



ISSUE 1 • VOLUME 12 • MARCH 2021

UPDATE

NEWSLETTER OF THE MOTOR INDUSTRY OMBUDSMAN OF SOUTH AFRICA



THE ROAD AHEAD



MOTOR INDUSTRY OMBUDSMAN
OF SOUTH AFRICA

NEW VEHICLE SALES AND EXPORTS FEBRUARY 2021

Highest Sales February 2021: Hilux

3,031

VEHICLE SALES BY SEGMENT

Passenger

Feb 2021 | 24,270

Feb 2020 | 29,622



LCV

Feb 2021 | 11,246

Feb 2020 | 11,616



Commercial

Feb 2021 | 2,005

Feb 2020 | 2,058



TOTAL SALES

February 2021 | 37,521

February 2020 | 43,296

VEHICLE SALES BY CHANNEL

DEALERSHIP

31,635

RENTAL

3,740

GOVERNMENT

1,282

SINGLE SALES

864

TOP 3 SELLING VEHICLES

Passenger

1. VW Polo Vivo - 2,543

2. VW Polo - 1,733

3. Suzuki Swift - 945

LCV

1. Toyota Hilux - 3,031

2. Ford Ranger - 1,858

3. Isuzu D-MAX - 1,315

APPLICATION VOLUMES

NEW

51,930

USED

115,079

Average value of new cars financed

February 2020

331,436

February 2021

363,738

MESSAGE FROM THE OMBUDSMAN

USING REGULATIONS TO YOUR ADVANTAGE

The new year kicked off with a lot of hope and trust in the next 12 months after the disastrous 2020. The pandemic that spread across the world in record time created havoc and we all thought that 2021 would bring some relief. But, alas, we started the year with another lockdown that bore down heavily on the motor and related industries and the motoring public in general.

Our hopes were revived after the president announced some relaxation of the lockdown rules. The days ahead looked a little brighter and as I came across the highly respected newsletter of the Independent Dealer's Association (IDA), a contribution caught my eye which I felt needed reaffirming from the office of the Motor Industry Ombudsman of South Africa (MIOSA). The piece written under the pseudonym "Super Spark" was both informative and to the point. The message is one that the MIOSA has been bringing to dealerships for many years in order to assist them in resolving disputes at point of sale. This provides the dealership the opportunity to resolve a dispute within the thirty-day window before

Johan van Vreden
Motor Industry
Ombudsman of
South Africa



it is referred to the MIOSA. Dealerships should utilise the South African Automotive Industry Code of Conduct (Code) as a selling tool to give their consumers peace of mind. It is, according to Super Spark, "unthinkable that dealerships do not inform their customers of their own dispute resolution procedure at point of sale".

He goes on to say that on many occasions the IDA receives a MIOSA complaint and when the dealership asks consumers whether they followed the correct dispute resolution procedure, they respond that they weren't even aware that such a thing exists. In terms of the Code, each supplier in the automotive and related industries must provide for its own internal dispute resolution procedure. This is a major selling point to further enhance the consumer's peace of mind.

To conclude, the Code allows a dealership thirty days to resolve a complaint. By informing consumers accordingly and following the procedures some of the MIOSA complaints can be avoided and this will result in happier consumers. ●

FROM THE DESK OF KOBIE KRAUSE

KNOW WHAT YOU ARE IN FOR

Taking into consideration that motor and related industry participants know the business of selling vehicles, this is not an attempt to criticise. Rather, it serves as a reminder to dealers to watch out for certain traps.

It is very important to know what you are trading in on a pre-owned vehicle as a lack of knowledge could become a serious financial problem within the first six months after delivery of the vehicle to the consumer.

There are many ways to deal with the abovementioned problem, the following being but a few examples:

1. Do not just accept the customer's version of the condition of the trade-in vehicle. Rather confirm it through the documentation accompanying the vehicle. Also, do not accept an undertaking that the documentation will be delivered at a later stage. If the warranty or service book is not supplied as promised, the consumer will be disadvantaged as the sales representative would

have told the prospective buyer that it would be available at the time the transaction is concluded. This will, of course, create a problem and might cause valuable time lost to recover the documents or copies thereof.

