ISSUE 3 • VOLUME 4 • AUGUST 2013

NEWSLETTER OF THE MOTOR INDUSTRY OMBUDSMAN OF SOUTH AFRICA

MIO SA UPDATE

Tel: 086 116 4672 Fax: 086 630 6141 E-mail: info@miosa.co.za
Suite 156, Private Bag X025, Lynnwood Ridge, 0040

FROM THE DESK OF THE OMBUDSMAN

2012 ANNUAL REPORT -

YEAR UNDER REVIEW HIGHLIGHTED BY THE IMPLEMENTATION OF THE CPA

The implementation of the CPA was to be one of the great consumer events of 2012. Although a very well-thought-out and thorough piece of legislation, we have always maintained that the CPA has as a stumbling block the interpretation thereof. Organisations experiencing difficulty with interpretation included certain groups within the motor industry, the legal fraternity, consumer organisations as well as certain members of the National Consumer Commission (NCC). This made it extremely difficult to implement and created expectations that were not only unrealistic but resulted in "forum" shopping by consumers. Fortunately although not perfect, the MIOSA had the code that was carefully based on the CPA to utilise in matters where disputes arose.

Johan van Vreden -

Motor Industry Ombudsman of South Africa

At the time of writing I must report that the Code is still not accredited by the Minister of Trade and Industry and can therefore not be seen as a regulation that forms part of the CPA. It has, however, as expected brought greater understanding of the CPA to the motor industry and the MIOSA has made the Code available on its website for public consumption.

The year under review saw the motor industry, through the office of the MIOSA, consult widely on public forums such as national and local newspapers, websites and the South African Government Gazette to ensure that the Code gets a reasonable chance of succeeding as an industry document that has as its final goal, legislative impact on all parties. This intensive process has resulted in the stakeholders cooperating as never before to ensure that this Code, that is practically a world first, sees the light of day.

As a regulation, the Code can be adapted as the need arises and as requirements change. This versatility is not only good for the industry but importantly for consumers. As a further leg to the consulting process, the Department of Trade and Industry published the Code widely to further the consultation process. This has resulted in very useful feedback that will be evaluated and incorporated within the Code to improve the contents.

As in every annual report, the cooperation with other stakeholders cannot be overemphasised especially now that the office of the MIOSA has reached its thirteenth year. Although ministerial accreditation of the MIOSA is a cause for great excitement, the MIOSA has managed over the years to successfully adjudicate and conciliate where disputes arose between the motor industry and its customers. The process can be described as transparent, utilising good engineering practice, the South African law, objectivity and fairness. Noteworthy is that the process of the MIOSA is in line with the preamble of the CPA that sets out the fundamental purpose of the CPA.

Although the cooperation with the NCC got off to a rocky start, I am pleased to report that cooperation between the MIOSA and the NCC has greatly improved and it is the purpose of the MIOSA to support and assist the NCC where motoring matters are concerned. As the expert knowledge and experience of the MIOSA is utilised by bodies such as the NCC and the National Consumer Tribunal they will be far better equipped to carry out their mandate when dealing with automotive related matters. The advisory section of the MIOSA was greatly enhanced with the upgrading of the systems which resulted in a slight decline in the number of complaints received. This proved beyond doubt that good communication and advice to all parties at first contact with the MIOSA, will result in not only time being saved but also money in what has become a cash-strapped society.

DEALER OF THE YEAR AWARDS 2012

InspectaCar chief executive officer Gary Farrell (back left) and franchise manager Phillippa Bailey (front) with dealer award winners (from left) Johan Odendaal of Auto Strada Pretoria (runner-up best metro dealer), Jack van Rensburg of Highveld Witbank (runner-up most improved dealership), Koos Nel of Inspectacar Waterberg (runner-up best customer satisfaction index dealer), Muhammed Omar of Epson Motors Nigel (runner-up best rural dealer) and Mark James of Top Marks Pretoria North (runner-up dealer of the year).

