

# autofile

## Warning issued over compliance deadline

Finance providers and their agents, including car dealers, only have a short amount of time to prepare systems and update practices to ensure they comply with the latest part of the loan-shark laws.

They also need to focus on staff training, says the Financial Services Federation (FSF), following the government releasing the final version of its responsible lending code.

The document was published on March 17, and it will apply to all lenders and third-party contractors from June 6.

It gives guidance on how lender responsibility principles included in changes to legislation covering credit contracts passed last year should be implemented.

Paul Goldsmith, the Minister for Commerce and Consumer Affairs, recognises most businesses already follow responsible lending practices, "but a percentage – such as loan sharks and unscrupulous pay-day lenders – do not".

The law has been amended to provide greater protection for consumers, although there have been concerns about the legislation

and lending code's effects on legitimate operators in the finance and automotive sectors.

Some of these have been addressed, but businesses now face a tough compliance timescale.

Lyn McMorran, executive director of the FSF, says officials managed to get the lending code out a week earlier than anticipated.

"There was no slippage, but the timeframe is still tight with a deadline of June 6 to implement any required changes in the way business is done," she told Autofile.

[continued on page 4]

### In this issue

p12 Dealer guide on fair trading

p14 Summit to tackle old tyres

p15 Franchise voted best again

p16 Debate on fleet's standard

p17 Online fraud detection tips

p19 Trader wanted to fix faults



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## Industry repercussions from verdict

The court of appeal's dismissal of an appeal lodged by Motor Trade Finances Ltd (MTF) and Sportzone Motorcycles in a long-running prosecution brought by the Commerce Commission has implications for the wider industry.

Glen Todd, MTF's chief executive officer, describes the

case as significant and says its effects will be felt in the wider consumer lending sector, especially in relation to fees charged. This is because lending principles are incorporated in the responsible lending code, which takes effect from June 6.

"The code sets out processes, practices and procedures lenders should follow to ensure fees are

not unreasonable, and will apply to all consumer credit contracts written after that date," says Todd.

The court's ruling, made public on March 31, upheld earlier high-court judgements on the commission's approach to assessing whether lenders' charges are reasonable as required by the Credit Contracts and Consumer Finance Act (CCCFA).

[continued on page 8]



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## Show gears up for major changes

If there's one television programme people in the automotive industry and petrolheads love, it's Top Gear.

Many of its viewers will be mourning presenter's Jeremy Clarkson sacking, while his two co-hosts are out of contract as well.

The rumour mill that is the English press has gone into overdrive speculating what the future will hold, and the BBC is refusing to comment on whispers the final two episodes of the current series will ever be aired.

It's all a rather ignominious end for the programme, which now tops about 350 million viewers a week in 170 countries – a far cry from 1977 when it made its debut fronted by Angela Rippon and was only broadcast in the Midlands.

Three years later when Noel Edmonds took over, it was still pretty dull. My main memory from back then was a debate over whether a station wagon would fit into a standard-sized garage.

Top Gear was due to be cancelled in 2001 as viewing figures slumped, but Clarkson and producer Andy Wilman pitched its new format, so things have come full circle.

The BBC may give Clarkson yet another "second chance" by moving him to the US version of the show, which is a separate business entity, while Richard Hammond and James May should have no problem finding new jobs.

Hammond has presented the BBC's Should I Worry About? And Sky's Brainiac: Science Abuse – far cries from him hosting the Crufts Dog Show in 2005.

While in New Zealand for Top Gear Live 2009, Hammond filmed some commercials for Telecom's new XT UTMS mobile network, which was claimed to be "faster in more places". But it suffered three

embarrassing outages in late 2009 and early 2010.

Hammond's cohorts claimed he was too embarrassed to come back for Top Gear Live 2010 when a supposed "live" feed to him dropped out because the network had "crashed".

James May's Toy Stories, which first aired in England in October 2009, was well-received with each episode focusing on him trying to take each toy to its limits. He has also experienced success with his man lab.

While Clarkson was responsible for much of Top Gear's success, he was also at the centre of many controversies, including complaints about him ridiculing Germans, Mexicans, Poles and Asians, and he had to apologise for using the word "nigger" after first denying he had done so.

Top Gear's presenters and film crew were chased out of Argentina by protesters throwing rocks at them because the number plate on Clarkson's car – H982 FKL – supposedly made reference to the Falklands War. The BBC insisted this was a coincidence.

Clarkson's recent old-fashioned punch-up surely pales into insignificance compared to previous faux-pas, but he was on his "final warning".

As for Top Gear, perhaps it needs repackaging. The "plane versus car around the world" race concept has worn thin, although some segments – such as Star in a Reasonably Priced Car – are television folklore.

It was also refreshing to hear informed opinions about new cars, unlike so much of the drivel penned by "motoring writers", many of whom seem happy to top up their frequent-flyer points instead of focusing on quality journalism.

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# Changes needed to loan practices

"This is not a huge window and it was always going to be a problem, but where the actual code has landed is pretty good as far as responsible lenders are concerned in that it's not too prescriptive."

It means businesses with existing and compliant processes should be able to use them without having to make too many major changes, although even small adjustments may consume time and resources.

"There will be issues with staff training for some finance providers and especially those using third parties, such as motor vehicle dealers," warns McMorran.

"For instance, they will have to display interest rates and a range of rates online if applicable."

It is anticipated compliance will be tough for some providers because everyone will have to

follow the rules from day one.

"Having said that, the Commerce Commission, which will be enforcing the code, will be unable to visit all lenders straight away.

"The main thing is people know what they have to do to comply and to get that into play as soon as they can bearing in mind the deadline."

There are also concerns compliance with the responsible lending guidelines cannot be classed as a "safe harbour".

"The government is saying complying with it will potentially be seen as compliance with responsible lending principles," explains McMorran.

"This is a bit like having a bob each way on the horses in that it expects compliance with the code will be fine, but it may not

## Status of code

The responsible lending code isn't binding because providers can comply with lender responsibility principles in other ways. The document is also not a "safe harbour" and compliance with it isn't deemed as compliance with responsibility principles. Guidance provided in it isn't an exhaustive statement of what a lender should do to be classed as responsible. But evidence of compliance with the code's provisions will be treated as complying with lender responsibility principles.

save you if the authorities don't like what you're doing."

She stresses legislation must be enforced on "irresponsible lenders and in the right places because we do not want to see responsible businesses penalised for minor issues".

"It also costs a lot of money going to court to set precedents. But with this code being less prescriptive, legitimate businesses won't exactly know how to comply."

The FSF highlights a recent case of shoddy lending practices. It was alerted by a member to a 22-page application form with the loan's terms and conditions in a very small font size.

Buried among them was a clause that the borrower declared he or she would be able to afford the repayments with no questions asked.

"That sort of behaviour is certainly not responsible and is something we wouldn't hesitate to draw the authorities' attention to.

"Although we don't hear about the results of that sort of thing, the best outcome for the

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## Principles to be followed

The Credit Contracts and Consumer Finance Amendment Act 2014 passed into law on June 6 last year.

It makes a number of changes to the Credit Contracts and Consumer Finance Act (CCCFA).

They include lender responsibility principles, which apply to providers of consumer credit contracts, creditors under these agreements that allow goods to be repossessed and transferees under buy-back land transactions.

The principles require companies to exercise the care, diligence and skill of responsible lenders when advertising credit or finance, and before and after providing loans and taking relevant guarantees.

The responsible lending code elaborates on and offers guidance on how the more detailed lender responsibilities may be implemented.

Finance providers have to exercise care, diligence and

skill in adverts for loans, and before entering into contracts to provide credit.

This also applies in all subsequent dealings with borrowers and they must comply with all specified lender responsibilities.

The lender responsibilities state providers must be satisfied it is likely the credit will meet borrowers' requirements and objectives, and consumers will be able to make repayments without suffering substantial hardship.