2. It is very important to have the trade-in vehicle mechanically examined. Merely cleaning the vehicle and then putting it on display might lead to defects and faults only being discovered once a prospective buyer shows interest in the vehicle, or when failures occur within the first six months after purchase.

3. Consumers often state that the OEM warranty on the vehicle still applies, when, for whatever reason, this is not the case. It would take very little effort to confirm the true status with the relevant OEM. In addition, there are also various organisations that will assist with information regarding collision damage etc.

It is always the best policy to diligently research the trade-in vehicle's history before accepting it. ●



Kobie Krause
Deputy ombudsman

A CASE IN POINT

COMPLAINT

The consumer purchased a used vehicle which overheated on the same day he took delivery of it. As instructed by the selling dealer, the vehicle was towed to the nearest approved workshop for repairs. The consumer took delivery of the vehicle after the repairs had been carried out, but the same concern reoccurred about a month later. The vehicle was taken back to the workshop for repairs, but the problem was still not resolved. In total the vehicle had to be taken back for repairs four times.

CONCLUSION

As the repair work had been outsourced to a third party, the selling dealer believed that the service provider was at fault and should be held responsible for the repairs carried out and that the consumer should pursue the matter with said repairer. The MIOSA recommended that the dealer take back the vehicle in line with Section 56 subsection 2 & 3 and Section 20 subsection 5 & 6 of the Consumer Protection Act 68 of 2008. ●

MIOSA WARNS CONSUMERS NOT TO BUY SECOND-HAND CARS AS SCRAP

Written by: **Diane Terblanche, Ina Opperman and Adv. Siphon Tleane**



The Motor Industry Ombudsman of South Africa (MIOSA) is warning consumers about a new trend. It seems that some used-vehicle dealers tell consumers that they are buying scrap when they buy a second-hand car.

The Consumer Protection Act, 68 of 2008 (CPA), provides – in terms of section 56 (read with section 55) – that all goods sold to a consumer are sold with an implied warranty of quality. Consumers cannot contract out of this warranty, nor can anyone revoke it.

The warranty gives the consumer the right to receive goods that:

- are reasonably suitable for the purpose that they are intended to be used for;
- are of good quality, free of defects and in good working order; and
- will be durable and usable for a reasonable period.

If goods are found not to comply with these requirements, then, for up to six months after receiving the goods, the consumer can:

- return the goods; or
- get the goods replaced; or
- get the goods repaired.

The consumer can do any of these things without penalty and at the cost of the supplier.

Why would second-hand sales people resort to doing this? The answer is simple: to avoid honouring the warranty consumers are entitled to under the CPA.

The warranty obliges dealers to repair or replace the car or refund the purchase price if the vehicle is not reasonably suitable for its intended purpose. At a minimum, you should be able to drive the vehicle you bought and drive it safely.

Under the CPA, consumers have up to six months from the date they bought a vehicle to exercise their warranty. The sooner the consumer brings the problem with the car to the dealer's attention, the better. The consumer will also be more likely to successfully claim their rights under the CPA.

Under the common law, before the CPA came into operation, an agreement of sale could have incorporated the *voetstoots* clause and thereby avoided liability for poor quality products, unless defects were wilfully concealed. Under the CPA, dealers can no longer rely on *voetstoots* clauses.

No matter what the contract and the terms and conditions say, if the consumer goes to a dealer to buy a car, that dealer cannot pretend they purchased scrap. If this happens, consumers can approach the MIOSA. If the organisation is unable to assist, it will point you in the right direction in order to assert your rights and get redress under the CPA.

