Navigating recent automotive regulatory reforms

A road map for car dealers and dealer councils



How dealers and dealer councils can use various reforms to effectively and efficiently improve their bargaining position.



New Dealer Agreement

- 1. Consider Collective Bargaining - ACCC class exemption and appointment of negotiator
- 2. Seek advice on Unfair Contract Terms
- 3. Seek advice on insertion of terms incorporating the mandatory principles of best practice terms for dealer agreements
- 4. Consider Part 5 of the Code including the capital expenditure requirements and request written disclosure of capital expenditure obligations and a discussion of the expenditure including likelihood of recoupment
- 5. Request distributor to insert FCW desired commercial terms



Variations or Amendments to the Dealer Agreement

- 1. Consider Collective Bargaining ACCC class exemption and appointment
- 2. Seek advice on Unfair Contract Terms
- 3. Seek advice on insertion of terms incorporating the mandatory principles of best practice terms for dealer agreements
- 4. Consider capital expenditure requirements and determine whether Part 5
- > was the dealer agreement entered into before 1 June 2020 and was the disclosure document created or updated before 1 June 2020?
- > is the dealer agreement being renewed or extended after 1 June 2020 and is the disclosure document created or will it be updated after

If Part 5 applies, then the distributor must also satisfy the requirements in clause 51 of the Code

5. Request distributor to insert FCW desired commercial terms



Distributor Proposes Change to Distribution Model

- 1. Consider Collective Bargaining - ACCC class Exemption and appointment of negotiator
- 2. Seek advice on Unfair Contract Terms
- 3. Seek advice on insertion of terms incorporating the mandatory principles of best practice terms for dealer agreements, including fair compensation as referred to in Principle 5
- 4. Request distributor to insert FCW desired commercial terms



MOTOR TRADES ASSOCIATION

Distributor proposes changes to dealer standards or policies that are likely to have an adverse financial impact on dealers

- 1. Consider Collective Bargaining ACCC class exemption and appointment of negotiator
- 2. Seek advice on Unfair **Contract Terms**



Distributor Proposes Change to or a Review of the Dealer **Network**

- 1. Consider Collective Bargaining - ACCC class exemption and appointment of negotiator
- 2. Seek advice on Unfair **Contract Terms**
- 3. If a review of the dealer network has implications for capital expenditure by dealers then consider whether Part 5 of the Code applies



Distributor Proposes Change to or a Review of PMAs

- 1. Consider Collective Bargaining - ACCC class exemption and appointment of negotiator
- 2. Seek advice on Unfair Contract Terms
- 3. If a proposed change or review of PMAs has implications for capital expenditure by dealers then consider whether Part 5 of the Code applies

Contact our team for more information



Sotheary Bryant, Principal Lawyer, FCW Lawyers M +61 403 625 524 **E** sotheary.bryant@fcwlawyers.com.au



Robert Gardini, Gardini Consulting Pty Ltd Download the latest version of the full Guide at www.fcwlawyers.com.au



FCW Lawyers

Level 2, 15-31 Pelham Street Carlton VIC 3053 Australia

E connect@fcwlawyers.com.au W fcwlawyers.com.au