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UPDATE

NEWSLETTER OF THE MOTOR INDUSTRY OMBUDSMAN OF SOUTH AFRICA



THE ROAD AHEAD



MOTOR INDUSTRY OMBUDSMAN
OF SOUTH AFRICA

NEW VEHICLE SALES AND EXPORTS AUGUST 2024

Vehicle sales by segment

Passenger

Aug 2024 | 30,022
Aug 2023 | 29,131



LCV

Aug 2024 | 10,709
Aug 2023 | 13,650



Commercial

Aug 2024 | 2,857
Aug 2023 | 3,073



Total sales

August 2024 | 43,588

August 2023 | 45,854

Total vehicle sales by manufacturer

 Toyota | 10,656

 Volkswagen Group SA | 5,645

 Suzuki Auto | 5,131

 Ford Motor Company | 2,960

 Hyundai Automotive SA | 2,721

Application Volumes

New
cars
51,708

Used
cars
120,966

Average value of
new cars financed

Aug 2024 | R421,294

Aug 2023 | R392,135



MESSAGE FROM THE OMBUDSMAN

The purpose of it all

The purpose of my message in this newsletter is to remind all stakeholders in the motor and related industries – ourselves included – of the purpose of not only the office of the Motor Industry Ombudsman of South Africa (MIOSA), but also that of the Consumer Protection Act 68 of 2008 (CPA).

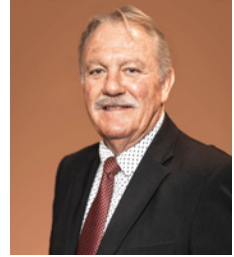
The CPA starts off with the statement that it is there to “promote a fair, accessible and sustainable marketplace for consumer products and services and for that purpose to establish national norms and standards relating to consumer protection, to provide for improved standards of consumer information to prohibit certain unfair marketing and business practices, to promote responsible consumer behaviour.”

I intentionally concluded the statement at this point to emphasise another very important issue that is further elaborated on within the CPA but is not always brought to the fore. It is important to note that the CPA is not only there to protect consumers but also to afford protection to manufacturers, suppliers and service providers in general against unscrupulous behaviour of consumers.

The CPA is explicitly clear that it is a double-edged sword and this is where it becomes important to have an institution such as the MIOSA that can provide objective insight. Over the past twenty-four years, the MIOSA has learned that there is always three sides to a story – that of the consumer, the service provider's version and the unbiased factual side. With this in mind, the MIOSA tirelessly strives to be objective and fair when it comes to dispute resolution.

Each industry has its own challenges and where dispute resolution is concerned

Johan van Vreden
Motor Industry
Ombudsman of
South Africa



the entity charged with having to resolve those disputes should have in-depth knowledge of that industry. This, of course, makes the office of the MIOSA unique in that it does in fact have that insight into the industry and its consumers that it serves. Over the years the MIOSA has strived to continue its understanding of the motor and related industries as well as its consumers.

I believe we have been hugely successful in our endeavours and for that I would be remiss if I did not thank the staff of the MIOSA, the board of directors and the motor and related industries for their unwavering support in order to fulfil our purpose of delivering on the mandate of improving service delivery and relationships. ●





The misconception of unconditional contract cancellation in consumer law

By Darren Smith, Head of the Case Management Department of the MIOSA

There appears to be a prevalent misconception among some consumers that they have a legal right to rescind a purchase agreement simply because they choose to. This misunderstanding is rooted in a lack of awareness about the principles governing contract law and consumer rights.

Under common law, the principle of *caveat subscriptor* (let the signer beware) dictates that once an agreement is reduced to writing and signed, the parties are bound to its terms. In essence, a signature on a contract signifies acceptance and assent to the terms laid out in that document. This principle underscores the importance of careful consideration before entering into any contractual agreement. Buyers should be mindful and deliberate, as their decision to sign is legally binding and not subject to arbitrary reconsideration.

In South Africa, the Consumer Protection Act No. 68 of 2008 (CPA) plays a significant role in creating a fair-trade environment. However, it is important to note that it does not grant consumers an unconditional

right to cancel agreements at will. While the CPA aims to protect consumers by ensuring transparency and fairness in transactions, it does not offer unfair advantages or blanket rights to return goods for a refund purely based on a change of mind.

The CPA does provide certain protections, such as the right to a refund for faulty goods or services not delivered as promised, as well as a cooling-off period for certain types of transactions, such as direct marketing. However, these provisions are specific and do not equate to a general right to rescind a purchase for any reason.