Lenders must also help people reach informed decisions and be reasonably aware of the implications of doing so. Advertising must not be, misleading, deceptive, or confusing.

Agreement terms have to be expressed in plain language, and in a clear, concise and intelligible manner.

Lenders also have to help borrowers reach informed decisions in subsequent dealings. Contract variations must be



◀ FSF is that businesses have to conform or they are forced out of business.”

AGENTS OF PROVIDERS

Car dealers will also have to comply with the responsible lending code if they are agents for finance providers, while some run their own ledgers.

Whether traders are classed as lenders depends on how the money for a loan is provided.

If the dealer writes the loan up on paperwork provided by the finance company, it is the finance company that has to adhere to the code – and it ultimately has responsibility for its own actions and those of its agents.

“This means finance companies will have to provide car dealers with appropriate training if they’re not behaving responsibly,” says McMorran.

“Of course, they can decline to provide traders with products.

“If finance is on an assigned basis, whereby the car dealer

writes the loans and within 24 hours assigns the loan to the finance company, then the trader is classed as the lender until the loan is assigned.

“Basically, the loan originator is normally the finance company and it must comply, but a car dealer can also be classified



“Finance companies will have to provide car dealers with appropriate training if they’re not behaving responsibly.” – Lyn McMorran, FSF

as the lender so both parties must be aware of their legal obligations.

“This also means traders need to make sure any credit-related insurance [CRI] premiums are reasonable, ensure the person taking out the loan can afford it and understands what they are

getting into, and comply with other parts of the code.”

WHAT’S IN THE CODE

The responsible lending code runs to 64 pages and is divided into sections that roughly follow the different stages of a loan agreement.

including car dealers when appropriate – will need to identify changes to practices to comply with lender responsibility principles.

Policies and procedures may need to be revised, and staff and agents acting for lenders will need adequate training.

A lender’s policies, procedures

There are obligations that apply before and during policies, rules on advertising, inquiries into borrowers’ requirements, and how consumers should to be assisted in making informed decisions. It also covers CRI and repayment waivers, fees and repossession.

From June 6, all lenders –

and training may relate to the approval of advertising material, approving applications and contacting borrowers – particularly those in financial difficulty or in default.

Ensuring compliance may include lenders:

- ▶ Requiring staff and agents

[continued on page 6]

◀ expressed in plain language and information cannot be misleading.

Borrowers and their property must be treated reasonably and ethically, including when contract breaches occur or when other problems arise, and when debtors suffer unforeseen hardship.

This applies during repossessions, including by taking reasonable steps to ensure goods and property aren’t damaged, repossessed items are adequately stored and protected, and the right to enter premises is exercised in a reasonable manner.

Agreements cannot be oppressive, lenders rights and powers cannot be acted on oppressively, and lenders cannot induce borrowers to enter agreements by repressive means.

Finance providers must meet all of their other legal obligations, including under the CCCFA, Fair Trading Act (FTA), Consumer Guarantees Act (CGA), Financial Service Providers (Registration and Dispute Resolution) Act and Financial Advisers Act.

These cover obligations about

disclosure, credit fees, unforeseen hardship applications and credit repossession under the CCCFA, and prohibitions on false or misleading representations and unfair contract terms under the FTA.

Then there is the guarantee that providing credit and any other services will be carried out with reasonable care and skill under the CGA.

In relation to relevant insurance contracts, lenders must make reasonable inquiries they will meet the borrower’s requirements and objectives, and the consumer will make payments without suffering hardship.

Lenders have similar responsibilities to follow in regards to insurance contracts as those that apply to actual loans, such as their implications and advertising.

Creditors may rely on information provided by borrowers and guarantors unless there are reasonable grounds to believe this is unreliable.

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# Concerns remain over legislation

to comply with policies and procedures relevant to their roles.

- ▶ Being satisfied they understand what they should do to comply before coming into contact with customers.
- ▶ Monitoring compliance with policies and procedures, and lender responsibility principles, by staff and agents, and addressing any breaches.

Under the CCCFA, lenders are responsible for the conduct of agents, which can include repossession businesses or motor vehicle dealers that facilitate access to credit at point of sale.

Existing Fair Trading Act (FTA) provisions ban misleading conduct and unsubstantiated representations.

In particular, lenders should have reasonable grounds for making claims, only use fine print to elaborate on main selling messages, disclose unusual conditions and only make comparisons with similar products.

They must ensure adverts can be readily understood, ensure key information is legible and disclose information in a level of detail commensurate with its importance.

Technical language and statistics should only be used when relevant and in a way that can be understood without specialist knowledge.

Lenders must avoid giving unrealistic impressions of overall levels of fees and costs.

They should also display annual percentage interest rates at least as prominently as any other



**“I will be monitoring the effects of the code and how well it achieves its objectives.”**

**– Paul Goldsmith, Minister for Commerce and Consumer Affairs**

rates or amounts of interest, and if rates are fixed, variable or capped.

They must also provide the amount of any establishment or other mandatory fee.

For example, if an advert states a loan is interest-free and the provider charges an establishment fee, the advertising must also state the amount of that fee.

Some practices are banned, such as claims suggesting the lender will not inquire into the borrower's circumstances along the lines of “no credit checks”, “pre-approved” and “guaranteed acceptance”.

Lenders cannot imply they will not take into account borrowers' circumstances, with comments such as “bad credit history okay” being deemed unacceptable.

The code also covers other lender responsibilities, such as making reasonable inquiries to be satisfied the finance will meet consumers' requirements and can be repaid without hardship.

Borrowers should also be helped to make informed decisions by being made aware of key features, such as risks and characteristics of products.

Terms and conditions must be in plain language, be clear and concise, and have easy-to-read layouts and font sizes.

## WARRANTIES & INSURANCE

The lending code specifies that if loans involve extended warranties and repayment waivers, then they are to be treated as part of credit agreements.

Lenders and car dealers should refer to Commerce Commission guidance for obligations on providing these policies.

With CRI and repayment waivers, lenders must be satisfied such policies provided under the main contract will meet the borrower's requirements.

They must also be satisfied consumers will make payments without suffering hardship,

and help them reach informed decisions and that they are reasonably aware of the contract's full implications.

Lenders can, in some circumstances, require borrowers to take out CRI, for example to protect a secured asset. However, it must make no unreasonable requirements as to the terms on which the borrower is to obtain CRI.

The FSF has yet to discuss any concerns about CRI and the lending code with its members – other than the timing for implementation of any changes required to policies and processes – although it is planning a membership meeting shortly with professional advisers attending.

“The government is not saying what ‘excessive’ is when it comes to fees for these policies,” says McMorran.

“At the select committee stage, there was an example of a car loan coming to \$5,000, but with CRI and establishment fees the cost of the finance came in almost \$10,000. It shouldn't take anyone too long to realise that was excessive.

“Our members are provided with CRI services from reputable companies licensed by the Reserve Bank.

“They are normally competitive and there are commercial pressures, but what is normally charged by our members is responsible, although what is precisely acceptable may take a test case.”

The next issue of Autofile will include more advice on how CRI product providers can comply with the lending code. ▶



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◀ THE BIGGER PICTURE

The FSF says the CCCFA had to be modernised, and there's no getting away from the fact a lending code was needed to give guidance on compliance.

McMorran stresses responsible lenders will already have policies and procedures in place.

"There will be staff training issues to ensure compliance, all of which costs money, but the code could have been a lot worse so we are as happy as we can be," she adds.

"We have more issues with the act than the code, such as the requirement for lenders to provide consumers with six-month statements.

"We believe there is no necessity for this to be done when, for example, the loan is on a fixed interest rate and nothing changes during the loan's term.

"Estimates of the cost of sending out statements are as much as \$50,000 a time with no apparent consumer benefits.

"Also, the Credit Repossession

Act has been repealed with relevant legislation now in the CCCFA. The new provisions come in on June 6, but the old provisions will apply to repossessions relating to loans written before that date.

