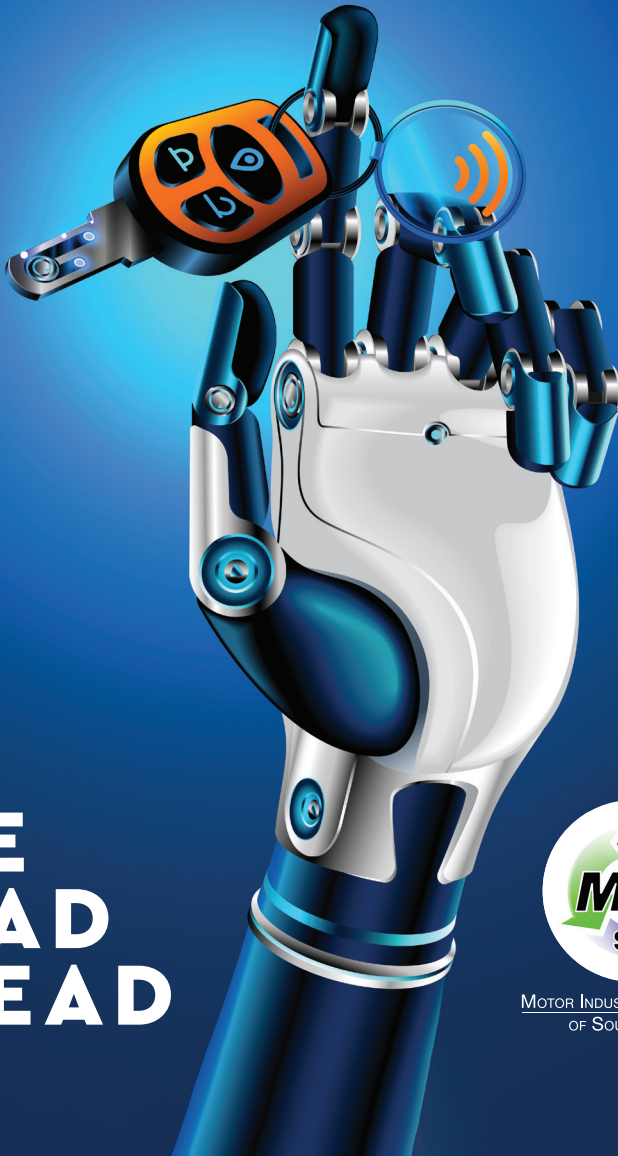


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NEWSLETTER OF THE MOTOR INDUSTRY OMBUDSMAN OF SOUTH AFRICA



THE ROAD AHEAD



MOTOR INDUSTRY OMBUDSMAN
OF SOUTH AFRICA

NEW VEHICLE SALES AND EXPORTS AUGUST 2020

Highest Sales August 2020: Hilux

3,613

VEHICLE SALES BY SEGMENT

Passenger

Aug 2019 | 29,003

Aug 2020 | 19,545



LCV

Aug 2019 | 14,055

Aug 2020 | 11,336



Commercial

Aug 2019 | 2,426

Aug 2020 | 2,634



TOTAL SALES

August 2019 | 45,484

August 2020 | 33,515

VEHICLE SALES BY CHANNEL

DEALERSHIP

30,875

RENTAL

252

GOVERNMENT

1,419

SINGLE SALES

969

TOP 3 SELLING VEHICLES

Passenger

1. VW Polo Vivo - 1,586

2. VW Polo - 1,573

3. Toyota Fortuner - 733

LCV

1. Toyota Hilux - 3,613

2. Isuzu D-Max - 1,670

3. Ford Ranger - 1,657

APPLICATION VOLUMES

Average value of new cars financed

August 2019

332,161

August 2020

364,048

MESSAGE FROM THE OMBUDSMAN

Johan van Vreden
Motor Industry
Ombudsman of
South Africa



2020 - THE YEAR OF CHALLENGES

Who could have fathomed in January 2020 that we, as a country and an organisation, would soon be facing a crisis of mountainous proportions? A crisis so severe that it impacted on every single South African, regardless of position, financial strength or class. It was especially our economy that took the greatest strain and we know now that some of the decisions taken by our government were good and some were less so. However, hindsight is 20/20, as they say.

On March 23rd, 2020, President Cyril Ramaphosa addressed the nation regarding the Coronavirus pandemic. He announced a nationwide lockdown that would be enforced for a predetermined time and was revised as the pandemic spread across the world.