Ben van der Walt, best customer satisfaction index dealer, of Inspectacar Rustenburg (right) accepts his award from InspectaCar chairperson Derick de Vries.

Award winners Shameer Akoob (InspectaCar dealer of the year), Yusuf Ebrahim of Steering Auto Benoni and Mark James of Top Marks Pretoria North runners-up dealer of the year respectively.

NEW ADJUDICATOR APPOINTED AT MIOSA

THEO VAN NIEKERK

has been appointed as an adjudicator in the office of the MIOSA as from the beginning of July this year. The MIOSA will greatly benefit from Theo's 30 years experience in Customer Care and Technical Training at Toyota SA.

NEWS FROM KZN

NEW BRANCH MANAGER AT AUTO PEDIGREE PIETERMARITZBURG

Originally from Durban, Sascha Taljaard travelled extensively around the world on his boogie board and working on the biggest cruise ships. He now finally settled down back in KZN and took up the position of Branch Manager at Auto Pedigree Pietermaritzburg.

From left: Sascha Taljaard, new branch manager, Wiseman Mbhele, Sales Executive and Cyril Neilson, MIOSA Project Consultant for KZN

Auto Pedigree KZN subscribes to the TPP of the MIOSA

REVIEW OF THE PAST 3 MONTHS

MAY - JULY 2013

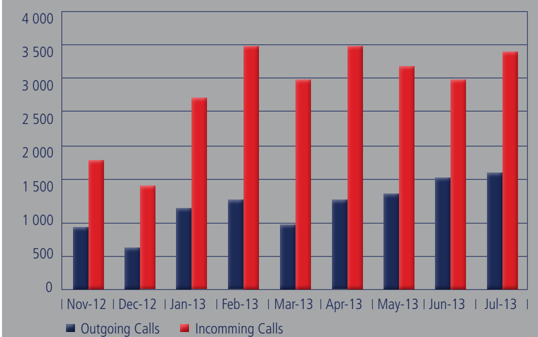
NB: Our call centre is open between 13:30 and 15:30 Mondays to Fridays.

Over the past 3 months a total of 9 726 calls were received, which is an average of 147 calls per working day. As you can see from the table, incoming calls have actually decreased when compared to the calls received between February and April.

The total number of complaints lodged over the past 3 months were 4 622 which is an average of 70 new complaints logged per working day.

Leanne Lubbe - Personal Assistant to the Ombudsman

NUMBER OF OUTGOING AND INCOMING CALLS



FROM THE ANNUAL REPORT 2012

MAIN CAUSES OF COMPLAINTS

Description	Percentage of total for 2011	Number of complaints for 2011	Percentage of total for 2012	Number of complaints for 2012
Body	3,0%	749	2,3%	513
Brakes	4,5%	1 347	5,1%	1 138
Clutch	6,0%	1 497	5,4%	1 205
Cooling system	7,3%	1 821	5,7%	1 272
Differential	1,5%	374	1,8%	402
Electrical	4,5%	1 123	4,2%	937
Engine	7,5%	1 871	7,2%	1 607
Fuel system	3,4%	848	3,3%	737
Gearbox	3,0%	749	2,4%	536
Ignition system	2,5%	624	2,5%	558
Instrumentation	1,8%	437	1,8%	402
Joints	4,7%	1 198	4,5%	1 004
Legal	8,95%	2 223	8,6%	1 920
Lights	1,6%	399	1,6%	357
Poor service	12,5%	3 119	13%	2 902
Shafts	2,0%	499	2,3%	513
Starting	3,0%	749	3,4%	759
Steering	1,5%	374	1,5%	335
Suspension	3,0%	749	3,1%	692
Transfer case	0,5%	125	1,3%	290
Trim	1,2%	299	1,5%	335
Tyres	9,5%	2 370	10,3%	2 299
Wheels	6,5%	1 622	7,2%	1 607
Total	100,0%	24 952	100,0%	22 320