Be assured that courts and tribunals will not be fooled into believing that you bought scrap when the consumer received registration papers for the car, and the dealer is registered as a second-hand car dealer (not a scrap metal dealer). ●

PEOPLE, PUNS AND PRODUCTS

CTSA INTRODUCES NEW MD

Martin Buday has officially taken over the reins as managing director of Continental Tyre South Africa (CTSA), bringing almost two decades of experience in the tyre industry, the last 14 years with Continental in various roles in Europe, the Middle East and Africa. Buday stepped into the position in 2020, replacing Shaun Uys who took up a new assignment with Continental Tyre in the United States. However, due to the COVID-19 pandemic and resultant restrictions on international travel, Buday was forced to work remotely from the Czech Republic, where he previously served as General Market Manager and MD for the Czech and Slovak markets. Now on South African soil, Buday is ready to lead the South African operation, which includes Continental's only tyre manufacturing facility on the African continent, producing tyres for domestic sales, along with exports to the Americas, the Asia Pacific region, as well as Europe, the Middle East and Africa.



Under the bonnet will be a 2-litre turbocharged front-wheel drive engine developing 180 kW and peak torque of 370 Nm. The four-cylinder engine is coupled with a seven-speed dual clutch transmission. Pricing will be announced closer to the launch date.

DEFENDER WINS WOMEN'S WORLD CAR OF THE YEAR

The Land Rover Defender has won the overall Women's World Car of the Year accolade for 2021. To reach this result, the jurors – 50 female motoring experts from 38 countries and five continents – tested dozens of models and evaluated each of them. South Africa was represented by motoring journalist Charleen Clarke. Nine vehicles reached the final, each of them winners in their respective categories, and all of them worthy candidates for the highest trophy. After a vote in which different aspects such as safety, performance, comfort, technology and value for money were taken into account, the specialists gave the absolute victory to the Land Rover Defender.



GOLF 8 GTI WILL BE HERE SOON

The eighth-generation Volkswagen Golf GTI will be launched locally in the second quarter of 2021. Only one derivative will be available and its standard features will include 18-inch alloy wheels, a Lights and Vision Package including high-beam control light assist, a heated leather-wrapped multi-function sports steering wheel with touch control and shifting paddles, leather seats and mobile phone interface with inductive charging function.



60TH ANNIVERSARY TRIBUTE TO THE ICONIC SPORTS CAR

Jaguar Classic recently unveiled its first matched pair of E-type 60 Collection cars, and revealed full specification details for the 12 expertly restored and sympathetically uprated 3.8-litre E-types built to celebrate 60 years of the iconic sports car. The E-type made its world debut in Geneva, Switzerland on 15 March 1961. The public reaction to the lone coupé available for test drives was so strong that Jaguar rushed a second E-type, a roadster, from Coventry to Geneva overnight. Six decades later, the E-type 60 Collection pays tribute to these two legendary cars: The Opalescent Gunmetal Grey

coupé '9600 HP', driven 'flat out' by Bob Berry to make the launch itself, and the British Racing Green roadster '77 RW', driven by Norman Dewis who was told to 'drop everything' to get to Geneva the next day. The E-type 60 Collection cars are sold as a pair – one E-type 60 Edition coupé and one E-type 60 Edition roadster.



MASERATI SUPER SPORTS CAR REVEALED

The Maserati MC20 made its first appearance in SA recently. The striking Blu Infitno MC20 arrived at Maserati Johannesburg shortly after completing its hot-weather testing schedule in the Northern Cape and elsewhere in the country. To celebrate the new super sports car, Maserati Johannesburg hosted private viewing sessions for guests and the media at Maserati House in Bryanston. The MC20 is powered by a 630 horsepower (463 kW) V6 engine with peak torque of 730 Nm. It accelerates from 0-100 km/h in under three seconds and has a top speed of over 325 km/h.