The Motor Industry Ombudsman of South Africa (MIOSA) decided to act proactively and held a brainstorming session, where all possible scenarios were investigated, discussed and debated. Hence it was decided to put a plan of action in place that would be flexible enough to accommodate a variety of different scenarios that might develop during this period.

The main emphasis was placed on our core business and here the COO together with the IT specialists and the managers of the Finance, Case Management, Administration Information & Liaison, Inspectorate and Public Affairs. Departments immediately started work to ensure that the Case Management Department, which is the heartbeat of our

organisation, remains active and as productive as possible. Over a relatively short period of time, in Alert Level 5, the organisation mobilised staff to work remotely and from Alert Level 4, a third of the staff complement could maintain a presence at the office.

Although productivity was reduced in the advent of what is now commonly referred to as the "new normal", it quickly gained momentum again as people became used to the altered reality that they were suddenly thrust into. Within no time, productivity figures shot up to almost normal levels and we were able to maintain the standards set by the South African Automotive Industry Code of Conduct.

It is, however, with regret that we continue to witness the rapid decline in the automotive and related industries. Businesses that did not survive and the extensive decline in our export figures were, and are still, a great worry for our industry. It is with great relief and satisfaction that I am able to end this message with the knowledge that the MIOSA was able, through good planning and innovation, to save the jobs of all its employees.

Special arrangements were made in all areas of human resources to ensure the well-being, as well as the job security of our staff compliment. We hope that our efforts have and will continue to contribute, in some way, to the progress made by the automotive and related industries to get operations back on track after the pandemic has run its course. ●

FROM THE DESK OF KOBIE KRAUSE

COLLECTION OF CONTRIBUTIONS GAINS MOMENTUM

The Motor Industry Ombudsman of South Africa (MIOSA) found it extremely difficult to collect contributions when the accredited South African Automotive Industry Code of Conduct (Code) was first implemented. There were many reasons for this, the main one being questions around the jurisdiction of the MIOSA.

Eventually, in March 2020, an appellate judgement put an end to the uncertainty and ruled that jurisdiction to collect contributions shall vest “wholly within the area of jurisdiction of the Pretoria magistrates court”.

Obviously litigation to collect contributions for motor and related industry participants was severely hampered by the nationwide COVID-19 lockdown regulations. It did, however, afford the Legal Department of the MIOSA ample time to prepare the necessary documentation to initiate litigation to recover contributions from those industry participants who have been refusing to contribute.

A CASE IN POINT

COMPLAINT

The consumer booked his vehicle in for a scheduled service and a start/stop issue. Two batteries were replaced, but a rattling noise developed.

CONCLUSION

After about 350 kilometres, the vehicle was assessed and a fault with injector number 1 was found. After replacement, the vehicle began misfiring. An independent assessor found failures on the number 1 piston and the

Kobie Krause
Deputy ombudsman



This should now at least satisfy those participants who have diligently been paying their contributions in the past that they are not subsidising those defaulters anymore.

As we all know the wheels of justice grind rather than speed. The situation should dramatically improve over the next three months as the collection of arrears gains momentum and new participants commence with the payment of their contributions.

In terms of the Code, all industry participants are obliged to inform the MIOSA of their existence. It is not up to the MIOSA to find them. All contributors are added to the MIOSA database, which is regularly updated.

Rest assured that the MIOSA inspectors will find all non-contributors soon and bring them to book, so to speak. The organisation wishes to thank all the contributors for their support and cooperation over the past years. ●

number 1 cylinder respectively. The engine needed to be replaced and the injectors needed to be checked.

It was determined that the repair costs would be for the consumer's account as the OEM warranty had expired and the MIOSA's technical department established that the scheduled service and additional work done could not have contributed to the subsequent engine failure. ●

PEOPLE, PUNS AND PRODUCTS

FERRARI'S 10TH ONE-OFF CREATION REVEALED

The Ferrari Omologata, commissioned by a European client, is the latest offering in Ferrari's line of unique one-off models. It features a V12 engine and took a little over two years to complete from the initial presentation of sketches. The idea was to create a futuristic design with distinctive elements reinterpreted in a fresh manner. The underpinnings of the 812 Superfast were used, but only the windscreen and headlights were kept as bodywork elements.