"This was a bad way of doing it and puts extra costs on lenders because they have to run two systems.

"We still need to be able to talk to officials to make the CCCFA better, save costs for lenders and make life easier for consumers."

However, the FSF has been happy with the overall process and consultation.

"As far as possible, officials have done a brilliant job by staying on track and meeting deadlines," McMorran told Autofile. "When changes were

suggested, they went back to the lenders to consult again.

"We may have only had 24 hours to get views on the table, but at least we could go back and say how things will work, so that part of the process was done well.

"Where there is no flexibility in that the law is the law and people will need resources

to ensure compliance.

"We suspect the Commerce Commission will have certain lenders in its sights – such as such pay-day lenders – from day one more than some of our members."

VIEW FROM THE BEEHIVE

Paul Goldsmith, the Minister for Commerce and Consumer Affairs, believes the responsible lending code and principles will result in better access to information and

protection from lenders engaging in predatory practices.

"They will keep down compliance costs for lenders that have good, responsible systems in place."

He stresses the code will not be binding, but evidence of compliance will be viewed as evidence of complying with the CCCFA's lender responsibility principles.

"I would like to thank lenders, consumer groups and interested parties for taking the time to give feedback on the code and assisting in its development," says Goldsmith.

"Officials have been able to develop a document that provides good principles-based guidance for lenders while maintaining robust protections for consumers.

"I will be monitoring the effects of the code and how well it achieves its objectives."

Visit [www.beehive.govt.nz/sites/all/files/Responsible-Lending-Code-March-2015.pdf](http://www.beehive.govt.nz/sites/all/files/Responsible-Lending-Code-March-2015.pdf) to view the code in its entirety. ☺

**More online**  
 Visit [www.autofile.co.nz](http://www.autofile.co.nz) to find out about other parts of the government's responsible lending code. These include what needs to happen when default issues arise, and advice on repossessions and oppression.



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[continued from page 1]

# Finance company criticises decision

The commission has alleged MTF and Sportzone charged unreasonable establishment and other credit fees on 39 finance contracts entered into between 2005 and 2008.

In September 2013, the high court found the charges were unreasonable and breached the legislation.

In October 2014, it released a further judgement clarifying practices lenders should adopt when charging fees.

Both companies appealed decisions to the court of appeal, with Todd adding MTF is considering if it will take further steps in the proceedings.

He is also disappointed the level of some fees charged was deemed to be unreasonable.

MTF believes both the quantification judgement and the company's fee models included a mix of interest rates and fees as allowed for in the CCCFA, and both had an analysis of recoverable costs.

"MTF did not attempt to recover any costs other than the costs of running its finance business and didn't make a profit from any fees charged," explains Todd.

"All costs recovered through fees were previously being recovered through the interest rate charged to borrowers.

"MTF specifically adjusted the average interest rate down by two percentage points to compensate borrowers for the introduction of the CCCFA fees model."

This business practice fee

meant customers would pay interest for the use of money they borrowed, and fees for costs connected to services they received for the establishment and maintenance of loans, and the recovery of defaults.

"In MTF's view, the court's finding doesn't acknowledge that without the fee model borrowers would have paid higher interest rates on the loans to recover costs not recovered through fees and, as a result, had suffered no loss."

Todd adds a key purpose of the CCCFA is to assist consumers distinguish between competing credit arrangements.

MTF's opinion is the judgement will not assist borrowers to identify any unreasonable fees charged by competing lenders.

If two finance providers charge the same fee amount



**"A borrower wouldn't know whether a fee is unreasonable by simply looking at the dollar amount."**

– Glen Todd, MTF

to establish a loan on the same terms, one of those fees may be unreasonable and the other not.

"The court's view is determination is to be made almost solely by a complex cost-accounting analysis that depends on the structure of each lender," says Todd.

"It's highly unlikely any borrower would be able to make such an assessment prior to taking out a loan.

"A borrower wouldn't know whether a fee is unreasonable by simply looking at the dollar amount or any benchmark against commercial practice."

Todd emphasises the fees charged by MTF and Sportzone were similar to those levied by many finance companies and banks in New Zealand.

"The judgements relate to 39 loans written between 2006 and 2008 in the absence – at the time – of any meaningful guidance from the regulator or courts on the interpretation of new and non-prescriptive consumer legislation.

"The nature and structure of MTF's business has changed substantially since that time, as has its calculation of costs and fee-setting process.

"While not in a position to finally quantify any potential implications at this stage, MTF is well-advanced in this process and hopes to work with the commission to ensure its current fee model is compliant."

BACKGROUND TO CASE  
On January 27, 2010, MTF

## Looking back at prosecution

Christchurch-based Sportzone sold, serviced and repaired motorcycles, and offered financial services through MTF to customers. Sportzone has since gone into liquidation.

MTF is a co-operative that provides financial services to customers of its associated dealers. Sportzone was a shareholder in MTF.

The commission started to investigate both companies in 2006 after receiving a complaint about their lending practices.

They were charged in 2009 for unreasonable establishment,

account maintenance and arrears fees on 39 loans in breach of section 41 of the Credit Contracts and Consumer Finance Act.

The high court released its first judgement in September 2013, which stated MTF and Sportzone charged unreasonable fees.

In October 2014, the high court released its second judgement further clarifying rules lenders must follow when charging fees.

MTF and Sportzone's appeal was heard in November 2014 with the court of appeal dismissing it last month.

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◀ advised it had received notice of civil proceedings brought by the Commerce Commission against a shareholder in MTF, Sportzone Motorcycles, which is now in liquidation, MTF and MTF Securities.

The commission alleged breaches of the CCCFA and Fair Trading Act (FTA) in respect of various fees charged in 39 loans originated by Sportzone between May 2005 and July 2008.

The high court rejected the commission's claim Sportzone and MTF failed to properly disclose components of credit fees payable under these contracts.

The court also rejected the commission's claim labels both companies used for establishment and account maintenance fees were misleading and breached the FTA.

The commission subsequently abandoned its appeal on the case's

FTA aspect. Consequently neither matter was heard by the court of appeal.

Commissioner Anna Rawlings says the court of appeal's judgement of last month provides a clear statement on the approach lenders should take.

"The ruling provides easy-to-understand guidance for lenders, making it clear credit fees should only cover costs closely related to the particular loan transaction," she says.

"The court of appeal agreed with the commission that the purpose of the CCCFA is to protect borrowers, especially vulnerable ones, by ensuring transparency in the costs of borrowing.

"Fees should not be used to recover general business costs or to generate profits. That is what interest is for.

"The commission will be publishing further credit

guidance to reflect the judgements of the high court and court of appeal, and to ensure lenders are clear about what the law requires.

"These judgements and important upcoming changes to the CCCFA, which include new lender responsibility principles, will help shape our work aimed at ensuring lending practices comply."

The court has instructed MTF and Sportzone to pay the commission's costs. The companies have 20 days from March 31 to seek permission to appeal the ruling to New Zealand's supreme court.

#### CASE'S WIDER IMPLICATIONS

Lyn McMorran, executive director of the Financial Services Federation (FSF), believes the MTF case has far-ranging implications for the industry – although the matter has yet to be appraised by its executive.

"I think the outcome is disappointing," she told Autofile.

"It's almost like the court of appeal found it too hard to get its head around the issues.

"MTF will be disappointed as well, while many other lenders were looking at this case to give them some resolution and certainty around establishment fees."

McMorran says finance providers being unable to allow for staff training in their fees, for example, flies in the face of responsible lending.

"It seems unreasonable to me that lenders cannot put any costs of training in as part of establishment fees.

"If they cannot recover such costs in this way, they will have to recover them in interest rates. This is basically what the court of appeal is saying."

McMorran questions how this can be transparent for consumers.