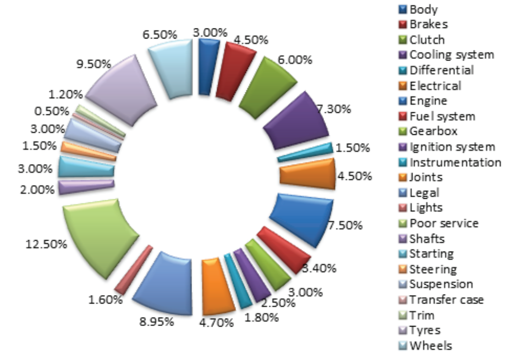
VALUE OF COMPLAINTS

The value of complaints were steady in 2012 and stabilised at an estimated R156 500 000.00. Although the improved road infrastructure in Gauteng played a major role in keeping breakdown statistics down the motor industry also contributed greatly to the stabilisation by keeping the cost of spares and components at price levels that kept these costs under control.

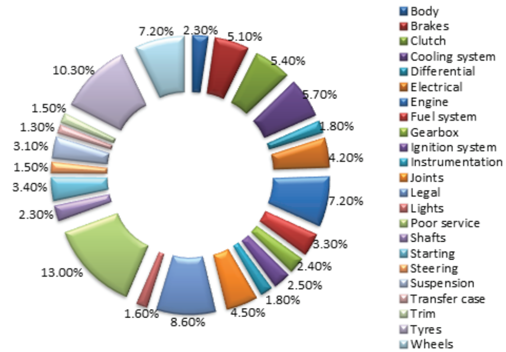
FROM THE ANNUAL REPORT 2012

NUMBER OF COMPLAINTS

PERCENTAGE OF TOTAL COMPLAINTS FOR 2011



PERCENTAGE OF TOTAL COMPLAINTS FOR 2012



CONTACTING CONSULTANTS

Regional TPP consultants for pre-owned vehicle dealers, workshops, panelbeaters and fitment centres

Johannesburg/West Rand	Tjaart van der Walt (jnr)	084 845 9057
Pretoria/Midrand/East Rand Free State/Limpopo/ Mpumalana/North West/ Northern Cape	Mercia van Niekerk Area Project Manager	082 442 9250
Kwazulu-Natal	Cyril Neilson	071 608 9995
Eastern Cape	Stephanie Newsome	081 267 2608
Western Cape	Rozanne Spangenberg	082 575 2681

MIOSA WELCOMES NEW SUBSCRIBERS

The following dealers/service providers have joined the **Transaction Protected Project** of the MIOSA recently:

DEALER GROUPS

AMH GROUP

HYUNDAI BEDFORDVIEW	JHB
HYUNDAI ETHIKWINI	DURBAN
HYUNDAI GEZINA	PRETORIA
HYUNDAI HEIDELBERG	HEIDELBERG
HYUNDAI LENASIA	JHB
HYUNDAI VERMEULEN STREET	PRETORIA
KIA FOURWAYS	JHB
PROTON GEZINA	PRETORIA
PROTON ZAMBESI	PRETORIA
TATA PRETORIA NOORD	PRETORIA
TATA SASOLBURG	SASOLBURG