CELEBRATING FORD'S BOKKIE BAKKIE

A few years after the first Cortina bakkie was launched in South Africa in 1971, Ford released a limited edition of the Cortina MK3 bakkie, badged the Cortina Springbok edition. Designed to commemorate the All Blacks rugby tour to South Africa, it was produced in limited numbers and given the nickname 'bokkie bakkie'. Dr Brian Hodgson Rademeyer owns one of these bakkies, originally purchased by his grandfather. Rademeyer realised that it held manufacturing and marketing provenance and decided to restore it to its former glory. The factory paint code was found, the three-speed gearbox overhauled, suspension and other



rubber parts were sourced and replaced, and all other wear and tear components replaced. The 2.5-litre V6 engine was thoroughly checked and is still under the bonnet. The gold-painted Springbok emblems were carefully traced and cut from vinyl. Brian's bakkie deviates from the original only because of its lighter genuine leather interior colour – compared to the darker vinyl in the original – as well as the rubberised loadbox with tonneau cover.

PLASTIC WASTE USED FOR LUXURY INTERIORS

Next-generation Jaguar and Land Rover models will feature floor mats and trims made with



fibre from recycled industrial plastic, fabric offcuts from clothing manufacturers, fishing nets from the farming industry, and those abandoned in the ocean – known as ghost nets. Created by Aquafil, the ECONYL regenerated nylon has already been used to create handbags, backpacks, swimwear and watch straps. The waste is reclaimed from all over the world and then analysed, treated and prepared to feed into a chemical plant, where the nylon waste is broken to its original raw material using a chemical treatment process. The raw nylon material is then turned into the yarn, which can then be used to manufacture floor mats for future Jaguar and Land Rover models.

CAR GETS A NEW EDITOR

Well-known motoring journalist Ray Leathern took over as editor of CAR magazine at the beginning of September. Leathern joined Highbury Media in 2017 as group motoring editor after three years as online editor at TopCar. Along with the CAR editorship, he will continue growing the motoring component of Highbury's business. He is the publication's tenth editor in its 63-year history.



PEOPLE, PUNS AND PRODUCTS

ZIMBABWE'S CAR OF THE YEAR

The Zimbabwe Car of the Year Awards, which were launched towards the end of last year, had to be adjusted due to the COVID-19 pandemic which hindered vehicle test drives and evaluations. The competition went online, creating an opportunity for the public to vote for their favourite vehicle. The Isuzu D-MAX garnered 56% of the votes. The D-MAX has had a presence in Zimbabwe for a number of years and the Isuzu brand has earned a reputation for its reliability, durability and capability.



More than a quarter of light commercial vehicles (LCVs) sold each month in Zimbabwe are Isuzu branded.

GOODYEAR BLIMP: AN ICON FOR OVER A CENTURY

This year, the newest Goodyear blimp was introduced in Europe, along with the three existing blimps in the United States. In September, the new European blimp was present in the skies above the 24 Hours of Le Mans and the Nürburgring. The story of the Goodyear Blimp can be traced back to 1912, when Goodyear engineers first developed a fabric 'envelope' for lighter-than-air aircraft, inspired by the achievements of the Wright brothers just a few years earlier. The newest Blimp is the largest semi-rigid airship in the world today, measuring 75m long, up to 19.5m wide, and 17.4m tall. Its passenger compartment provides seating for up to 14 passengers. The airship's total volume is 8,425m³ and is filled with non-flammable helium. It is powered by three 200hp engines, can reach a maximum speed of 125km/h and has a range of 1 000km. Its maximum flight altitude is 3 000m.



FORD LAUNCHES ENGINE DONATION PROGRAMME

Ford Motor Company of Southern Africa (FMCSA) has embarked on an engine donation programme to support skills development and training at technical high schools across South Africa. A total of 240 engines, valued at R7.8-million, are being donated. The engines are assembled at Ford's Struandale Engine Plant in Port Elizabeth. Partnering with the Department of Basic Education, Ford's aim with the programme is to promote technical skills development and training in the automotive sphere. It will give learners the opportunity to understand and appreciate the inner workings of modern engines, and will help ignite greater interest in the field of automotive manufacturing and technology. Hopefully this will also lead to greater focus on the diverse range of engineering disciplines to address the shortage of these essential skills in South Africa.



