NEW FRANCHISING REFORMS
TO BECOME LAW ON 1 JULY 2021

1 June 2021

To: ALL AADA MEMBERS

In March of this year, the Morrison Government announced a set of changes to the Franchising Code of Conduct (FCC) aimed specifically at providing greater protections for franchised new car Dealers. These automotive specific principles have now passed into legislation as part of a wider reform package which strengthen the FCC to better protect franchisees and include significant increases in penalties applied to those found to be in breach of the regulations.

A full summary and further detail of the changes to the FCC is available in the final regulations and the Explanatory Statement.

Of particular interest to Dealers in the statement is Schedule 11 (page 30) which details new obligations for Dealer Agreements.

Highlights from the reforms include:

- A revised definition of a motor vehicle dealership that includes those who act as an agent of a Manufacturer/Distributor.
- Improved clarity about the requirement for Manufacturers to act in good faith.
- An obligation for Manufacturers to compensate Dealers when they withdraw from the market, rationalise the network or change the distribution model.
- The components of compensation are specified and compensation cannot be contracted out of in the Dealer Agreement.
- Dealers must be given a reasonable opportunity to recoup Manufacturer specified capital expenditure.
- More broadly, applicable to all franchising agreements, legislates strengthened dispute resolution procedures and confers responsibility for administering them on the Australian Small Business and Family Enterprise Ombudsman.

The Government has also committed to further investigating the merits of a standalone Automotive Franchising Code and has indicated that consultations will begin shortly.

This legislation is due to take effect from 1 July 2021.

AADA’s Media Release can be downloaded here.

If you have any questions or need further information, please contact:

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