AUTO PEDIGREE

AUTO PEDIGREE	GOODWOOD
AUTO PEDIGREE	PAARDEN EILAND
KIA KEMPTONPARK	KEMPTONPARK

BARLOWORLD GROUP

TRADERS ONLINE BLACKHEATH	CAPE TOWN

IMPERIAL GROUP

CARGO PRE-OWNED EXCLUSIVE	BASSONIA
IMPERIAL COMMERCIAL	BLOEMFONTEIN
IMPERIAL COMMERCIAL	POLOKWANE
IMPERIAL FORD/MAZDA	CAPE TOWN
IMPERIAL FORD/MAZDA	PAARDEN EILAND
IMPERIAL HINO	ELSIES RIVER
IMPERIAL MITSUBISHI	VEREENIGING
IMPERIAL NISSAN EAST RAND MALL	BOKSBURG
IMPERIAL RENAULT	DURBAN
IMPERIAL RENAULT	KIMBERLEY
IMPERIAL TOYOTA	BEDFORDVIEW
IMPERIAL TOYOTA	PARKTOWN
IMPERIAL TRUCK CENTRE	RIVONIA
IMPERIAL TRUCK CENTRE	VEREENIGING
IMPERIAL USED TRUCKS	BOKSBURG
LEXUS NELSPRUIT	NELSPRUIT
MAGNIS TRUCKS	PRETORIA
MAGNIS TRUCKS	RICHARDSBAY
MAGNIS TRUCKS SILVER LAKES	PRETORIA
MAN TRUCK & BUS	GERMISTON
MERCURIUS MULTIFRANCHISE	POLOKWANE

MCCARTHY GROUP

KIA KIMBERLEY	KIMBERLEY
MCCARTHY NISSAN	SANDTON
MCCARTHY RENAULT GATEWAY	UMHLANGA ROCKS
MCCARTHY RENAULT	WOODMEAD
MCCARTHY VALUE CENTRE	PAROW

PRODUKTA GROUP

NELSPRUIT AUTO FORD	NELSPRUIT

SANDOWN GROUP

SANDOWN COMMERCIAL VEHICLES	ROODEPOORT
SANDOWN NORTHRIDING	JHB

SUPER GROUP

AUTO BALTIC VOLVO	VEREENIGING
CJD/SUZUKI EAST RAND MALL	BOKSBURG
HONDA AUTO	BEDFORDVIEW
LAND ROVER VEREENIGING	VEREENIGING
NASH NISSAN	ALBERTON
RENAULT THE GLEN	JHB
UD TRUCKS	BRITS

UNITRANS GROUP

IC NISSAN	ROODEPOORT
ISUZU TRUCK CENTRE	GOODWOOD
LEXUS BLOEMFONTEIN	BLOEMFONTEIN
ORANJE TOYOTA	BOTHAVILLE
REEDS CT CENTRAL	CAPE TOWN
REEDS N1 CITY	CAPE TOWN
REEDS TYGERVALLEY	CAPE TOWN
RENAULT BENONI	BENONI
RENAULT CLEARWATER	ROODEPOORT
RENAULT KEMPTONPARK	KEMPTONPARK
TOYOTA RIVONIA	JHB

INDEPENDENT DEALERS

AUTO PLATINUM	PRETORIA
AUTO SHOWROOM	KEMPTONPARK
AUTOWEST	VREDENBURG
CARS.COM 2	PRETORIA
DIA MOTORS	KRUGERSDORP
HANNES MEYER MOTORS	PORT ELIZABETH
MARGRI MOTORS	STANDERTON
NORTIER MOTORS	WORCESTER
RIGHT CARS	JHB
RONAT NISSAN	MOSSELBAY
RUSTENBURG AUTORAMA	RUSTENBURG

NAAMSA MEDIA RELEASE:

COMMENT ON THE JUNE, 2013 SOUTH AFRICAN NEW VEHICLE SALES STATISTICS

Nico Vermeulen - Director NAAMSA & Member of MIOSA advisory board

In amplification of the new vehicle sales statistics for the month of June, 2013 – released for public consumption on the website of the Department of Trade & Industry - the Association commented that the June, 2013 new vehicle sales had largely been in line with Industry expectations.

The automotive sector had registered modest growth on a year to date basis. In the event, aggregate Industry sales of 53 562 units for June, 2013 reflected an increase of 3.3% or 1 690 vehicles from the 51 872 units sold in June last year. Export sales had registered a surprising decline falling by 10.6% in volume terms.

Overall, out of the total reported Industry sales of 53 562 vehicles, 45 467 units or 84.9% represented dealer sales, 8.0% represented sales to the vehicle rental Industry, 4.5 % to Industry corporate fleets and 2.6% to government.

During June, 2013 a total of 37 057 new cars were sold which represented an improvement of 1 144 units or a gain of 3.2% compared to the 35 913 new cars sold in June last year.

