

Annual Report 2010



MOTOR INDUSTRY OMBUDSMAN
OF SOUTH AFRICA

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



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Chairperson



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Ombudsman



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Chairperson's comments

Through solid leadership, frugal trading and management policies, the South African motor industry is keeping its head above water through the difficult financial times. Although some job losses and general consolidation were unavoidable, the automotive industry did not rest on its laurels. Rather, it immediately started planning for the growth cycle that inevitably had to follow some of the worst trading conditions in automotive history. The results started to show at the end of 2009 and although not on par with the sales numbers achieved during 2006/7, remarkable levels of growth were achieved during 2010.

South Africa's global economic strategy focuses on improving the country's export performance. A surge in vehicle exports during 2010 resulted in May 2010 showing a 77,9 percent improvement over the same period during 2009. Coupled with this, the growing strength of the rand contributed to vehicle importers enjoying a platform from which to consolidate their recovery strategies.

There were, of course, concerns that still remain foremost in the minds of all industries in South Africa. Some of these are the sustainability of the global recovery as well as industrial action during the year under review. Fuel prices remained high but relatively stable. The carbon-emissions tax on new vehicles was implemented and was readily accepted by the motor industry, but it must be expected to result in some knock-on effect for the consumer. However, the above must be closely monitored to ensure that these very real concerns are properly managed.

Dr Mathews Phosa
Chairperson



The Consumer Protection Act (CPA) that was destined for implementation in November 2010, was postponed to 1 April 2011. However, the work group formed by the Motor Industry Ombudsman (MIO) managed to complete the proposed industry code, which will form the basis of a code to be accredited by the Honourable Minister of Trade and Industry and will provide guidance to the motor industry in its dealings with consumers.

The eleventh year of the MIO's operations was the most challenging it had faced thus far. This was largely due to the added responsibility of coordinating the drafting of the code for the automotive industries, as well as continuing to provide world standard dispute resolution services. Education of consumers and industry stakeholders with a limited budget is a hallmark of the dedication and loyalty of the staff of the ombudsman's office. I would like to thank the ombudsman, Mr Johan van Vreden and his fellow executive directors, as well as the staff of the ombudsman's office for their dedication and the energy they bring to this most important task on a daily basis. I wish to express my sincere gratitude to the vice-chairperson of the advisory board, Mr Theo Swart and his fellow advisory board members who, through their wisdom and experience, have guided the Motor Industry Ombudsman's operations during the past year.

Dr Mathews Phosa
Chairperson



Ombudsman's report – 2010

The year under review managed to produce highlights and events of consequence with hardly any respite in between. The most important factor for the MIO was undoubtedly the implementation of the Consumer Protection Act 68 of 2008 (CPA), which was to be implemented in November 2010, but was postponed to 1 April 2011. Working with other stakeholders, the completion of a code for the automotive and related industries must rate as the highlight of 2010.

Positive growth in the automotive and related industries, after the severe conditions of the recession were closely monitored and served as a good indicator of the general wellbeing and recovery of the South African economy. According to the National Association of Automobile Manufacturers of South Africa (NAAMSA), the industry made great strides, especially on the export side.

The MIO office experienced growth in the number of complaints and requests for advice, whether in times of recession when reduced sales and household incomes are stressed, or during times of economic upswing. This has resulted in the systems and procedures of the MIO being reviewed and improved during 2010.

The review was carried out staying focused on the vision and mission as well as the ambit of the mandate of the MIO. Special emphasis was placed on dispute resolution procedure and also the requirements of the CPA. Certain shortcomings were identified and while some of these could be addressed, others such as hardware and personnel had to be carefully balanced due to budgetary constraints.

Motor Industry Ombudsman
Johan van Vreden



The MIO continues to offer an alternative dispute resolution scheme with easily accessible resolution to consumers, thereby enhancing the levels of consumer protection in the automotive and related industries to the benefit of all concerned. The service remains free of charge to the motoring public.

Dispute resolution processes utilised by the MIO are based on the South African law, objectivity, fairness and good engineering practices. Importantly, the MIO strives to provide transparent, accessible and effective redress and upholds the requirements as set out in the preamble of the CPA.

At present, the MIO derives its income from motor manufacturers, importers, all the major retail groups and a large number of retail outlets and workshops. With the above in mind, the question is often posed how the funding model impacts on the independence of the MIO. This is a fair question. However, the contractual agreement between the MIO and its subscribers contains a clause preventing interference in the day-to-day operations of the Ombudsman's office.

This clause has stood the test of time and the MIO has not had to invoke the non-interference clause at any time.