#### More online

The level of fees finance providers can charge consumers for the likes of setting up loans has yet to be comprehensively covered in the government's responsible lending code. However, the document as it stands does tackle some aspects in this area. Visit [www.autofile.co.nz](http://www.autofile.co.nz) to find out more about establishment fees and other charges borrowers pay.



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# Outcome disappoints federation

"Fees should be used to recover costs associated with setting up and providing loans, while interest rates should be about the risk and cost of those funds," she stresses.

"I can only see interest rates going up as a result of this judgement so lenders can recover costs associated with setting up loans.

"I cannot see how that will help consumers compare products and it isn't helpful for the rest of the industry either."

Lenders whose processes may not be as streamlined as those of other providers may justify charging higher fees as a result.

McMorran believes that – to a certain extent – MTF has been used as a test case, and has had to carry all of the expenses and drama of the past few years.

The wider industry has also

**"Fees should not be used to recover general business costs or generate profit – that is what interest is for."**

– Commissioner  
**Anna Rawlings**



been looking at where this case will end up and she cannot imagine it will be particularly pleased.

"We were expecting the court of appeal would give more consideration to this matter, but it has basically gone back to the original high-court judgement and that isn't helpful to anyone," adds McMorran.

"The only people who will win will be accountants, who will be asked by companies to review fee structures and charges again in light of this judgement.

"The industry may need to consider where it goes to from here because this outcome is important for everyone – not just MTF.

"Everyone agrees no one should make profits from fees they charge and that they should be based on the reasonable costs of providing loans." ⊕

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## Two sides to appeal

**M**TF and Sportzone challenged the findings of the high court's liability and quantum judgments.

The appeal's substance in the case brought by the Commerce Commission mainly focused on the interpretation of statutory provisions.

The court of appeal said it approached this with an eye to Credit Contracts and Consumer Finance Act (CCCFA) policy and protection for borrowers.

MTF and Sportzone rejected what they described as the high court's "fine-grained costs-based approach" to determining if fees were unreasonable.

Both parties argued the court wrongly accepted the commission's approach, which was inconsistent with three sections of the CCCFA.

They claimed this approach was unworkable in practice, produced results of little or no practical use to debtors, and was unfair to creditors.

Their key proposition was

section 41 required the court to assess the reasonableness of fees in a broad manner, and this should be informed – but not determined – by considering actual costs.

It was submitted the court of appeal needed to consider whether an establishment fee was "equal to or less than the creditor's reasonable costs in connection with the application for credit".

The commission's counsel characterised this proposal as merely requiring a vague link between the cost and fee charged.

It submitted this approach had the effect of converting the test for unreasonableness in section 41 to one prohibiting only fees "no reasonable lender could adopt".

At the heart of the appeal was the nature of matching required by the CCCFA between charges and lender costs for fee-related activities.

Visit [www.autofile.co.nz](http://www.autofile.co.nz) for more on this story, including fee levels agreed between the parties. ⊕



# Car recovered by online drive

The power of social media has been harnessed by a used car wholesaler and retailer to retrieve a stolen car worth about \$50,000.

Auckland-based Buy Right Cars ran a Facebook campaign to get the vehicle back after it was taken from a compliance centre.

Dozens of comments and tips were received in response to the initial posting on March 20 after the 2008 Range Rover Sport was stolen on March 9.

Photos of the car before it was uplifted from Henderson on March 24 and a possible suspect were uploaded, along with details of a \$5,000 reward.

"We were a bit delayed getting the information onto Facebook, but then it went viral and we got a lot of good comments," says Quichee Wong, general manager of Buy Right Cars.



"We received private messages with good information before being approached by someone who said he had paid a deposit for the car and would return it for that amount.

"It had only been driven

100km and was still in an immaculate condition. It seems a Facebook frenzy created some pressure out there."

Some of the comments posted on the Facebook page raised a few smiles back at Buy

Right Cars' headquarters.

"Wait until he tries to fill it for the first time," one person stated. "He'll probably take it through the car wash and drop it back."

Another commented: "Only \$5,000? Rather keep it and sell it for double, easy as."

Others people said "new derby car for the bush", "must be on the farm by now, hope you find it", "easy chop-shop money", and "well, he's got good taste that's for sure – hope you catch the bugger".

The company posted that having insurance didn't mean it didn't want the car back, quality stock was hard to source and \$5,000 was a generous offer to buy back a stolen vehicle.

"Many thanks to all the people who helped and offered observations, and pushed the message around for us," it added. ☺

## Cruising gets revamped

The Cruze – the only small car built at GM Holden across the Tasman – has been upgraded.

It has a fresh and bold front fascia which, when combined with newly introduced LED daytime running lights, give it greater road presence.

The Cruze Equipe benefits from new 17-inch alloys and exterior mirrors with turn signal lamps.

The performance-orientated SRi gets the same upgrades and fog lamps, while the sportier SRi-V is kitted out with 18-inch alloys, rain-sensing wipers and suede seat inserts.

Satellite navigation with voice command is introduced to the CDX sedan.

"Added features make the Cruze a compelling

package in the small car segment," says Kristian Aquilina, managing director of Holden NZ.

"As part of our commitment to provide feature-packed vehicles with exceptional value, the SRi-V now comes with remote start, satellite navigation, reversing cameras and the MyLink infotainment system – technologies previously unavailable in the small car."

The 2015 Cruze range is on sale now. It starts with a recommended retail price of \$30,990 for the Equipe AT, which goes up to \$39,990 for the SRi V AT. ☺



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CUSTOMS AND SHIPPING BROKERS TO MOTOR VEHICLE IMPORTERS

# Car dealers need to trade fairly

The Commerce Commission is warning businesses that fines for misleading and deceptive conduct under the Fair Trading Act (FTA) have gone up by at least 300 per cent.

Companies now face penalties of up to \$600,000 for each offence, while they have jumped to \$200,000 for individuals.

The changes are part of the government's overhaul of consumer protection legislation and see other powers being handed to the commission, which is responsible for enforcing the FTA.

Breaches relating to consumer information, and to consumer transactions and auctions, can now result in fines for individuals of \$10,000 and \$30,000 for body corporates.

The commission can also issue infringement notices with penalties of up to \$2,000 to traders for failing



**Nissan Navara ST-X 450 2010** dealer

- » 94,000km, Ute, 2488cc diesel engine, tiptronic
- » Auckland
- » Listed Mon, 23 Mar

**Mazda 6 Sport Limited 2004** dealer

NZ New 2 owners.

- » 134,500km, Hatchback, 2261cc petrol engine, tiptronic
- » Auckland
- » Listed Mon, 23 Mar

Dealers' status must be identified with online listings so buyers are aware consumer protection laws apply

to disclose their status online. They also apply to disclosure requirements for uninvited direct sales and extended warranties.

The March 19 issue of *Autofile* reported recent action specifically taken against car dealers.

This included issuing \$1,000

fines for failing to display consumer information notices on second-hand vehicles, while the commission will also be ensuring unfair contract term provisions are complied with.

In addition to bigger fines and infringement notices, the commission now has compulsory interview powers to require oral evidence from individuals. Previously, it could only request interviews and people could decline.

Interviewees must now answer questions put to them, but responses cannot be used in criminal proceedings – except in limited circumstances.

The commission can apply to a court to ban individuals from managing companies. Orders can be taken against someone who has, on at least two occasions within a 10-year period, committed an offence under the FTA.

They can also be imposed when someone is a director of, or is concerned in managing, a company that has – on at least two occasions within 10 years – committed such an offence.

People breaching management banning orders risk a maximum \$60,000 fine.

The commission may also apply enforceable undertakings, which are out-of-court negotiated settlements. They may include agreements for a business to stop doing something, pay compensation or publish corrective advertising.

Other FTA remedies remain unchanged. These include corrective advertising orders, compensation and refund orders, and altering or voiding a contract.

## IN-TRADE SALE RULES

The Consumer Guarantees Act (CGA) now applies to online sales by dealers when cars are bought for personal or household use.