MOTORSPORT LEGEND APPOINTED AS TOYOTA ADVISOR

Toyota Motor Corporation has announced the appointment of Tommi Mäkinen as a Motorsport Advisor from January 2021 – with the aim of further advancing the manufacturing of ever-better cars. Behind the appointment is Mäkinen's impressive contribution to the supercharged re-ignition of Toyota's World Rally operations from 2017. Mäkinen and his team of professionals at Tommi Mäkinen Racing Oy helped Toyota to develop a highly competitive rally car and to run it at the highest level of world rallying, the FIA World Rally Championship. Toyota hopes to benefit from Mäkinen's expertise, learning from his world-leading vehicle development know-how, cultivated at TMR, in order to link this to specific business development. ●



FROM THE DESK OF DIANE TERBLANCHE



Diane Terblanche
Non-executive director

ALTERNATIVE DISPUTE RESOLUTION THROUGH MOTOR INDUSTRY OMBUDSMAN OF SOUTH AFRICA (MIOSA) VERSUS CONTRACTUAL ALTERNATIVE DISPUTE RESOLUTION MECHANISMS

If a consumer chooses to complain to the MIOSA instead of making use of a contractually agreed alternate dispute mediator, does that prevent such a consumer from enforcing his or her rights before the National Consumer Tribunal (Tribunal), under the Consumer Protection Act, Act 68 of 2005 (CPA)?

The National Consumer Tribunal considered this question in *Jordaan v Ergoflex 57 CC t/a Arnold Motors* (NCT/128501/2019/75(1)(b)) [2019] ZANCT 183 (1 October 2019). *Jordaan* and *Ergoflex* agreed in their contract that "Should no resolution concerning the complaint be reached, the Seller must provide the Purchaser with an alternate Dispute Mediator (in this case an IDA)".

Jordaan approached the MIOSA with her complaint, instead of taking up the contractually agreed-upon route for resolving her complaint.

When *Jordaan* was unsuccessful with the MIOSA, the organisation referred her to the National Consumer Commission (NCC), where she received a notice of non-referral. Once *Jordaan* received a notice of non-referral from the NCC, she approached the Tribunal.

The Tribunal pointed out that Section 70 of the CPA sets out the alternate dispute resolution process and agents, the latter, including the MIOSA.

The MIOSA is the accredited Ombud under section 82(6). Sections 70 (1) and (2) provide that an alternative dispute resolution agent may be:

- (1)(b) *An industry Ombud accredited in terms of section 82(6), if the supplier is subject to the jurisdiction of any such Ombud;*
- (2) *If an alternative dispute resolution agent concludes that there is no reasonable probability of the parties resolving their dispute through the process provided for, the agent may terminate the process by notice to the parties, whereafter the party who referred the matter to the agent may file a complaint with the Commission in accordance with section 71.*

The Tribunal also considered section 51(1)(b)(iii), which provides that: "A supplier must not make a transaction or agreement subject to any term or condition if it directly or indirectly purports to set aside or override the effect of any provision of this Act."

The Tribunal found that *Arnold Motors'* clause (above) does not mean that it can override the CPA provisions. As such, it ruled that – irrespective of contractual agreements with dealers – consumers can enforce their rights under the CPA by launching their complaints through the MIOSA. ●

RAISING AWARENESS AND CREATING STAKEHOLDER RELATIONSHIPS IN THE NEW NORMAL

Lucious Bodibe
Public affairs
manager of the
MIOSA



When President Ramaphosa declared the national lockdown on March 23rd, 2020, almost every stakeholder within consumer protection wondered how they were going to reach out to vulnerable consumers. This uncertainty was fuelled by some of the national lockdown regulations that became effective immediately after the President's address.

The old methods of raising awareness and creating stakeholder relationships evolved when this new era dawned. It became clear that in the so-called "new normal", technology would most likely replace conventional methods.

What was more exciting, and at the same time challenging, about these changes was that even those who were born before technology could not afford to and did not want to lag behind.

By the time these changes arrived, the Motor Industry Ombudsman of South Africa's (MIOSA) Public Affairs Department had already implemented a long-term plan that resonates with the Fourth Industrial Revolution (4IR). So, the organisation simply cruised through the transition.

Since the inception of the "new normal", the MIOSA has held several high-profile

virtual meetings and chaired two of them. Through the MIOSA's social media platforms, we are now able to share real time news. The MIOSA reports on an event as it happens.

However, some traditional methods are still relevant. The MIOSA continues to work with commercial and community radio stations and issue press releases on a monthly basis.

The organisation wishes to salute the media for raising their hand when the MIOSA needed a platform through which it could dispense consumer education during hard national lockdown.

In preparation for Black Friday week, the MIOSA is running a joint trial with the Department of Economic Development, Environment, Conservation and Tourism of North West Province in order to establish how consumers respond to our presence and to also gauge whether the environment is safe for the organisation to resume its awareness campaigns.

So, one may ask if the old method of raising awareness still has space in the "new normal". The answer is a resounding YES. Human interaction is and will remain extremely important. ●