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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 NOVEMBER 2022

Vehicle sales by segment

Passenger

Nov 2022 | 32,859
Nov 2021 | 28,100



LCV

Nov 2022 | 13,477
Nov 2021 | 11,154



Commercial

Nov 2022 | 3,077
Nov 2021 | 2,541



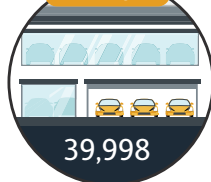
Total sales

Nov 2022 | 49,413

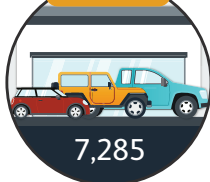
Nov 2021 | 41,795

Vehicle sales by channel

DEALERSHIP



RENTAL



GOVERNMENT



SINGLE SALES



Top 3 selling vehicles

Passenger



Toyota Corolla Cross | 2,109



SUZUKI Swift | 1,751



VW Polo Vivo | 1,741

LCV



Toyota Hilux | 3,048



Ford Ranger | 1,979



Toyota Hiace | 1,944

Application volumes

New cars
63,158

Used cars
127,445

Average value of
new cars financed

Nov 2022 | R399,418

Nov 2021 | R372,660

MESSAGE FROM THE OMBUDSMAN

Johan van Vreden
Motor Industry
Ombudsman of
South Africa



Safety first

It is unbelievable how fast 2022 has flown by. Silly season is upon us and with it comes the opportunity to relax, unwind, and spend quality time with family, friends and loved ones. Because of financial difficulties many South Africans will not be able to enjoy the luxury of a summer vacation. There are, however, those that will be on the road during the festive season.

I recently received a most welcome invitation from my vehicle's service provider to bring it in for a free pre-holiday check. That's what I call being proactive and it is most definitely a passive market strategy that will pay dividends in the long run. Consumers benefit from a free pre-holiday safety check and the service provider benefits from an opportunity for its sales and technical staff to interact with its customers. It's a win-win situation.

Many franchise service providers offer a similar service to their customers, but I wonder how many independent service providers do the same. It goes without saying that we, as motorists, have a

responsibility to ensure the safety of those travelling with us by seeing to it that our vehicles are in good working order before embarking on long journeys.

There is definitely a difference between commuting to and from work every day and undertaking road trips between Johannesburg and Cape Town, for instance. Long journeys require more planning and preparation, which should start with ensuring that your vehicle is in the best possible condition to endure the rigours of long-distance travelling. Of course, drivers also have a responsibility to stay focussed and alert at all times and to be responsible and considerate road users. I was most impressed to find that some service providers provide pamphlets with useful travelling hints and advice. What an excellent idea!

All that remains for me is to wish South African consumers and everyone within the motor and related industries a safe and peaceful festive season. I look forward to continuing our relationship and communications in the new year. ●



PUBLIC AFFAIRS UPDATE

The year in retrospect

As we approach the festive season, almost everyone involved with consumer education and protection is scrambling for exposure in the media, be that print, radio, television, or social media. In fact, the media has a vital role to play in this regard and all platforms have embraced the opportunity to advance the interests of consumers.

Community radio stations in particular have become important platforms when it comes to empowering communities regarding consumer rights. This is because most of the community radio stations broadcast in the languages of the communities they serve. Some of the radio stations that the MIOSA has visited, serve as community help centres. They are confronted with service-related complaints on a daily basis and find themselves with no option but to refer such complaints to the relevant service providers or regulators.



Lucious Bodibe
Public Affairs
Manager of the
MIOSA



As we approach the end of 2022, we would like to take the opportunity to look back and appreciate the tremendous impact community radio stations made by providing the MIOSA with a platform for exposure to various communities and other consumer protection groups. The MIOSA participated in no less than seven community radio interviews between September and December this year. Some of these interviews served to inform communities about upcoming events with which the MIOSA was involved.

Another highlight during 2022 was the MIOSA's participation in international consumer law conferences in the second half of the year. This is indicative that we are part of a global community of consumer protectors. Not only did the conferences expose the MIOSA to a tapestry of international consumer protection laws, but they also bore testament to the exceptional work that is done by local ombud schemes and other relevant stakeholders.

