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Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

THE NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NO. 2141

Mr T T S Kubheka (MK) to ask the Minister of Trade, Industry and Competition:

What (a) steps have been taken by the Competition Commission and his department to curb the skyrocketing prices of new motor vehicles (details furnished) and (b) total number of dealerships and/or aftermarket garages have been held accountable for exploitative pricing practices harming consumers? NO2129E

REPLY:

I have been advised by the Competition Commission (CC) as follows.

The Competition Commission ("Commission") has in the recent years not received any cases relating to the excessive pricing of new motor vehicles.

In the automotive sector, the Commission has embarked on the following interventions:

- (1) competition advocacy in the automotive aftermarket;
- (2) specific investigations relating to:
 - (a) aftermarket services in relation to repair services and
 - (b) the bundling of motor plan packages with the purchase price of vehicles.

(1) Competition Advocacy in the South African Automotive Aftermarket

Since early 2017, the Commission has conducted extensive consultations and advocacy work in the automotive aftermarket industry to address anticompetitive practices. The Commission published the final '*Guidelines for Competition in the South African Automotive Aftermarket Industry*' (Automotive Guidelines).¹ The Automotive Guidelines

¹ The Guidelines are accessible at [Automotive – The Competition Commission \(compcom.co.za\)](http://Automotive – The Competition Commission (compcom.co.za)).

were published in terms of section 79(1) of the Competition Act 89 of 1998 (“Competition Act”), which allows the Commission to indicate its approach on any matter falling within its jurisdiction, by publishing Automotive Guidelines. The Automotive Guidelines became effective on 1 July 2021 and were updated in 2024.

The Automotive Guidelines were the result of a consultative process with the automotive aftermarket industry and an advocacy initiative to address the competition issues arising. Approximately **fifty (50)** complaints received and investigated by the Commission between 2018 and 2020, revealed that the automotive industry was characterised by anticompetitive conduct such as: exclusionary agreements and arrangements between Original Equipment Manufacturers (OEMs) and approved motor-body repairers; the exclusion or foreclosure of Independent Service Providers (ISPs) from servicing and maintaining and repairing in-warranty motor vehicles; unfair allocation of work to approved repairers by Insurers; restrictions on the sale of original spare parts to ISPs; high barriers to entry that exclude Small and Medium Enterprises (SMEs) and historically disadvantaged persons (HDPs) from becoming approved motor-body repairers and approved dealers; and a lack of competition and consumer choice in the sale and fitment of spare parts. Therefore, the Automotive Guidelines provide practical guidance to the automotive aftermarket industry on measures that should be implemented by industry players to encourage competition and to achieve inclusion through the greater participation of SMEs and HDPs.²

The Automotive Guidelines introduce measures for:

- (a) in-warranty service, maintenance and repair work by Independent Service Providers (ISPs);
- (b) appointment of motor-body repairers by OEMS and fair work allocation;
- (c) appointment of ISPs and fair allocation of work by Insurers;
- (d) appointment of Dealers by OEMs;
- (e) preventing anti-competitive information sharing between multi-brand dealerships;
- (f) fitment and access to original and non-original spare parts by ISPs; and
- (g) access to technical information and OEM-training for ISPs.

² Commission’s Annual Report 2022/2023 on page 85, accessible at <https://www.compcom.co.za/annual-reports/>.

Since the effective date, the Commission monitored and evaluated the implementation of the Automotive Guidelines by the industry, using various advocacy and enforcement tools. The tools included investigation of complaints received, stakeholder engagements, workshops, radio interviews, outreach initiatives and educational material. Workshops were held with ISPs and independent repairer associations in Gauteng, KwaZulu-Natal, Western Cape, Limpopo, North-West, Northern Cape, Free State and Mpumalanga in 2021. In the same year, the Commission hosted a workshop with consumers and consumer interest groups to inform them about what the Automotive Guidelines cover and what it means for consumers. The Commission also published pamphlets to answer frequently asked questions and to explain what the Automotive Guidelines mean for the various stakeholder groups.³

The automotive outreach took place in 2022. As part of the outreach, the Commission representatives visited ISP hubs and workshops in the Eastern Cape and Gauteng to promote the objectives of the Automotive Guidelines and to hand out educational pamphlets and posters. The targeted areas included Gqeberha, Uitenhage, Mthatha, Johannesburg and Pretoria. In 2022, meetings were also held with industry associations representing OEMs, Dealers, ISPs and Insurers, the Motor Industry Ombudsman of South Africa (MIOSA) and National Consumer Commission (NCC), among others, to understand the level of compliance with the Guidelines.

In 2023, the Commission issued a survey to evaluate overall industry compliance with the Guidelines. It was an advocacy approach initiated by the Commission and was not intended for enforcement action. This approach was adopted by the Commission to encourage industry participation. The Survey was therefore administered on a voluntary and anonymous basis and generated over 200 responses from targeted stakeholder groups (OEMs, Dealers, Insurers, and ISPs). The Survey findings report is attached and marked **Annexure A**. In March 2024, the Commission requested information from a sample of insurance companies to assess the number of motor-body repairers onboarded onto the panels of insurance companies. The sample of insurance companies included Discovery Insure, Bryte, King Price, Miway, Outsurance, Santam, and Absa Insurance, which comprise approximately 80% market share of the motor-insurance market.