Under the CGA, vehicles must match their description, have no undisclosed defects, be fit for normal purpose, be safe, durable and of a reasonable quality, and be acceptable in look and finish.

Different ways of selling online include websites or smartphone applications, emails, text messaging, social media, auction sites such as Trade Me, and daily deal and group-buying websites.

Traders should disclose their status prominently in every place online where a customer can make a purchase.

Ideally, car dealers should make their status clear from the outset and on every website or platform they use.

Traders must ensure terms and conditions of online sales are clear and easy to find. This includes terms about price, quality and condition, delivery, returns and warranties, and so on.

Under the FTA, a vendor is only allowed to bid on their online auctions, or get someone to bid for them, when the sale has a reserve price, the vendor bid is below this and any such bid is identified.

If a seller bids in any other circumstances, this is illegal under the FTA because it misleads genuine bidders about the price.

For example, an Auckland car dealer used 20 different Trade Me memberships to place bids on 530 of its \$1 reserve online auctions to artificially raise prices.

The trader was prosecuted and fined, and paid compensation to affected buyers.

## EXTENDED WARRANTIES

While a business can sell extended



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warranty agreements to consumers to supplement their CGA rights, the FTA specifies some disclosure and cooling-off requirements.

These allow consumers to consider how their warranty rights compare with those under the CGA and enable them to, for a limited period, change their minds about buying the policy.

The warrantor must provide a written copy of the extended agreement when the policy is bought.

This must contain a summary of the consumer's rights and remedies under the CGA, and compare CGA rights and remedies and extra protection provided by the warranty. It must also summarise the buyer's rights to cancel.

The agreement must include all terms and conditions, such as how long it lasts, when it expires and the total payable.

A consumer can cancel an agreement within five days or at any time if the warrantor has failed to meet disclosure obligations.

Once an agreement has been cancelled, the warrantor must repay the policy's cost without making any deductions from the amount paid.

When an extended warranty has been entered into as a condition of a consumer credit contract, the right to cancel is covered by the Credit Contracts and Consumer Finance Act.

#### MAKING FALSE CLAIMS

It is now illegal to make a representation about goods or services without a reasonable basis.

Tips for businesses include:

- ▶ Don't make claims you don't have reasonable grounds to believe are true.
- ▶ Rely only on facts, figures and credible sources of information.
- ▶ Keep documents or other information gathered in sourcing or researching goods or services.
- ▶ You must have reasonable grounds for claims when they are made because substantiating a claim afterwards may not get you off the hook.

An express claim is one that is literally stated in advertising, such as "all cars half-price".

An implied claim is made



Traders must be able to prove to the authorities that their car prices are lower than usual during advertised sale periods or special promotions

indirectly. For example, "available to you at factory prices" implies the price is especially low because it reflects what a retailer would pay to the manufacturer when making purchases for resale.

A business must have reasonable grounds at the time it makes a claim otherwise the FTA will be breached.

Reasonable grounds can come from information provided by reputable manufacturers, details the business making the claim holds and other sources, such as technical journals.

There is no precise test for what constitutes reasonable grounds. The nature of goods or services, and of the claim, will influence the substantiation required.

When considering whether a business has reasonable grounds, factors include the nature of the goods, services about which the claim was made and the nature of the claim.

Other grounds include research or steps taken before making it, the nature and source of any information the business relied on to make it, and the claim's actual or potential effects.

For example, "Easter sale – 50 per cent off all cars" represents a special buying opportunity to purchase vehicles at half price during a trading period.

To satisfy the reasonable grounds requirement, the dealer making the claim must have sufficient pricing and sales data to establish that – during the sale period – all prices are 50 per cent lower than usual.

However, puffery is an exception. Such claims are often

opinions that are obviously exaggerated and are unlikely to mislead anyone. An example is "this car goes like a rocket".

#### UNINVITED DIRECT SALES

Under new FTA rules, an uninvited direct sale is when a business approaches a consumer at his or her home, workplace or over the phone and an agreement is entered into for goods or services costing \$100 or more.

An uninvited direct sale is also when:

- ▶ A consumer provides contact details to a business for another purpose, and the business contacts them to sell goods.
- ▶ A buyer responds to an unsuccessful attempt by a business to contact them, such as by returning a missed call.
- ▶ A consumer enters into negotiations when he or she receives an unsolicited quote or estimate.

Businesses using uninvited direct sale techniques must comply with rules relating to negotiating a sale, disclosure, cancellation or enforcement of an agreement.

Courts can fine businesses found guilty of breaching the uninvited direct sales provisions of the FTA up to \$30,000 and individuals up to \$10,000.

Visit [www.comcom.govt.nz/fair-trading/](http://www.comcom.govt.nz/fair-trading/) to find out more about changes to the FTA. ☺



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## Deal on space services

**M**aserati has signed an agreement for access to technologies from Airbus Group Innovations – the research and development hub of the world leader in aeronautics and space services.

The deal enables the marque to review its broad portfolio covering manufacturing processes, production methods, metallurgy, systems integration and other know-how.

“By evaluating technologies, we can benefit from the Airbus Group’s capabilities exploited in several applications, such as airliners, helicopters and spacecraft,” says Harald Wester, chief executive officer.

Overview access will be provided to Maserati across some of Airbus Group Innovations’ technical areas so the marque can identify “game changers” when utilised under licence and applied to its product line.

“We developed our technology transfer framework with industry leaders such as Maserati in mind and it is being selectively offered to limited potential partners,” adds Wulf Hoeflich, of Airbus.

“Maserati is perfect for an agreement of this type because the company is a benchmark in high-end vehicles while having production volume that’s flexible enough to implement new technologies.” ☺

## War of words erupts over bid to extend port facilities

A pressure group is taking legal action against Ports of Auckland Ltd (POAL), which has started preparatory work to extend two wharves by about 100 metres.

Urban Auckland has lodged high-court papers seeking a judicial review claiming resource consents have been granted unlawfully, while Auckland Council has asked POAL to halt the work until a wide-ranging study is done.

Also, Mayor Len Brown, pictured, believes a multi-storey car park may be the way forward for on-site vehicle storage. “I’m not convinced with one of the wharf extensions, which relates to where they might hold cars or containers,” he told TV3’s The Nation on March 29.



He adds cars are an issue generated by the move to give space at Captain Cook and Marsden wharves back to the council for community use.

“They’re saying, ‘if we lose those wharves where we park cars awaiting clearances, we need other space.

I’m saying, ‘why can’t you build a multi-level car park?’ Such a building has been a part of POAL’s long-term strategy, but has been opposed in the past.

Meanwhile, the port company took out full-page adverts in newspapers in Auckland over the Easter weekend headlined “passion fuels everything but the facts”.

“Over the past few years, many people have shared opinions about Auckland Harbour and the extension of Bledisloe Wharf,” the adverts stated. “It’s also important to be clear about the facts.”

The “facts” were then listed, with the first being the need to extend the wharf for bigger ships and cruise liners. “If we don’t extend, these vessels won’t be able to berth.”

POAL says it has resource consent for two piled wharf extensions. “This has been planned carefully through a rigorous process.”

It adds the Bledisloe extension will not narrow the harbour and work will not adversely affect tidal flows. “Maintaining a safe and enjoyable harbour is important to us. A piled structure allows water to flow beneath it.”

POAL says it has been through a significant review process with studies conducted by outside consultants, which back the need for the port to grow.

## Future uses for old tyres focus of conference

An industry summit is being held by the 3R Group and WasteMINZ to discuss the future of end-of-life tyres.

The event at Auckland’s Crown Plaza from June 2-3 is backed by Bridgestone, Goodyear Dunlop and the Motor Trade Association.

Visit www.3r.co.nz for more details. Log onto www.wasteminz.org.nz to register.

## Companies sign up as supporters across the Tasman

The Australian Imported Motor Vehicle Industry Association has confirmed its first two foundation supporters.