Sales of industry new light commercial vehicles, bakkies and mini buses at 13 729 units during June, 2013 reflected an increase of 305 units or 2.3% compared to the 13 424 light commercial vehicles sold during the corresponding month last year.

Sales of vehicles in the medium and heavy truck segments of the Industry at 1 040 units and 1 736 units, respectively, had recorded an increase of 177 units or 20.5% in the case of medium commercial vehicles, and an increase of 64 units or 3.8% in the case of heavy trucks and buses, compared to the corresponding month last year.

Industry new vehicle exports during June, 2013 at 24 203 vehicles had registered an unexpected decline of 2 864 units or 10.6% compared to the 27 067 vehicles exported in June last year. The Industry remained on target for new vehicle export growth of around 15%, in volume terms, for 2013.

As was indicated previously, the outlook for the automotive sector for the balance of the year looks less promising than at the beginning of 2013. Domestically, expectations of subdued GDP growth and above-inflation new vehicle price increases – as a result of the sharply weaker exchange rate and the April 2013 increase in CO2 vehicle emission taxes on new cars and certain categories of new light commercials – will contribute to a more difficult trading environment. However, the lower interest rate environment should continue to lend some support to the domestic market. Other positive factors include replacement demand, the highly competitive trading environment, ongoing attractive incentives and high technology new model introductions. Over the medium term, pre-emptive buying by consumers to avoid expected increases in prices of new motor vehicles, as a result of the weaker Rand, could lend additional support. Moreover, over the next four months replacement demand by car rental companies should also contribute positively.

TOTAL VEHICLE SALES BY MANUFACTURER FOR JUNE 2013

(Audited statistics)

	RSA	EXPORT
VOLKSWAGEN GROUP SA	10 620	3 595
TOYOTA	10 087	6 462
FMC	5 187	3 476
GMSA	5 110	156
NISSAN	4 273	1 487
MERCEDES-BENZ SA	2 839	4 013
BMW GROUP	2 792	4 791
HONDA	1 090	11
RENAULT	983	0
JAGUAR LAND ROVER	824	0
CHRYSLER SA	629	64
TATA	599	1
PCSA	549	0
GWMSA	511	0
FIAT GROUP	404	8
SUZUKI AUTO	394	0
MITSUBISHI MOTORS SA	383	53
MAHINDRA	290	0
UD TRUCKS	259	1
VOLVO CARS	259	1
PORSCHE	198	1
MAN	176	37
VOLVO TRUCKS	129	3
IVECO	118	23
SCANIA	111	30
SUBARU	101	0
JMC	59	0
POWERSTAR	53	2
FAW	32	0
RENAULT TRUCKS	25	2
NC2 TRUCKS SA	8	0
BABCOCK	7	0
FERRARI	10	0
MASERATI	5	0
VOLVO BUS	5	0
VDL BUS & COACH SA	1	0
SUB TOTAL	**49 144**	**24 219**
AMH & AAD	4 900	0
INDUSTRY TOTAL	**54 044**	**24 219**

Article acknowledgement: NAAMSA and RGT SMART

FROM THE DESK OF THE DEPUTY OMBUDSMAN

IMPLIED WARRANTY IN TERMS OF SECTION 56, SUBSECTION 4 OF THE CONSUMER PROTECTION ACT 2008 (CPA)

Kobie Krause -
Deputy Motor Industry Ombudsman of South Africa

A copy of the draft Code of Conduct for the Motor Industry is available on the MIOSA website - **www.miosa.co.za**

A perception exists that if a consumer refuses to buy an extended warranty or a service plan when buying a vehicle, that the dealer has no further obligation towards the consumer regarding the product.

In terms of section 56, subsection (4) of the Consumer Protection Act (CPA) it is quite clear that the implied warranty for a period of 6 months in terms of sub section (1) shall always apply. Furthermore it is quite clear that this implied warranty is in addition to any other implied warranty or condition imposed by the common law, CPA or any other public regulation, or any express warranty or condition stipulated by the producer or importer, distributor or retailer, as the case may be.