³ The pamphlets are accessible at [Automotive – The Competition Commission \(compcom.co.za\)](https://www.compcom.co.za/).

Collectively, the insurance companies reported on-boarding 350 motor-body repairers (owned or operated by HDPs) since the effective date of the Automotive Guidelines.

Since the Automotive Guidelines became effective, **59 complaints** were received by the Commission against car manufacturers, dealerships and insurers. Of which 36 were received between 2023 and 2025. The Commission, with the support from industry associations playing a facilitator role, achieved a resolution of complaints for the Complainants, and compliance with the Automotive Guidelines for the broader benefit of all industry participants. Reforms were achieved through circulars and training initiatives to the network of OEM dealers. Most of the complaints received by the Commission relate to; -

- a) defects observed by consumers on their vehicles, after purchase;
- b) disputes over services rendered and payment thereof;
- c) access to OEM's technical information by ISPs, who are mostly SMEs and
- d) voiding warranties by OEMs.

The Commission has been able to resolve some of these complaints, specifically those that relate to issues that touch on the guidelines.

Complaints relating to pricing motor vehicles in the aftermarket mostly relate to disputes about the prices that were initially agreed to by the parties or advertised by the dealer but later disputed. Therefore, most of these complaints relate to the infringement of the Consumer Protection Act, as they appear to be false price advertising by dealers in the aftermarket and are lodged by SMEs or individuals. The Commission has been advising complainants to lodge their complaints with the National Consumer Commission on these matters.

(2) Specific Investigations

(a) Repair Services Cases

The Commission received complaints in terms of section 49B (2) of the Competition Act, from several independent autobody repairers against BMW South Africa (Proprietary) Limited ("BMW SA") on 12 August 2021, 10 December 2021, and 25 March 2022 respectively. The complaints related to possible anti-competitive practice in the automotive

aftermarket pertaining to the exclusion of independent motor body repairers on the network of Approved Repair Centres ("ARCs") by BMW SA. The complainants alleged that BMW SA unjustifiably rejected their applications to become BMW ARCs.

The Commission investigated the possible foreclosure of independent repair centres from the motor body repair market through:

- (a) the exclusive arrangement between BMW SA and its approved ARCs; and
- (b) the inducement of customers not to deal with independent repair centres.

The exclusive arrangement through evergreen Service Level Agreements (SLAs) signed by BMW SA and affiliated ARCs is likely to exclude independent repair centres from effectively participating in the motor body repair market because of their inability to repair BMW motor vehicles that are under warranty, without the necessary approval. In addition, stringent warranty and insurance terms and conditions may induce BMW customers with motor vehicles under warranty not to deal with independent repair centres. The alleged conduct has the potential to limit price competition in relation to costs of repair services.

The Commission engaged with BMW SA regarding the process of addressing the participation of small and/or independent repair shops as well as historically disadvantaged owned independent repair shops in motor body repairs of in-warranty BMW vehicles.

BMW SA has made undertakings to remove the evergreen term SLAs with its dealership affiliated ARCs to a few years term to allow for more participation by independents. BMW SA further submitted that it has taken a decision to conclude an Addendum with its existing dealer-owned ARC network to include the transformation requirement of achieving and maintain at least 51% black ownership and a minimum B-BBEE level rating of 4.

The Commission was satisfied with the steps taken by the BMW SA to ensure its compliance with the Competition Act and Guidelines for Competition in the (the "Automotive Guidelines") by committing to the transformation of its ARC network.

(b) Unbundling of motor plans from vehicle purchase price Cases

On 2 February 2022, the Competition Commission received complaints relating to possible anti-competitive conduct in contravention of certain provisions of the Competition Act and non-compliance with Automotive Guidelines.

The complaints related to the automotive companies not affording consumers the choice to purchase motor vehicles separate from the bundled service plan as required in terms of sections 11.6.1.4. and 11.6.4.1 of the Automotive Guidelines. In particular, the complaints alleged that the service plans are sold as a bundled product together with the purchase price of new motor vehicles, thus adding unnecessary costs and limiting consumer choice.

The Commission assessed the complaints under section 8(1)(d)(iii) of the Competition Act, which prohibits a dominant firm from engaging in the following two interrelated exclusionary acts:

- (a) selling goods or services on the condition that the buyer purchases separate goods or services unrelated to the object of a contract, commonly referred to as 'tying'; and
- (b) Forcing a buyer to accept a condition unrelated to the object of a contract, commonly referred to as 'bundling'.

During the investigations, two automotive companies, i.e. BMW SA and Jaguar and Land-Rover SA took a decision to offer the customers a choice to separate the purchase of a service plan and/or maintenance plan when purchasing a new vehicle. This effectively means that customers can now purchase their new vehicles without the service plan and/or maintenance plan which was previously applicable automatically.

The Commission was satisfied with the steps taken by the respondent firms to ensure compliance with the Automotive Guidelines section 11 by unbundling of service plan and/or maintenance plan from vehicle sales for all new purchases of motor vehicles.

The Commission continues to engage with the broader industry on compliance with the Automotive Guidelines.

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