“AUTOHUB’s and JEVIC’s support reinforces the pan-industry approach the association has taken to ensure a united voice is heard at government levels to strengthen the case for relaxing import restrictions in light of car manufacturing ceasing by the end of 2017,” it says.

## Woman claims free \$50,000 car on April Fool’s Day

Dreaming big on April 1 paid off when Tianna Marsh swapped her 15-year-old Nissan Avenir for a BMW 1 Series.

More than 145,000 copies of the NZ Herald rolled off the presses early with what appeared to be a bogus advert on the front page.

It invited people to take their car to a Newmarket dealership and swap it for a new 1 Series. Marsh was the first person to do so. ☺

# Franchise scoops four in row

The same business has secured Mazda New Zealand's top dealer award for the fourth year in a row.

Fairview Motors in Hamilton has taken out the title for 2014 after all areas of its operation were assessed, including vehicle parts and sales, servicing and customer satisfaction.

"We are passionate about the brand and focus on delivering the best experience to all of our customers," says dealer principal Dennis Sexton.

"My team is dedicated and determined, and I feel this is a true testament to the hard work they have put in over the past year. We are thrilled to hold the award yet again."

"Fairview Motors is an amazing team that does a fantastic job," adds says Andrew Clearwater, managing director of Mazda NZ.



From left, Dennis Sexton, dealer principal of Fairview Motors, sales manager Lindsey Coleman and Craig Hayden, assistant parts manager

"It raises the bar each year in its commitment to delivering the best experience to their customers.

"The exceptional determination Dennis and his team show means they have claimed the top award once again."

The marque's network in New Zealand is divided into three dealer groups for the awards – metropolitan, provincial cities and rural.

The two top-scoring businesses in each group become performance award winners.

In addition to Fairview Motors, these dealerships were South Auckland Motors in Manukau, Northland's Pacific Motor Group, the Ultimate Motor Group in Mount Maunganui, Autohaus Rotorua and Fagan Motors in the Wairarapa. ☺

## Marque's man at the top

A New Zealander is taking over as president of Ford in this country and across the Tasman.

Graeme Whickman has succeeded Bob Graziano, who has retired after about 32 years with the company.

Whickman, pictured, has spent his 18-year career at Ford in different marketing and sales positions in the Americas, Europe and Asia-Pacific.

He joined in 1997 as a zone manager for Ford NZ after working for Coca-Cola in this country and Hertz Rentacar in the UK.

The 46-year-old has been promoted into his new role from vice-president of marketing sales and servicing in Australia, which included advertising, dealer relations, customer satisfaction and sales performance.

He has been instrumental in

transforming Ford's business in that country, including "revamping the dealer experience".

Whickman will be responsible for leading the blue oval's national sales companies in Australasia with vehicle manufacturing coming to

an end across the ditch over the next few years.

During his career at Ford, Graziano served in a variety of roles, including being chairman and CEO of Ford China, executive vice-president and representative director

for Mazda Motor Corporation, and president of Ford Motor Company of Southern Africa.

The 55-year-old joined Ford in 1982 as a sales analyst in Nebraska. He worked in Texas and Missouri before moving to the company's home city of Dearborn, Michigan, in 1990.

Visit [www.autofile.co.nz](http://www.autofile.co.nz) for more about Ford's changes at the top. ☺



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## Making decisions beneficial to fleet

I recently wrote an article questioning the efficacy of using age as a proxy for the fleet's safety and efficiency in light of our ability to accurately quantify both.

There are real reasons to attempt to improve both, such as the social and economic costs of vehicle accidents to drivers and passengers, and persons and property in the local environment, as well as issues relating to the costs to society from emissions.

Concerning the latter, recent research shows the costs have probably been underestimated with the World Health Organisation recently upgrading the suspected risk from air pollution to which vehicle emissions are a large contributor.

I wanted to reply to some of the responses I have received directly and have been published in subsequent issues of Autofile.

First, I am in no way arguing age is a useless measure. We should strive for increased safety and efficiency in the fleet – only true if both are true.

When we use age as a proxy for the two, we actually make our efforts about safety or efficiency – true if either are true – since a small increase in either one looks like a win, statistically.

However, an increase in safety or efficiency is better than no improvements at all.

Concerning direct responses to my initial article in Autofile's January 13 issue, the actual average distance travelled by vehicles in New Zealand is about 11,900km per annum, as opposed to the 14,000km that I quoted.

This means vehicles built to travel

400,000km should last about 33 years, not the 26 years I suggested, which actually strengthens my argument.

Also, there is no definitive method of calculating the carbon footprint of making a vehicle. The numbers I used were directly quoted from an article in The Guardian.

While the exact carbon cost is debatable, the point I was making still stands.

And that's if we care about decreasing the level of emissions released into the atmosphere, we should consider the emissions produced during a vehicle's manufacturing process as well as



KIT WILKERSON  
IMVIA policy analyst  
and adviser

and indicates a lack of understanding about manufacturing and fleet management".

Statistical methodologies are tools used to analyse data and tools have specific uses. I think the rest of the MIA's response is telling in that it

illustrates the use to which the MIA has put its statistics. "For each make and model, tomorrow's vehicles... will always be better than those of today or yesterday."

I agree with the MIA's statement if my goal were to use periodic safety and efficiency increases to justify the selling of any and all models, particularly new vehicles

explore ways to improve the fleet in terms of safety and efficiency, and specifically whether or not age is the best data to use.

Whether or not age is a "useful surrogate" was never questioned and, in fact, I stated that it was.

Finally, the Ministry of Transport (MoT) seems to acknowledge the realisation of both positions in its response in Autofile of March 19.

It seems to me it recognises that age is useful, but there are many other possible variables that can offer more accurate insights.

I recognise the MoT has long recognised this fact, choosing to utilise a standards-based approach as opposed to age-related restrictions.

I have also found, in my interactions with the ministry, that it tries to use the most detailed and relevant data to make the most informed decisions possible while offering opportunities for stakeholders to argue their interests.

I want to thank everyone who provided feedback on the discussion and I hope it doesn't end here.

Our goal wasn't to stir up arguments about rolling age bans. Rather, we hoped to illustrate the availability of information that will allow us to make more radical and beneficial plans and decisions for our fleet, and its effects on public health, climate change and other social costs.

This is especially true in light of the inevitability of upcoming disruptive technologies, such as electric vehicles and intelligent transportation systems. ☺



Emissions produced during manufacturing could be considered when trying to decrease overall levels of pollution caused by vehicles going into the atmosphere

ongoing usage costs.

I didn't mention it previously, but the cost of recycling vehicles at end of life would also be relevant.

In a response to my article in the February 20 issue, it was suggested by the Motor Industry Association (MIA) that my argument utilises "a poor application of statistics,

that I can always demonstrate have improved characteristics compared to the previous year's model.

If that were my argument, my use of statistics would not have been optimal. Since that argument is not my goal, I question the relevance of the feedback.

To reiterate, my goal is to



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# How to protect yourself from online fraudsters



With the internet shaping the way we do almost everything these days, it comes as no surprise that it has also shaped its very own breed of online fraudsters.

The reality is anyone can be scammed, regardless of how smart they are, but the trick is to know what you're looking for.

Some scams are easy to spot, while others can appear to be genuine offers, inquiries or bargains.

Here are a couple of examples of online scams so you are aware of what's out there and how you can protect yourself.

## BEWARE OF PHISHING

This is a big one and it's all in the name. "Phishing" is a play on the word "fishing" – and the principal remains the same.

The scammer sets up "lures" so unsuspecting internet users can be phished and tricked into sharing confidential information that can be used to carry out further scams.

These lures are legitimate-looking emails sent out en masse, and appear to come from websites or companies, such as Trade Me or banks.

The objective of the email is to retrieve information from the reader, such as user names and passwords, and it will often do this by asking you to confirm your details or click a link to log in.

