



3 July 2019

General Manager  
Adjudication  
Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

Email: [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au)

To General Manager:

**Re: Collective bargaining class exemption – submission**

**1. Introduction**

- 1.1 The Motor Trades Association of Queensland (The MTA Queensland or the Association) welcomes the opportunity to respond to the Australian Competition and Consumer Commission's (ACCC) consultation on the collective bargaining class exemption and associated documentation including:
- the eligibility criteria, including whether a \$10 million aggregated annual turnover threshold, and other features of the class exemption, are appropriate settings for this policy,
  - the one-page advanced notice that groups are required to submit to the ACCC and the target counter party in order to be eligible for the exemption,
  - the plain English guidance note for using the class exemption, and
  - the draft legislative instrument, which is the technical, legal document that will create the class exemption.

**2. MTA Queensland evaluation**

- 2.1 The Association has evaluated the consultation documents and supports the draft regulatory program to create the collective bargaining class exemption for small business and the underpinning documentary framework for the exemption.

**Motor Trades Association Queensland**

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- 2.2 The Association appreciates and welcomes the intended scope of the class exemption which applies to:
- Any franchisees having businesses and contracts that are governed by the provisions of the Franchising Code of Conduct and having the desire to collectively bargain with their franchisor; and
  - Any fuel retailers having a fuel re-selling agreement as defined by the Oil Code of Conduct with the same fuel wholesaler, and operate under the same system or marketing plan determined, controlled or suggested by the fuel wholesaler or and an associate of the fuel wholesaler, who wish to collectively bargain with their wholesaler.
- 2.3 The draft class exemption has the potential to assist businesses in the motor trades value chain to achieve better operational outcomes as expressed in Daryl Essington-Wilson's (Essington-Wilson Family Group Pty Ltd) submission to the ACCC. He indicated that consideration was being given to either submitting an application or a notification for collective bargaining on behalf of small rental companies in respect of their dealings with motor vehicle insurers. Daryl is the Executive Chairman of the Family Car Rentals (Gold Coast and Newport, Sydney) and is the MTA Queensland's Rental Division's Vice Chair.
- 2.4 The automotive value chain is undergoing significant challenges that demand the adoption of either new or revised business models to adjust operations to the paradigm changes caused by disruption and technological changes. As the Guidance Paper indicates, the proposed class exemption can provide small scale enterprises with benefits when negotiating as a group with a target business rather than individually, including:
- reducing and/or sharing the time and the cost of establishing mutually beneficial supply arrangements,
  - creating greater opportunities to negotiate terms of supply that more closely reflect the group's needs (as compared to simply executing a signed standard form contract),
  - gaining better access to information, for example by sharing relevant commercial intelligence, or disbursing the costs of engaging a professional advisor,
  - creating new marketing opportunities through the ability to represent combined volumes that are more attractive to larger or new buyers or sellers, and
  - streamlining and coordinating ordering and delivery, and hence creating supply chain efficiencies.

### **3. Operation of the class exemption**

- 3.1 The MTA Queensland has formed a view that this statutory framework could contribute an important facility for businesses in the automotive value chain and would be pleased to cooperate with the ACCC to monitor its implementation to ensure it is achieving the intended policy outcomes and unintended consequences are effectively managed.

#### **4 The MTA Queensland background**

4.1 The MTA Queensland is the peak organisation in the State representing the specific interests of businesses in the retail, repair and service sector of Queensland's automotive industry located in the State. There are some 15,500 automotive value chain businesses employing approximately 88,500 persons generating in excess of \$20 billion annually. It is an industrial association of employers incorporated pursuant to the *Fair Work Act 2009*. The Association represents and promotes issues of relevance to the automotive industries to all levels of Government and within Queensland's economic structure.

4.2 Australia's first automotive hub, the MTA/Q, has been established in specifically designated accommodation at the corporate office. The hub is an eco-system that supports innovation for the automotive industry.

4.3 The Association is the leading automotive training provider in Queensland offering nationally recognised training, covering technical, retail and the aftermarket phases of the motor trades industry through the MTA Institute - a registered training organisation. It is the largest automotive apprentice trainer in Queensland employing in excess of 35 trainers geographically dispersed from Cairns to the Gold Coast and Toowoomba and Emerald. The MTA Institute last financial year provided accredited courses to in excess of 1,600 apprentices and trainees.

Thank you for your consideration.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brett Dale', with a small horizontal line at the end.

Dr Brett Dale DBA  
Group Chief Executive  
MTA Queensland