2021 IS A YELLOW SHADE OF GREEN

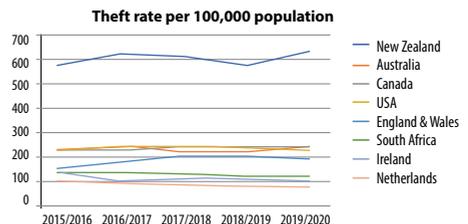
Axalta, a global leader within the coatings industry, continuously monitors automotive trends to forecast how colour tastes are changing in the market. This enables automakers who use Axalta coatings to establish which hues will appeal most to their customers. Each year, Axalta colour designers

and product experts select a global Automotive Colour of the Year. For 2021, this honour befell what Axalta has christened ElectroLight. It is described as a green-yellow hue with bold, contemporary flavours that echo style, energy and flair. Axalta believes that fully autonomous vehicles are closer than ever to becoming a reality and will increasingly rely on LiDAR and RADAR technology to see and to interact with the world around them. ElectroLight meets industry safety standards and improves the performance of both types of systems, making it a stand-out colour option in both trend and technology.



SA VEHICLE CRIME IS NOT THE WORST

It may come as a surprise that, when it comes to vehicle theft (including hijackings), South Africa fares quite well when compared to developed countries. This is according to statistics aggregated by Australia's National Motor Vehicle Theft Reduction Council (NMVTRC) from in-country police and crime reports. Of the eight countries listed, New Zealand come out on top, with a current vehicle theft rate of 636 per 100 000 population. Interestingly, countries such as Australia, Canada, USA, England and Wales, all have a higher theft rate per 100 000 population than South Africa, which stands at 109. Only Ireland and Netherlands are lower. ●



A CEMENT TRUCK WITHOUT A REVERSE GEAR



Lucious Bodibe
Public affairs
manager of the
MIOSA

I always associated the Public Affairs Department of the Motor Industry Ombudsman of South Africa (MIOSA) to a cement truck without a reverse gear. The department is so passionate about consumer and dealer education that neither adverse conditions nor negative situations can preclude it from maintaining contact with crucial role players. In fact, it has become a source of inspiration for almost every stakeholder within the realm of consumer protection and advocacy.

There is an African idiom that goes "*go sheba morago go baka tiego*". This means that if you have a habit of always dwelling in the past, you are likely not going to make progress. All the successes achieved by the Public Affairs Department in 2020 are now history, and as such they belong in the recycle bin. We are now officially in the so-called new normal, where continuous improvement and real-time news have become the way of life.

Another African saying teaches us that "*ditlamelwana tsa pula di baaknngwa go sale gale*", meaning that one should plan adequately in preparation for rainy days. When we went into

recess, we had already planned for the remaining quarter of 2020, bearing in mind that the country could be under lockdown when we resumed our activities.

This plan included virtual capacity building programmes, information sharing sessions and webinars, designed to empower the Provincial Consumer Protection Authorities, regulators and the automotive and related industries. As gatherings continue to be restricted, we will be dispensing consumer education through various forms of media in order to empower consumers and to keep them abreast of the developments in the consumer market.

The Public Affairs Department of the MIOSA ushered in the new year by participating in live television talk-shows and three radio interviews. All this in the name of consumer education. This was followed by two virtual capacity building activities in February, wrapping up the financial year on a high note. Twelve radio advertorials have already been lined up and we look forward to an exciting year ahead. ●

AUTOMOTIVE AFTERMARKET GUIDELINES

The position of the Motor Industry Ombudsman of South Africa (MIOSA) regarding the Competition Commission issuing final automotive aftermarket guidelines is that the MIOSA is a neutral and independent alternative dispute resolution (ADR) scheme for the automotive and related industries.

Apart from performing an ADR function for the automotive and related industries and consumers alike, the MIOSA assists various Provincial

Consumer Protection Offices with motor related complaints and provides them with technical advice. With the inception of the automotive aftermarket guidelines which were published by the Competition Commission in December 2020 and will take effect on July 1st, 2021, the MIOSA envisions that there will be a drastic increase in the MIOSA's workload, which will have an impact on the operations of the MIOSA. ●