Therefore, consumers should be well-informed about their rights and obligations before entering into agreements. The key takeaway is that while consumer protection laws aim to balance fairness in trade, they do not override the fundamental contract principle that parties are bound by their signed agreements. It is crucial for consumers to make informed decisions and avoid the assumption that they can easily retract from a contract without due cause. ●

A CASE IN POINT



COMPLAINT

The complainant purchased a motorcycle, which was advertised as having a full service history, from the respondent. After having received the service book, he noticed that it only contained the last service carried out and none prior to that. The respondent offered to get the service book up to date and after months of waiting for the service history, it was not forthcoming. The complainant requested a replacement motorcycle with a full service history, or cancellation of the sales transaction.



FINDING

The Motor Industry Ombudsman of South Africa (MIOSA) found in favour of the complainant and recommended that the motorcycle be returned to the respondent for cancellation of the sales transaction. This was due to the misrepresentation of the facts, as the respondent had advertised the motorcycle as having a full service history when it in fact did not.



COMPLAINT

The complainant made his vehicle available to the respondent for an engine overhaul. After the repair the complainant reported a concern which occurred at cold start, but the respondent could not assist immediately due to parts supply. Thereafter the vehicle's engine reportedly lacked power, but the complainant continued to drive it until it broke down. The respondent found that there was no oil in the engine of the vehicle, and that it had been driven in that condition. The respondent refused to repair the vehicle at its cost.



FINDING

It was found that the complainant had noted that the oil light had illuminated, but carried on driving the vehicle for about 400 km. By utilising the vehicle in that oil-starved state, the complainant had caused damage to the engine, which ultimately led to its destruction. As such, in terms of Section 57 of the Consumer Protection Act, 68 of 2008 (CPA) the warranty would not apply. The MIOSA found the complainant would be liable for the cost to repair the vehicle.



COMPLAINT

The complainant scheduled his pre-owned vehicle for engine-related engineering work with the respondent. The vehicle was repaired according to the estimate provided, and the complainant paid the invoice in full. However, a dispute arose when the complainant alleged that the respondent had not repaired a specific part of the vehicle's electrical system. As the parties had reached a deadlock, the complainant approached the MIOSA for assistance.



FINDING

The MIOSA requested that both parties provide the job cards, estimate, and tax invoice. It became clear that the electrical components mentioned by the complainant were not included in the work performed by the respondent. The electrical system component in question was located in an area of the vehicle unrelated to the respondent's work. The issue with the electrical system component was latent in nature, and therefore, the MIOSA concluded that the respondent was not liable for it.



COMPLAINT

A week after purchasing and taking delivery of the vehicle, the complainant experienced power loss concerns (misfiring). Upon returning the vehicle to the respondent, it was determined that the spark plugs were defective and required replacement. The supplier offered to replace only two of the four spark plugs, advising that the components are serviceable items. The complainant wanted the respondent to replace all four spark plugs.



FINDING

The concerns raised arose inside the parameters of the six-months' implied warranty as per Section 56 Subsection 2 of the CPA. Considering that the complainant only had possession of the vehicle for a week and during this time, it was not due for a service, the office of the MIOSA made a finding supporting the expectations of the complainant. Upon receipt of the finding letter, the respondent complied and replaced all four spark plugs, which resolved the vehicle's misfiring concern. The complainant collected the vehicle and was satisfied with its performance. ●

PEOPLE, PUNS AND PRODUCTS

Change of leadership at MBSA

Mercedes-Benz South Africa Limited has announced that Claudius Steinhoff has taken over from Mark Raine as the Co-Chief Executive Officer and Executive Director of Mercedes-Benz Cars, effective 31 August 2024. Steinhoff started his career with Mercedes-Benz in 2008 as a student at the Cooperative State University Baden-Wuerttemberg. Since 2011 he has held different roles in Treasury, Product Management and as an executive assistant to the Head of Region Overseas. He took over the responsibility of President and CEO of Mercedes-Benz Singapore in October 2020. In 2023 he completed his Global Executive MBA programme at INSEAD Business School in Singapore.



Jetour appoints local VP

In a market characterised by intense competition and financial constraints, introducing a new brand of SUV is daring, but newly appointed Vice President for Jetour in South Africa, Nic Campbell, says that the brand is poised to establish a new standard of excellence in the local automotive industry. Campbell has been in the motoring trade for over 14 years, with extensive experience working with international car brands and original equipment manufacturers in South Africa. He understands the needs and expectations of the key stakeholders within the value chain and what is needed from a South African perspective and says that finding the middle ground is key. With the seven-seater Jetour X70PLUS and five-seater DASHING models arriving in South Africa soon, Campbell says that the company is entering the local market with what customers want: affordable luxury, alongside a comprehensive strategy to ensure that parts are available, that dealers are on board and that aftersales service is in place. Jetour has already started stocking R100 million in parts and has secured 40 dealerships nationally.

