that the motorcycle was used improperly on a regular basis.

### **CONCLUSION**

The technical report supplied included pictorial evidence which confirmed the findings made. However, as a goodwill gesture, the manufacturer offered to cover the parts required for the repair with the consumer being liable for the labour costs. The MIOSA concluded that the offer made was fair and just bearing in mind that the failure was due to the consumer's actions and not a product defect or failure.

### **COMPLAINT**

A consumer booked his hedge trimmer in for a service and repairs. Upon collection, the machine was still found to be faulty and he returned it to the dealer who rectified the fault. Approximately a month later the fault reoccurred. The dealer suggested that the machine be returned for repairs at no cost. The consumer insisted that the hedge trimmer be replaced.

### **CONCLUSION**

The MIOSA found that in terms of section 57 subsection 1 of the CPA an implied three-month warranty is provided for all repair or maintenance work and the labour required. The MIOSA was of the opinion that the consumer had acted in line with the above-mentioned section of the CPA by reporting the faults. He also showed willingness to give the dealer a chance to apply corrective measures. The MIOSA found that the dealer must carry out the repairs at no cost to the consumer.

### **COMPLAINT**

A consumer took his boat to a service provider for an engine service and check over. This was done and the boat was returned to the consumer. A short while later the boat was returned to the service provider and it was found that certain internal components had failed. These were replaced. The engine was tested and returned to the consumer. After about eight months the boat was once again returned to the service provider because of engine problems. It was then established that the engine had been subjected to severe heat. An assessment revealed that the water intake pipes were blocked with water weed, thus causing the engine to fail.

### **CONCLUSION**

The complaint was referred to the office of the MIOSA for assessment and it was found that an outside influence caused the engine to fail and therefore could not find that the service provider was liable for the repairs.

### **COMPLAINT**

A consumer purchased a used vehicle from a dealership and the vehicle broke down within three months. The dealership informed the consumer in writing that, because of the high mileage on the vehicle, wear and tear had taken place. The owner approached the MIOSA for assistance.

### **CONCLUSION**

The MIOSA found in accordance with section 51, 55 and 56 of the CPA. Section 51 protects the consumer's rights by not excluding certain sections. Section 55 could not be excluded as it states the vehicle should be usable and durable for a reasonable period of time. This leads to section 56, giving the consumer an implied warranty of quality for six months. The vehicle was returned to the selling dealership and repairs were carried out. Both parties adhered to the MIOSA's finding. ●

# A WORD OF THANKS

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The MIOSA can confidently state that it 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:

- The chairpersons and executive directors of the National Association of Automobile Manufacturers of South Africa, the National Association of Automotive Component and Allied Manufacturers, the Retail Motor Industry organisation, Independent Dealers Association and the Automobile Association of South Africa;
- 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, provincial consumer protectors, the consumer courts, the Department of Trade and Industry and the Departments of Justice and Transport with a special thanks to the Commissioner, Mr Ebrahim Mohamed and staff at the National Consumer Commission;
- The media through its positive and ongoing support;
- The South African Consumer Union and the South African Fraternity of Attorneys;
- The Ombudsman for Banking Services;
- The Consumer Goods and Services Ombudsman;
- The Credit Information Ombudsman;
- The FAIS Ombudsman;
- The Ombudsman for Short-term Insurance.

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 2018 ●



MOTOR INDUSTRY OMBUDSMAN  
OF SOUTH AFRICA

**THE MOTOR INDUSTRY  
OMBUDSMAN OF SOUTH AFRICA**

FOUNDER MEMBER OF THE  
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