It would further be illegal to attempt to negotiate any other form of the implied warranty with a consumer other than the implied warranty as described above. The old practice of giving a 1500 kilometre or 30 days warranty is a fruitless exercise as the implied warranty mentioned above will still apply. If an extended warranty is sold to the consumer the terms and conditions of such a warranty cannot negate or change the implied warranty in terms of section 56(4).

The only instance where the implied warranty will not apply is when the product is sold in terms of section 55 (6) read with section 49 of the CPA as was discussed in our newsletter issue 3 volume 2 dated September 2011.

The same principles will apply in respect of a warranty on repaired goods in terms of section 57 of the CPA.

It is therefor not a good idea to sell extended warranties which exclude consequential damage as the implied warranty will override the condition of the extended warranty and the supplier will have to foot the balance of the bill.

VEHICLE SALES-JUNE 2013: TOP PERFORMERS

Passenger Car Market

Position	Movement	Make	Model	Qty
1	↑	VOLKSWAGEN	Polo Vivo 1.4 Base 5-dr	1167
2	↓	VOLKSWAGEN	Polo 1.4 Comfortline 5-dr MY10	1162
3	→	FORD	Figo 1.4 Ambiente 5-dr MY12	989
4	↑	VOLKSWAGEN	Polo Vivo 1.4 Trendline 5-dr	844
5	↓	TOYOTA	Etios HB 1.5 Xi 5-dr MY13	742

Light CV < 3501kg

Position	Movement	Make	Model	Qty
1	↑	CHEVROLET	Utility 1.4 Base MY12 PU	683
2	↑	NISSAN	NP200 1.6 AC Safety PU	603
3	↓	TOYOTA	Quantum 2.7 Sesfikile 16-s Bus MY12	501
4	→	NISSAN	NP200 1.6 Base PU	488
5	→	NISSAN	NP200 1.6 AC PU	437

Medium CV 3501-8500kg

Position	Movement	Make	Model	Qty
1	→	MERCEDES	Sprinter 515 CDi 2.2 E4 P-Van	76
2	↑	ISUZU	NPR 400T 4x2 Ch-Cab F-C	58
3	↑	ISUZU	NPR 400T AMT 4x2 F-C	50
4	→	IVECO	Daily 35S15V-12 4x2 P-Van	48
5	↑	MERCEDES	Sprinter 519 CDi 3.0 HR E5 P-Van	42

Heavy CV 8501-16500kg

Position	Movement	Make	Model	Qty
1	→	HINO	Hino 500 1626 4x2 LWB F-C	75
2	↑	UD TRUCKS	UD 80B 4x2 F-C	30
3	↑	ISUZU	FTR 850 4x2 AMT F-C	29
4	↓	UD TRUCKS	UD 90B 4x2 F-C	23
5	↑	TATA	LPT 1518TC 4x2 Local F-C	20

Extra Heavy CV > 16500kg

Position	Movement	Make	Model	Qty
1	→	FREIGHTLINER	Argosy 90 Cummins 500 6x4 T-T	74
2	↑	FREIGHTLINER	Argosy 90 DDC 440 6x4 T-T	51
3	↑	VOLVO	FH13I 440 S/R SC 6x4 T-T	51
4	↓	MERCEDES	Actros 2644 LS/33 6x4 T-T	50
5	↑	VOLVO	FMX13I 440 6x4 S/R SC T-T	43

Bus > 8500kg

Position	Movement	Make	Model	Qty
1	→	MERCEDES	OF 1730/59 FE 4x2 Bus	18
2	↑	MERCEDES	OF 1726/59 4x2 Bus	17
3	↑	VOLKSWAGEN	17.210OD FE 4x2 Bus	12
4	↑	MAN	26.310 LL FOCNR F-Eng 6x2 Bus	11
5	↓	TATA	LPO 918 4x2 Bus	7

Article acknowledgement RGT SMART