

Questions and Answers

1. Which distributors are involved in the case? What passenger cars do they distribute?

A total of seven distributors, in relation to 17 car brands, offered to make the proposed commitments to the Commission. They are:

Distributor	Passenger Car brand
Cartel Motors Limited	Citroen
Dah Chong Hong Holdings Limited	Honda and Nissan
Inchcape International Holdings Limited	Jaguar, Land Rover, Toyota, and Lexus
Kam Lung Motor Group Limited	Kia, Volkswagen and Audi
Motor Image (HK) Limited	Subaru
Sime Darby Motor Group (HK) Limited	BMW, MINI, Mitsubishi and Suzuki
Vang Iek Holdings Limited	Mazda and Ford

2. What are the restrictive car warranty terms and conditions identified by the Commission during the investigation? Where are they found?

The Commission identified the following restrictive car warranty terms and conditions:

- (i) terms and conditions which explicitly require customers to have maintenance and/or repair services performed exclusively at authorised repair centres in order to maintain the validity of the warranty; and
- (ii) terms and conditions which are reasonably likely to lead customers to believe that their warranties will be invalidated if their cars are being maintained and/or repaired outside the authorised centres,

regardless of whether the maintenance service or repair item is covered by the warranty.

These restrictive terms and conditions are typically found in standard warranties provided upon the purchase of a new passenger car, which last between 2 to 5 years depending on the car brand. They are also found in the complimentary warranty extensions offered at the time of purchase, which extend the warranty period by an additional 2 or 3 years but usually cover only certain parts of the vehicle, typically the powertrain.

3. What steps did the Commission take during investigation of this case? What are the findings of concern?

During the course of investigation, the Commission has approached relevant market participants and conducted detailed analysis into the restrictive terms and conditions in car warranties. The Commission also openly invited information from the public in particular the views of passenger car owners and independent car repair workshops on the matter, and their views confirmed the Commission's assessment on the practices in the industry.

Based on the findings, the Commission is concerned that the warranty restrictions may have a lock-in effect on passenger car owners, discouraging them from seeking to have their cars serviced and/or repaired at independent workshops during the warranty period, and the likely lock-in effect may render independent workshops less able to compete effectively with authorised repair centres. This may unduly reduce car owners' choice of service and ultimately lead to higher prices for maintenance and repair.

A majority of passenger car owners who submitted their views to the Commission indicated that they would be willing to service and/or repair their cars at independent workshops during the warranty period if they had the choice.

4. What benefits would passenger car owners experience after the removal of warranty restrictions under the proposed commitments? What about the independent car repair workshops?

If the proposed commitments are accepted by the Commission, passenger car owners will have the choice of taking their vehicles to independent car repair workshops for services or repairs not covered by the warranty, without the risk of having their warranty voided on the basis that their car was not serviced and /or repaired at an authorised repair centre.

Other warranty terms and conditions which do not raise competition law issues are not targeted by the proposed commitments and would continue to apply. For example, clauses requiring warranty repairs to be carried out at authorised repair centres would remain, and such repairs will usually be performed at no additional cost under the warranty.

Parts of the car that are covered by a warranty will vary depending on the warranty policy. Existing and potential car owners should check their warranty policy to understand the scope of the coverage and any exclusions.

Apart from car owners, the proposed commitments will lead to positive changes also for independent car repair workshops who will have more opportunities to compete.

5. What are commitments under section 60 of the Competition Ordinance (Ordinance)?

Under section 60 of the Ordinance, the Commission may at any stage accept a commitment to take any action or refrain from taking any action from parties under investigation, where the Commission considers it appropriate to address its concerns about a possible contravention of a competition rule. For the avoidance of doubt, the Commission does not need to reach a definitive conclusion that a contravention of the First Conduct Rule has occurred to accept a commitment.

If the Commission accepts a commitment, it may agree to terminate its investigation and not to bring proceedings in the Competition Tribunal regarding the matters covered by the commitments, or terminate them if it has already brought proceedings. The Ordinance does not require parties offering commitments to make any admission of a contravention. If a person fails to comply with the commitment, the Commission may seek to enforce it in the Tribunal.

6. Why are commitments suitable in this case?

The Commission considers that the proposed commitments are suitable in this case because they would appropriately address the concerns raised by the Commission's investigation in a targeted and effective manner. By ensuring that warranty restrictions will not be enforced and will not be included in new warranties, and existing customers will be duly informed of the changes, the proposed commitments would be a speedy resolution and are considered a proportionate response in the circumstances.

7. How can I make comments on the proposed commitments?

Representations should be sent to the Commission as follows:

- (a) by email (preferred) to Consultation@compcomm.hk, with the case reference number EC/02UB quoted in the subject line of the email;
- (b) by fax to +852 2522 4997; or
- (c) by post to:
Representations on Case EC/02UB
Competition Commission
19/F South Island Place
8 Wong Chuk Hang Road
Wong Chuk Hang.