In its eleventh year the MIO has established a compact but sound infrastructure. Not only has it obtained valuable experience, but has developed substantially in areas of alternative dispute resolution and supportive technologies.



During 2010 the personnel structure of the ombudsman's office consisted of:

- a. The ombudsman;
- b. Legal director and deputy ombudsman;
- c. Liaison director;
- d. Financial officer;
- e. Adjudicators / mediators;
- f. Call centre manager;
- g. Liaison manager;
- h. Call centre staff;
- i. Liaison officer;
- j. Field liaison officers (provincial) in main economic centres;
- k. Administrative staff, including a receptionist.

Over the years the MIO has enjoyed growing support and in the year under review, this growth has culminated in the support of an estimated 90 percent of motor and related industries. Over the past ten years, the MIO has enjoyed the wholehearted support of the following organisations and institutions:

- Members of the South African motoring public, who have ensured the ongoing growth of the ombudsman's office;
- 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;
- The media through its positive and ongoing support;
- The chairpersons and executive directors of NAAMSA, 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 MIO also wishes to extend its sincere thanks to the dealer groups and 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 MIO growing from strength to strength. We trust that our services will continue to benefit all parties in 2011.



Activities

Good communication channels with the automotive and related industries have been maintained and this strategy continues to bear fruit. This has resulted in the MIO being able to assist industry and consumers alike during the very difficult trading conditions that have been prevailing.

There is no doubt that the CPA will impact on the automotive industry on many levels and with this in mind, the MIO is grateful for the trust and confidence placed in it to guide the drawing-up of the Motor Industry Code of Practice. It is envisaged that the MIO will be the custodian of the accredited code and will be able to serve consumers and industry alike where dispute resolution situations exist.

The completion of the Motor Industry Code of Practice was a laborious process that covered almost three years of consultation and meetings. However, the MIO is confident that the draft to be presented to the National Consumer Commission (NCC) in 2011 will form the basis of the code that will be accredited by the Honourable Minister of Trade and Industry.

Several conferences and workshops were attended during the year under review. Most of these covered the CPA and resulted in the office of the MIO being better equipped for the implementation of the Act in April 2011.

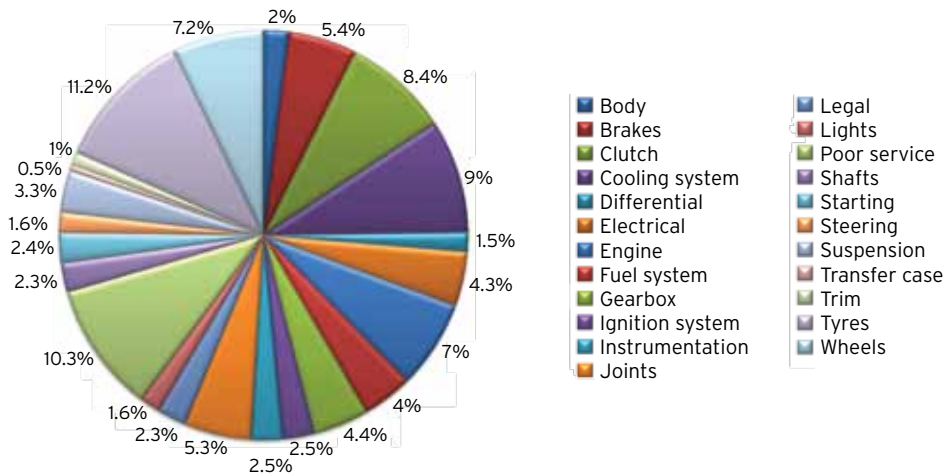
I would like to take this opportunity to once again thank the national media for the platforms it continues to create for the MIO to provide education to consumers. The MIO remains the treasurer of the Ombudsman Association of South Africa. Networking with the other ombudspersons in other industries and sectors of society has assisted greatly to enhance the experience and education of the MIO.

I would also like to thank the executive directors of the MIO for their dedication and hard work during the year and the members of the advisory board for their continuous, unselfish contributions to this office. The leadership and mentoring provided by the chairperson and vice-chairperson were of great value and the MIO remains fortunate to be able to benefit from such wise counsel.