If you click on such a link, you will be directed to a website imitating the company that the email was supposedly sent from where you will be requested to log in. From there the scam begins.



Please enter your Credit Card information so we can confirm your Trade Me Account!

Name on Card:

Card type:

Card Number:

Expiration Date: 01 2013

Card Security Code:

By pressing the "Login" button your Credit Card information will be sent to our Security Department and your account will be confirmed!

Login

This is a phishing site because Trade Me doesn't need to confirm its customers' accounts

To help avoid these phishing attempts, ensure you never share your log-in details or passwords.

A valid online transaction will never require your online password or PIN number.

Being mindful of how you use credit cards online is also important and make sure you only process payments on secure sites.

You can also check the website address that the email links to. For Trade Me, the address should always start with <http://www.trademe.co.nz/> and if you notice spelling mistakes in the URL, it is likely the page you are on is not secure.

## MONEY TRANSFERS

These cons are set up so the scammer can receive your money quickly, which makes it nearly impossible to reverse the transfer once it has taken place – and when you realise you've been ripped off.

To avoid typical transfer scams, you should never send money overseas or pay by Western Union, telegraphic transfer or overseas money order to complete a transaction that you have made online.

Wiring money through companies such as Western Union is like sending cold, hard cash. Once it's gone, it's gone and it's a "mission

impossible" to reverse the transfer, trace the money or track recipients.

Although money transfers can be useful to send money to someone you know and trust, they are regarded as high risk when transferring to someone you don't know.

If you think you have wired money to a scammer, call the relevant transfer company immediately to report the fraud and file a complaint.

While the chance of your transfer being reversed is slim, it's important to request this in the first instance. Urgency is vital with these kinds of scams.

## TIPS WITH TRADE ME

When buying online, only complete trades through Trade Me. We have taken the major risk out of payment options as part of our promise to be a "safe and trusted website".

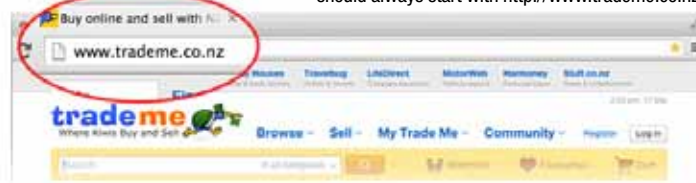
If you get a text or email from the listing "seller" that offers you a knock-down price before you've actually won the item, it's likely that item doesn't actually exist and the offer isn't genuine.

That's why we warn people about the dangers of posting their contact details on Trade Me because this presents an easy way for scammers to contact you directly.

It's best to wait until you are the successful bidder before making a payment online.

If offered by the seller, consider using our Pay Now payment tool. There are some integral protections in paying with your credit card, especially being able to get your money back from your bank if goods don't turn up, which is known as a charge-back.

You should check website addresses that emails link to. Trade Me's should always start with <http://www.trademe.co.nz/>



 <b>MARCH</b> statistics	Most popular car makes searched* <ol style="list-style-type: none"> <li>1 Toyota</li> <li>2 Nissan</li> <li>3 BMW</li> <li>4 Ford</li> <li>5 Mercedes-Benz</li> </ol>	Most popular car models searched* <ol style="list-style-type: none"> <li>1 Corolla</li> <li>2 Hilux</li> <li>3 Golf</li> <li>4 Commodore</li> <li>5 Falcon</li> </ol>	Most popular body styles searched* <ol style="list-style-type: none"> <li>1 Coupe</li> <li>2 Ute</li> <li>3 Hatchback</li> <li>4 Convertible</li> <li>5 Station wagon</li> </ol>	Most popular makes of motorbike searched* <ol style="list-style-type: none"> <li>1 Honda</li> <li>2 Harley-Davidson</li> <li>3 Suzuki</li> <li>4 Yamaha</li> <li>5 Kawasaki</li> </ol>	A silver Porsche 911 GT3 has been listed on Trade Me Motors with an asking price of \$284,000. The 2015 New Zealand-new two-door coupe has a 3,800cc engine which produces 350kW and 440Nm, and it has less than 1,000km on its odometer.
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\*In March on Trade Me Motors

# Buyer loses case as tribunal classes faults as reasonable wear and tear

## Background

Samuel Tomlinson bought a 2002 BMW X5 from Devonport Car Company on January 18, 2014.

He rejected it under the Consumer Guarantees Act (CGA) on December 22 and applied to have this upheld.

The dealer's director, Mrs N Rountree, appeared but refused to take the promise because she had no knowledge of the claim. She was granted leave to withdraw from the hearing.

## The case

Tomlinson agreed to buy the vehicle for \$16,995 when its odometer was on 199,877km and after taking it for two test drives, but didn't have it inspected.

The trader assured him the car had been well-serviced, but Tomlinson also agreed to buy mechanical breakdown insurance.

He soon found one of the windows wouldn't wind down so he returned the vehicle to have this and other faults repaired.

Tomlinson said the trader repaired some items, but told him there wasn't enough money in the deal to fix all faults so he should use the warranty.

The alternator failed on July 15 and was replaced by Tomlinson using the warranty. The excess, coolant, expendables and a courier charge totalled \$370. The odometer was then on 205,780km.

On August 30, Tomlinson noticed the vehicle shuddered on starting, and had MotorService Ltd replace the cam sensor, thermostat, and rocker and timing

cover gaskets. He didn't require the dealer to repair these faults before having the work done.

Tomlinson claimed the costs under his policy, but had to pay \$857 for two excesses, a computer diagnostic test, eight spark plugs, steam cleaning, and courier and cleaning charges.

MotorService noted both CV boots were split and the control-arm bushes were broken. Both were warrant of fitness (WOF) items.

The alternator belt failed on September 11 and was replaced along with the air-conditioning belt, coolant hose, transmission cooler thermostat and coolant using the warranty.

Tomlinson didn't take the vehicle for a WOF in October when it expired.

But on December 4 and after the vehicle had travelled 208,192km, he had MotorService carry out an assessment and quote for repairs, which came to about \$6,100.

Faults included an expansion tank pipe leak, dirty air filter, problems with the air-conditioner filter and windscreen chips.

The right-hand lower boot lid wasn't catching without excessive force, and the left-front door lock was bent and incorrectly installed.

The left-front window lift mechanism was broken, a seat belt was badly worn, both front outer CV boots were split and the front outer CV joints were possibly damaged.

The original fuel filter should have been replaced at 100,000km, the left rear-tyre's outer sidewall was damaged, and there were fault codes for the rear-light ultrasonic

sensor and left-front central locking drive.

A door's weather seal was cut away and its window was secured by nut and bolt, and the driver's door-lock internal switch failed.

WOF faults included faded and discoloured headlight lenses, the power-steering pressure was low with hoses leaking, and the front caster control bushes were incorrectly installed and damaged.

## The finding

The tribunal had regard to it being a 12-year-old BMW that had travelled 199,877km when sold.

Its service booklet showed it was regularly serviced every 20,000km from May 2003 until December 2008 when its odometer was on 117,193km, but the only recorded service afterwards was done 27,000km later in March 2010 after which there was no record of oil changes.

The vehicle had worn and deteriorated, which was consistent with its mileage.

Its poor service history would have been obvious to Tomlinson as soon as he opened the handbook and this would have been detected if the car had been appraised before buying it.

Faults with the window regulator soon after he bought the vehicle – along with the alternator in July and cam sensor and cover gaskets in August – probably indicated the vehicle wasn't as free of minor faults or as durable as a reasonable consumer would regard

**The case:** The buyer of a 2002 BMW X5 rejected the vehicle because of various faults. The trader was granted leave from attending the hearing.

**The decision:** The assessor advised the tribunal's adjudicator that in his experience the car's faults were all consequences of wear and tear, and they were to be expected in a vehicle that was 13 years old and had been driven for 208,192km.