Another new player on local soil

GAC arrived in South Africa in August, aiming to establish itself as a world-class enterprise, focussed on delivering high-quality products and services to gain the trust of South African customers. GAC Motor South Africa is making a notable commitment to the local market by establishing a network of 20 franchised sales and servicing dealers across the country. Over the next 18 months, the company aims to expand its dealer network to 30 locations nationwide. Looking further ahead, GAC Motor plans to increase this network to 40 dealers within the next three years. The first models to be introduced are the GS3 EMZOOM and the EMKOO.



Mahindra reaches major milestone

Mahindra South Africa recently celebrated a major milestone at its assembly facility in Durban when the 20 000th South African assembled Mahindra Pik Up rolled off the production line. This comes six years after Mahindra opened its assembly facility in 2018. Initially Mahindra set a goal of producing 2 500 Pik Up models a year. It has since exceeded that goal by a factor of four. Mahindra first started producing single cab Pik Up models at the plant before increasing the plant's capabilities and the complexity of its semi-knocked down (SKD) line to reach a point where each Pik Up is a complete nuts and bolts assembly. Over time, Mahindra South Africa added its double cab and special edition models, such as the Karoo Editions to the line-up and today all Pik Up models are assembled here. Mahindra will soon enter the next phase of its journey by starting production on a brand-new assembly facility. This facility will cover 14 000 m² and will redouble Mahindra's investment in the country.



New Nissan Patrol unveiled

The all-new Nissan Patrol was unveiled at an exclusive event in Abu Dhabi recently and according to all reports this seventh generation is the perfect embodiment of what the nameplate has stood for over the past 70 years. It introduces several groundbreaking advancements – including a striking new design, a powerful

V6 twin-turbo engine, a nine-speed automatic transmission and adaptive air suspension for enhanced all-terrain capability. Indeed, this new model is a bold leap forward, blending performance and technology to redefine what an SUV can be. There is no official word yet on if and when the all-new Patrol will be available in South Africa.

Eurorepar launches in SA

Eurorepar, a new independent aftermarket brand of Stellantis, has launched in South Africa. Initially designed to cater to the needs of Stellantis (Opel, Peugeot, Jeep brand, Citroën, Abarth, Alfa Romeo and FIAT) owners whose vehicles have surpassed the initial warranty and service plan period, Eurorepar offers a comprehensive range of high-quality, cost-effective parts and services. By leveraging its global network, Stellantis can source alternative parts for all



vehicles outside their initial warranty and service plans for at least half the price of the genuine OEM parts. Eurorepar doesn't only support Stellantis brands though their approved parts also being available for other makes of vehicles, supported by the same guarantees around price, quality and accessibility. These are all supplied through any Stellantis dealership.

PUBLIC AFFAIRS UPDATE

Third quarter a mixed bag of activities

Lucious Bodibe
Public Affairs
Manager of the
MIOSA



Before the end of the second quarter, the Motor Industry Ombudsman of South Africa (MIOSA) was already inundated with requests and invitations from various organisations to take part in Father's Day and Youth Month events. Due to a tight schedule, the MIOSA could not accept all the invitations and off-loaded some of the events to fellow stakeholders, for which they were very appreciative.

Following Youth Month, the MIOSA charged into the third quarter by taking part in the employee financial wellness campaigns that were hosted by Gauteng Department of Education (Gauteng North District) and Northern Cape Department of Education. Each department identified areas of need among staff members and invited relevant regulators and ombud schemes with jurisdiction to empower its personnel.

During these campaigns the MIOSA helped one consumer to register a complaint online and advised another four to afford the selling dealerships and a service providers the opportunity to attempt to resolve their complaints internally before approaching the MIOSA for independent and impartial conciliation. The MIOSA also participated in a tertiary financial wellness campaign that was hosted by the Financial Sector Conduct Authority (FSCA) at the University of KwaZulu-Natal.

The Northern Cape and KwaZulu-Natal campaigns were two-pronged as the MIOSA conducted compliance visits to automotive industry participants in

the mornings, followed by consumer education workshops in the afternoons.

In terms of stakeholder relationships, the Public Affairs Department in collaboration with Financial Regulators agreed on a working relationship with the South African Police Service (SAPS) Employee Wellness and Social Work Services. This collaboration is aimed at empowering members of SAPS regarding their consumer rights. The MIOSA activated this relationship by presenting at a SAPS Father's Day event and took part in a subsequent employee wellness event that was held in Pretoria.

The MIOSA wrapped up the third quarter of the year by honouring an invitation from the office of the Premier of the Northwest Province, where the role of the MIOSA within the automotive industry and consumerism was presented.

In closing, the MIOSA would like to thank the community radio stations that always assist in reaching out to communities where access to information remains a challenge. In this quarter alone the MIOSA participated in ten radio interviews.

The MIOSA is expanding its reach both in person and online, which supports its goal of making consumer education appealing and trendy. The MIOSA believes there are no limits to what it can achieve, and the Public Affairs Department is excited to end the year with great success. ●