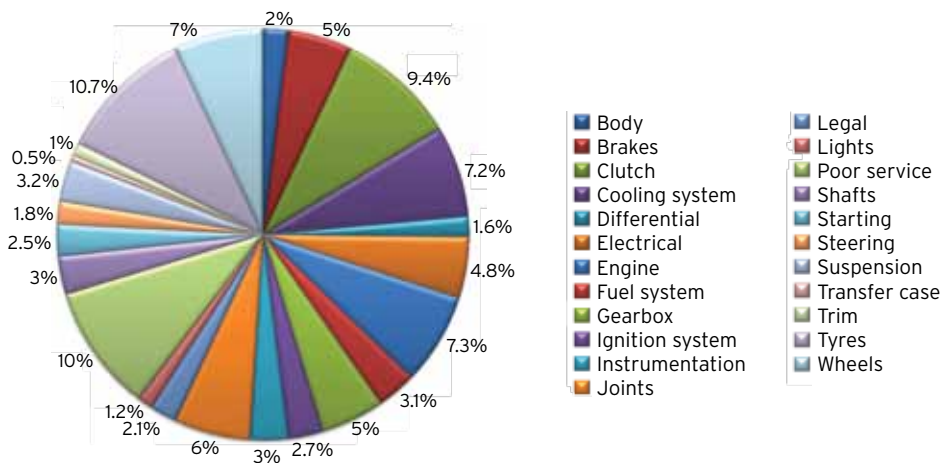
Main causes of complaints

Description	Percentage of total for 2010	Number of complaints for 2010	Percentage of total for 2009	Number of complaints for 2009
Body	2,0%	420	2,0%	406
Brakes	5,4%	1 279	5,0%	920
Clutch	8,4%	2 002	9,4%	1848
Cooling system	9,0%	2 140	7,2%	1436
Differential	1,5%	382	1,6%	322
Electrical	4,3%	1 016	4,8%	1006
Engine	7,0%	1 637	7,2%	1440
Fuel system	4,0%	827	3,1%	602
Gearbox	4,4%	1 023	5,0%	915
Ignition system	2,5%	638	2,7%	532
Instrumentation	2,5%	600	3,0%	570
Joints	5,3%	1 237	6,0%	1202
Legal	2,3%	530	2,1%	416
Lights	1,6%	373	1,2%	242
Poor service	10,3%	2 425	10,0%	2005
Shafts	2,3%	533	3,0%	527
Starting	2,4%	556	2,5%	495
Steering	1,6%	408	1,8%	363
Suspension	3,3%	765	3,2%	630
Transfer case	0,5%	119	0,5%	102
Trim	1,0%	237	1,0%	215
Tyres	11,2%	2 618	10,7%	2104
Wheels	7,2%	1 677	7,0%	1402
Total	100,0%	23 442	100,0%	19 700

Percentage of total for 2010

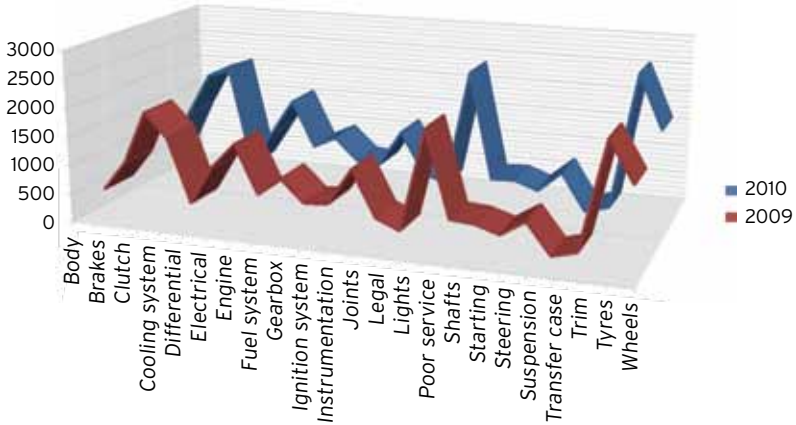


Percentage of total for 2009






Number of complaints for 2009/2010



Complaints received confirm our belief that motor vehicles today are more reliable than in years gone by. Extensive roadworks in the main centres of the country continued through the year under review. This resulted in the most mechanical breakdowns being caused by external factors. The knock-on effect is that when repairs have to be carried out, the risk for disputes increases.

The concern becomes greater when taking into account that there are fewer qualified technicians and the average age has risen to approximately 48 years. A conference attended by representatives of the MIO revealed that the situation is exacerbated by the fact that fewer young people are drawn to the technical side of the automotive industry. Despite sterling efforts made by manufacturers and retailers to train and place new entrants, attraction to the technical side of the industry remains unsatisfactory. One of the major stumbling blocks is the entrance remuneration of apprentices. It is clear that starting salaries in the technical field remains uncompetitive when compared to the starting salaries in administrative positions and other industries such as banking.



It makes a compelling case for government to start investing in employment creation within the automotive and related industries, when one considers that the automotive industry is one of the largest employers in the country.