In November the National Consumer Commission invited the MIOSA to present its alternative dispute resolution processes to a Zimbabwean consumer protection delegation. It also shared its experience in terms of consumer education on, and awareness of, the automotive and related industries at large.

We are not resting on our laurels though. In March 2023, the MIOSA will be celebrating World Consumer Rights Day in Rustenburg. This event will be preceded by awareness campaigns and compliance visits to the Northwest Province. ●

A CASE IN POINT



COMPLAINT

The complainant booked his used vehicle in at the respondent for diagnosis and repairs related to the timing. The respondent provided an initial estimate, which was accepted by the complainant before repairs were carried out. Upon completion of the agreed repairs, additional concerns were identified, and an additional estimate was provided to the complainant. This was not accepted, and the complainant requested a refund on the initial repairs.



RECOMMENDATION

Having assessed all the information at the disposal of the MIOA, it was evident that the respondent had only charged the complainant for the initial repairs it had been authorised to do, and only after the complainant had accepted the cost estimate that was provided. Therefore, the respondent had not contravened any provision of the Consumer Protection Act 68 of 2008 (CPA). Section 15 Subsection 2 (a) states that a service provider to whom this Section applies, must not charge a consumer for the supply of any goods or services contemplated, unless the supplier or service provider has given the consumer an estimate that satisfies the prescribed requirements, and the consumer has subsequently authorised the work.



COMPLAINT

The complainant purchased a used vehicle, with an approximate odometer reading of 182 012 kilometres, from the respondent. From the information at hand, it was evident that the initial concern raised arose within the first six months of ownership, and within the same period of time, the vehicle had to undergo further repairs on about three different occasions. The complainant requested the cancellation of the sales transaction or a suitable replacement vehicle.



RECOMMENDATION

The MIOA considered the provisions of Section 55 Subsection 2 of the CPA, which

states that every consumer has a right to receive goods that are reasonably suitable for the purposes for which they are generally intended; are of good quality, in good working order and free of any defects; and will be useable and durable for a reasonable period of time, having regard to the use to which they would normally be put and to all the surrounding circumstances of their supply.

In terms of Section 56 Subsection 2 of the CPA the consumer may return the goods to the supplier within six months after delivery, without penalty and at the supplier's risk and expense, if the goods fail to satisfy the requirements and standards contemplated in Section 55. In addition, the supplier must, at the direction of the consumer, either repair or replace the failed, unsafe, or defective goods; or refund to the consumer the price paid for the goods. Subsection 3 of the same Section of the CPA states that if a supplier repairs any particular goods or any component of any such goods, and within three months after that repair, the failure, defect or unsafe feature has not been remedied, or a further failure, defect or unsafe feature is discovered, the supplier must replace the goods; or refund to the consumer the price paid for the goods. When a sales transaction is cancelled, a supplier is entitled to charge a consumer for the applicable cost of usage and quantum of damages during the period of ownership.

The MIOA recommended that unless a suitable similar replacement vehicle could be sourced timeously, the sales transaction should be cancelled, with the purchase price paid for the vehicle being refunded, less the applicable cost of usage. ●



PEOPLE, PUNS AND PRODUCTS

Business leader of the year

Andrew Kirby, President and CEO of Toyota South Africa Motors (TSAM), was recently named 2022 Business Leader of the Year at the Sunday Times Top 100 Companies Awards. The Business Leader of the Year Award is based on nominations and votes by business leaders. Kirby was recognised for the stewardship role he played in resuscitating the Toyota Prospecton Plant in Durban after it was severely damaged by floods in April. A disaster management executive dispatched to the site by parent company Toyota Motor Corporation (TMC) stated that it was the most extensive damage to any production facility within Toyota globally. However, by the end of July the plant had started ramping up and regained full production in September.



Electric bakkie from Tesla

Rumour has it that Tesla is planning to start mass production of its Cybertruck at the end of 2023. Tesla CEO, Elon Musk, is quoted as saying that the company is working on preparing its plant in Austin, Texas. Apparently the Cybertruck's production status is listed as "tooling", which is commonly accepted to mean that it is being prepared for production. Tesla stopped taking orders for the Cybertruck outside North America in May this year because – as Musk revealed – it had more orders than it could fulfil for three years after the start of production. There is no word on pricing or specifications yet.