Credit conditions improved during 2010, which resulted in improved sales of motor vehicles. With the improved credit conditions, many of the complaints received by the MIO turned out to be so-called buyer's remorse. This is a condition that some car buyers experience when faced with the extra expense of a monthly car payment.

Turnaround time for repairs during the year under review was a mixed bag. The time it took for the importation of certain low-volume spares impacted on the time it took to carry out repairs. In areas where service items had to be replaced, workshop times were acceptable and in certain cases well within world standards. However, low-volume spares that had to be imported resulted in delays that frustrated many a car owner.

Cases dealt with by the office of the MIO during 2010 numbered 23 442. A total of 9 200 cases were resolved at first contact. This was as a result of the advice being provided by the call centre adjudicators. Although budgetary constraints limit the call centre's ability to answer calls only during certain times of the working day, the centre plays a major role in controlling the number of cases developing into time-consuming written complaints.

A total of 14 242 written complaints were referred to the relevant manufacturers, dealers and importers. Of these, the MIO made 7 150 recommendations and issued rulings in 683 cases. The remaining 6 409 cases were resolved between the parties through facilitation by the MIO.

Value of complaints dealt with

The estimated value of complaints received in 2010 rose by 12,5 percent from R126 489 299 to R142 300 461. The increase can be attributed to a rise in vehicle sales and the continued roadworks on Gauteng's road infrastructure. Where there were price increases, these were kept to a minimum by the industry and therefore had a smaller impact on the escalation in the value of complaints handled during the year under review.



Case studies

The following are some examples of cases that were dealt with by the MIO. In the interest of vehicle owners and manufacturers involved, names and brands have been withheld. It is also necessary to recap on some of the cases that remain relevant, despite resolution by the MIO. In addition, new scenarios will be added to this section of the report each year.

- A consumer purchased a pre-owned vehicle from an approved dealer. Two years later, the consumer tried trading in the vehicle, only to find that the trade-in value was docked due to the vehicle having previously been in an accident. The condition of purchase was that the vehicle had a clean accident history.

Conclusion: Dealers are considered experts in the field of automotive trade by consumers and most consumers base their purchase decisions on the dealer's expert advice and information. The ombudsman recommended the dealer purchase the vehicle back at full trade-in value at the time of the first attempted trade-in, less usage of the vehicle calculated from first trade-in attempt until the MIO closed the file.

- A consumer purchased a used vehicle from a non-approved dealer. Discount was given on the purchase price to make the monthly installments more affordable. The consumer experienced mechanical problems with the vehicle a year after purchase and then found out that the mechanical warranty advertised with the vehicle was not included. It was discovered that, due to the discount given on the vehicle, an addendum to the purchase agreement stated there would be no warranty and that the selling dealer would not be held liable for the product from date of purchase.

Conclusion: A signature on a document means the signatory has read, understood and accepted the contents thereof.

- A consumer took his vehicle to a dealer for repairs on the central locking system on several occasions without any success. Seeing that he was not getting any satisfaction from the dealer, the manufacturer moved the vehicle to another dealership, where

the central locking system was eventually repaired but the vehicle was returned with the radio not working.

Conclusion: The MIO ruled that the manufacturer should take ownership of the complaint and restore the consumer's vehicle back to specification. It was further ruled that the consumer should be provided with alternative transport for the period of repairs.

- A manufacturer refused to pay for an integrated diagnostic systems and corrosion check, stating that the consumer's vehicle was late for service by six days. An investigation by the MIO revealed that the consumer's vehicle was well on time for the service but that there were changes made to the service intervals of which he was not aware.

Conclusion: The consumer was found to have adhered to the terms and conditions as stated in the original warranty care plan. The MIO ruled that the manufacturer should reinstate the warranty care plan and notify the consumer in writing of any changes made to the service intervals.

- A complainant purchased a new vehicle. He stated that he periodically experienced a toxic smell entering the vehicle upon acceleration. The complainant further stated that he had taken the vehicle to the dealership to resolve this matter, but to no avail. Other problems he experienced with the vehicle were of an electrical nature, faulty fuel gauge, high fuel consumption and an oil leak. All these issues were taken up with the dealer. According to the manufacturer, the vehicle was taken to the manufacturing plant for repairs. Upon return of the vehicle to the complainant, he still voiced his dissatisfaction and the MIO instructed its independent assessor to test-drive and access the vehicle. In his report, the assessor stated that the toxic smell was caused by the exhaust gasses entering the vehicle through the tailgate, which was not closed properly. After ensuring the proper closing of the tailgate, the assessor could not replicate this problem during the test-drive. The assessor,



however, did fault the fuel gauge and the MIO ruled that this must be attended to by the manufacturer. It was also ruled that the manufacturer should test the electrical circuitry to resolve the electrical problems. The high fuel consumption and oil leak were attended to by the dealer and manufacturing plant. Both parties accepted the ruling issued and the vehicle has since been repaired.