Suzuki Jimny gets competition

Force Motors – the manufacturer of the Gurkha 4x4 – recently appointed ETG Logistics as its distributor in Southern Africa. ETG has since confirmed products such as the Gurkha, the Traveller midi-bus and the Kargo King bakkie range will soon be introduced locally. The Gurkha three-door mini-SUV was clearly inspired by the Mercedes G-Class. Power comes from a 2.6-litre diesel engine with 67kW available at 3 200 r/min and 250Nm of peak torque on tap at 2 400 r/min. A five-speed manual gearbox is standard, as are a 7-inch infotainment system with Apple CarPlay and Android Auto, full-LED headlamps, rear parking sensors, central locking, a tyre pressure monitoring system, ABS, and dual airbags. Offering seating for four passengers, the Gurkha is 4 116mm long, 1 812mm wide, and 2 075mm tall, with 500 litres of boot space. This places it squarely in competition with the popular Suzuki Jimny.



A fine collection of Fords

Nestled in the town of White River, Mpumalanga, lies a privately owned museum filled with vintage and classic Fords, most of them in perfectly restored condition. Inside the museum, owned by Herman Nel, there truly is a Ford for everyone's personal preference and generation, but the Model Ts and Model As symbolise some of the most revolutionary years in Ford's illustrious history and are a recommended starting point for the museum's many visitors. Those who relate to slightly newer machinery will be intrigued by Nel's limited edition models, including a 1957 Thunderbird E-Series which he believes might be the only one in the country. Entry to the museum is free and Nel never gets tired of meeting new visitors who share a similar passion to his own. The collection includes 60 vintage and classic Fords and 6 000 model cars



Hyundai goes green

Hyundai Automotive South Africa is running its head office in Bedfordview and several of its Gauteng dealerships on solar power when loadshedding occurs. This follows the installation of a solar energy system at Hyundai Automotive SA's Parts Distribution Centre (PDC) in Germiston in 2019 and early 2020 to reduce its carbon footprint and its dependency on municipal power, and thus also minimise exposure to loadshedding. The installation at the head office and East Rand dealerships does not store power, but feeds electricity back into the power grid when there is a surplus. The vision is to expand the project to more dealerships in Hyundai's network after studying the present installations and their performance.



Happy birthday Chery!

Chery is celebrating its first year in South Africa, along with several major milestones that include reaching the Top 10 in terms of sales in its first year of operation. In its first 11 months of sales, Chery surpassed 10 000 units. It also now

has 74 fully operational dealers across South Africa. The local line-up includes the Tiggo 4 Pro, Tiggo 7 Pro and Tiggo 8 Pro, all of which have been well received by the buying public and represent great value for money.



Rights and responsibilities explained

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

It is important to understand the rights and responsibilities of the parties involved in consumer transactions within the republic of South Africa. The following is a simplified explanation of the intentions, roles, and responsibilities of these parties within consumer law relating to used vehicle purchases.

It is always advisable that a consumer physically views a vehicle and takes it for a test drive before making the decision to purchase. Consumers have the right to inspect products they wish to purchase, and if they are not experienced in this, it would be advisable that they ask someone who is experienced in purchasing vehicles to accompany them.

A dealership has the responsibility to bring the particulars of the condition of the vehicle to the attention of the consumer prior to purchase. This should be done on the for-sale notices attached to the vehicle and on any other marketing materials. If there are specific faults or failures, these should also be listed on the purchase agreement with the

consumer's signature attached, reflecting that he or she had read and understood the document and accepted the vehicle in that condition.

All faults and failures that were not brought to the consumer's attention before the agreement was entered into have the potential of affording the consumer the opportunity, under Section 56 of the Consumer Protection Act no.68 of 2008, to request the repair or replacement of the vehicle, or – depending on the extent of the fault – the cancellation of the transaction.

The intention is to create consumer transactions that protect both consumers and the industry by promoting a transactional process of transparency. As long as the dealership, as the recognised expert, is forthcoming about the product being offered for sale, and there is a record indicating that the consumer was well aware of the features and faults of the vehicle, both the consumer and the dealerships will remain protected by the Consumer Protection Act no. 68 of 2008. ●