- An owner logged a complaint with the MIO regarding the continued problems she was experiencing with the engine of her vehicle. Prior to the case mentioned below, the cambelt had snapped, the air-conditioning had stopped working and the exhaust system was loose. The complainant had her vehicle towed to the dealership, complaining about a noise in the engine and repairs were carried out. She later took the vehicle back to the dealer on numerous occasions, complaining about a noise in the engine. The dealer, of his own accord and without authorisation from the complainant, instructed an engineering company to strip the engine to diagnose the cause of the noise. The engineering company found that the bearings had scuff marks and attributed the noise to normal wear and tear. The engineering company appointed an assessor to inspect the vehicle and he issued a report on his findings. The complainant was not satisfied with the report which revealed that the assessor was not given all the facts regarding previous failures and repairs on the vehicle. The MIO instructed its independent assessor to inspect the engine of the vehicle and to issue a report on his findings. The report from the independent assessor stated that no evidence was found on any part of the engine that could have caused the knocking noise and that the engine had been disassembled unnecessarily. The MIO issued a ruling that the dealer should repair the vehicle at no cost to the complainant. The dealer appealed against the ruling and tabled offers for the consideration of the complainant. The complainant did not entertain these offers and the MIO confirmed this to the dealer and manufacturer on the grounds that the offers by the dealer were not to the benefit of the consumer. The ruling was then accepted and the repairs were carried out.

The MIO's initiative for pre-owned buyers

The MIO's Transaction Protected Project (TPP) continues to progress. The advantages of the project, as motor-related businesses and consumers become more aware, has proven itself beyond a doubt. The impact of the project, to say the least, has been remarkable. Disputes are mainly resolved through the implementation of the project as it emphasises the importance of communication as an essential tool to avoid conflict.

Except for technical inspections, all services provided to consumers by the MIO are free of charge. It makes sense for consumers to purchase vehicles from a participating motor dealer of the MIO's TPP. It is also worth mentioning that feedback received from consumers and motor dealers alike, show a growing confidence for imminent mutual respect and customer retention.

An outstanding feature of the TPP is that its participants are those motor-related businesses that place a high priority on customer service. It is clear that the value and advantages of industry participation in the project is recognised.

Contact the MIO directly for more information or visit www.miosa.co.za

The way forward

To be able to conduct its work independently remains the MIO's first priority. All organisations that contribute to improved vehicle ownership will be supported and assisted by the MIO. The MIO will continue to foster the good relationship it has built up over the years with consumer forums, the motor industry, government departments and motor-related associations. The MIO will also continue with its educational programmes and will utilise all means available to ensure that these programmes are implemented.

In years to come, the CPA will further strengthen the MIO's hand. This will result in industry and consumers being serviced to a greater extent.



Acknowledgements

Now entering its eleventh year, the MIO continues to enjoy the support and cooperation of most role players in the South African motor industry. The following organisations, whose contribution and cooperation continue to ensure the success of the MIO in providing an independent forum for dispute resolution in the motor industry, need to be mentioned:

- The South African motoring public, which has 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 Departments of Justice and Transport;
- The media, for its positive and ongoing support;
- The chairpersons and executive directors of the National Association of Automobile Manufacturers of South Africa, 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 MIO wishes also to extend its sincere thanks to the dealer groups and 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 MIO growing from strength to strength. We trust that our services will continue to benefit all parties in the future.



Letters received by the MIO

“Julle is voorwaar die beste groep wat ek al ooit mee to doene gekry het. Julle is puik. Baie dankie vir julle goeie werk. Dankie aan elkeen wat help werk het aan die saak.”

F Jooste

“I have to tell you that I am impressed beyond words on what an impact you make on people when they get involved with you. I really congratulate you on excellent work done on getting such a wonderful response. Truly very grateful.”

P Woods

“We would also like to thank your friendly and helpful consultants, they are just amazing. I spoke to one of your consultants today and the service from him was exceptionally the best.”

P Bailey

“I cannot begin to express my gratitude! Thank you for intervening.”

C Coetzee

“Thank you for your assistance in this regard. I was very impressed with the turnaround time and the clear authority that your office enjoys with the industry.”

A Ludin



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Non-Executive Director: A.A. Bezuidenhout

Advisory Board: Dr. P. Molefe, M. Moeletsi, R. Nethercott, T. J. Swart, N. Vermeulen