**At:** The Motor Vehicle Disputes Tribunal, Auckland.

as acceptable with its high mileage.

The tribunal found the vehicle probably didn't comply with the CGA's guarantee of acceptable quality if they had those faults when sold.

However, the assessor advised the adjudicator that in his experience the faults were all consequences of fair wear and tear, and were to be expected in a vehicle now 13 years old that had travelled 208,192km.

The tribunal asked Tomlinson what faults he considered were substantial.

He referred to the CV boots and said if the vehicle had been kept up to standard by previous owners he wouldn't have to pay to replace them, but the tribunal disagreed.

This wear and tear occurred through the mileage the vehicle had travelled and Tomlinson was made aware the CV boots needed replacing, but ignored that advice.

Engine sludge in photos produced by Tomlinson was, in the assessor's opinion, not excessive.

## Order

The application was dismissed. The tribunal didn't consider the faults were substantial and wasn't satisfied it had grounds on which to uphold rejection. ⊕

FINDING IT HARD GETTING A  
**MESSAGE**  
TO YOUR TARGET MARKET?



# Dealer's general manager says 'we should be better than this' in email

## Background

On August 21, 2014, Ruth Pandya bought a 2005 Nissan Tiida from 2 Cheap Cars for \$7,484.

She rejected it on November 4 because she said a serious fault caused it to lose power. She sought a full refund and the cost of a mechanic's report.

The trader said it was identifying the fault and wanted to rectify it at its cost.

## The case

Pandya test-drove the vehicle for a few hundred metres before buying it when its odometer was on 83,400km.

She was given a form showing the dealer performed pre-purchase checks, including renewing the engine oil and filter.

In September, Pandya noticed the vehicle would "hold back", not accelerate and once had to be jump-started.

She contacted the trader on September 25 and two days later returned the car for its battery to be replaced.

A few days later, Pandya had the same problem. The trader again installed a new battery.

She said that on November 3 the vehicle stopped on a motorway and wouldn't move. She was travelling at 95kph when it suddenly lost power.

Pandya said when she pushed the accelerator down hard the car started to move, but it was difficult to get it going. She texted the trader and received no response.

On November 4, Advanced

Mobile Mechanic reported the engine's timing was out of range and its computer tried to adjust this, which caused the engine to surge. The exhaust gas recirculation flow was high and the timing fluctuated.

Pandya emailed the report to the trader on November 4, said it was a major issue and that she wanted a refund.

The following day Pandya was emailed by Mr Humphreys, who had sold her the vehicle. He said her rejection was being handled by the general manager and workshop manager.

When Pandya was unable to contact anyone about her vehicle, her father emailed the trader on November 12 saying the matter was with his solicitor.

The tribunal received the buyer's application on November 27 and sent it to the dealer.

On December 15, Garry Moore, the trader's general manager, emailed Pandya to apologise for the lack of communication and wrote "we should be better than this".

He proposed taking the vehicle to the dealer's workshop to assess its condition, obtain an opinion from Nissan and make repairs.

Pandya said her vehicle wasn't collected and a loan car wasn't provided until December 18.

Her vehicle was returned on December 31. The trader supplied no invoice or record of work done, and was there no report from a Nissan workshop.

After driving it for several days, Pandya found the power loss was

still present and notified the dealer of this on January 3.

Four days later, she said the vehicle started to make an electrical noise when the engine was running.

Moore said the fault was intermittent and the trader tried to fix it by replacing the battery twice, changing the oil three times, changing coils and spark plugs, and cleaning the throttle body.

He said there was no sludge in the engine because his mechanics removed the sump to inspect it.

The only records the trader said it had were four "claim sheets", three of which were undated and appeared to have been written by the same person and contained no analysis of scan or diagnostic tests.

Moore phoned a mechanic at East Tamaki Nissan and read out Advance Mobile Mechanic's report. He agreed it was probably a timing fault, but the trader didn't take the car to a franchise for assessment.

Moore drove the vehicle on December 18 and found it was "hunting" and was "not right", but the engine didn't fail. The trader's mechanic agreed the fault was likely to be a timing problem.

## The finding

The tribunal thought it was highly probable when the car was sold that it had a timing fault caused by a worn timing gear or chain, or a sticking or dirty solenoid controlling its variable-valve timing system.

**The case:** The purchaser rejected her 2005 Nissan Tiida under the Consumer Guarantees Act (CGA) after claiming a major problem was causing it to lose power. The dealer wanted to be given the chance to fix the fault.

**The decision:** The tribunal was satisfied that the buyer gave the trader adequate opportunity to rectify the problems with the vehicle, but – as the dealer admitted – it hadn't done so.

**At:** The Motor Vehicle Disputes Tribunal, Auckland.

It concluded the vehicle wasn't free of minor faults or as durable as a reasonable buyer would consider acceptable for a \$7,484 nine-year-old Tiida with its mileage.

Pandya gave unchallenged evidence of dates on which she had tried to contact the trader to have faults rectified. The tribunal accepted her evidence that the dealer was "generally unresponsive and uncommunicative".

On October 19, she said she texted the dealer about the power issue and later that month returned the car for the battery to be replaced for a second time.

The trader's undated claim sheets listed two other undated occasions the car was returned.

The tribunal was satisfied Pandya gave the dealer adequate opportunity to rectify the faults, but the trader admitted it hadn't fixed the problem.

## Orders

The buyer's rejection was upheld and the dealer had to pay her \$7,622. This was the full purchase price and Advance Mobile Mechanic's fee of \$138. The trader then had to uplift the car. ☺

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AROUND THE COUNTRY  
March 2015

**Total New Cars**  
**8,075**  
2014: 7,992 ▲ 1.0%

**Total Used Imported Cars**  
**12,313**  
2014: 10,247 ▲ 20.2%

**Whangarei**  
NEW: 202 2014: 203 ▼ 0.5%  
USED: 243 2014: 193 ▲ 25.9%

**Auckland**  
NEW: 3,493 2014: 3,461 ▲ 0.9%  
USED: 6,097 2014: 5,034 ▲ 21.1%

**Hamilton**  
NEW: 592 2014: 662 ▼ 10.6%  
USED: 860 2014: 663 ▲ 29.7%

**New Plymouth**  
NEW: 150 2014: 144 ▲ 4.2%  
USED: 193 2014: 174 ▲ 10.9%

**Wanganui**  
NEW: 76 2014: 60 ▲ 26.7%  
USED: 71 2014: 66 ▲ 7.6%

**Palmerston North**  
NEW: 270 2014: 254 ▲ 6.3%  
USED: 323 2014: 259 ▲ 24.7%

**Nelson**  
NEW: 103 2014: 113 ▼ 8.8%  
USED: 194 2014: 158 ▲ 22.8%

**Westport**  
NEW: 3 2014: 2 ▲ 50.0%  
USED: 12 2014: 7 ▲ 71.4%

**Greymouth**  
NEW: 23 2014: 16 ▲ 43.8%  
USED: 44 2014: 31 ▲ 41.9%

**Thames**  
NEW: 69 2014: 53 ▲ 30.2%  
USED: 75 2014: 72 ▲ 4.2%

**Tauranga**  
NEW: 325 2014: 335 ▼ 3.0%  
USED: 511 2014: 400 ▲ 27.8%

**Rotorua**  
NEW: 142 2014: 97 ▲ 46.4%  
USED: 109 2014: 84 ▲ 29.8%

**Gisborne**  
NEW: 34 2014: 40 ▼ 15.0%  
USED: 46 2014: 46 ■ 0%

**Napier**  
NEW: 252 2014: 247 ▲ 2.0%  
USED: 203 2014: 187 ▲ 8.6%

**Masterton**  
NEW: 60 2014: 61 ▼ 1.6%  
USED: 56 2014: 49 ▲ 14.3%

**Wellington**  
NEW: 832 2014: 868 ▼ 4.1%  
USED: 977 2014: 796 ▲ 22.7%

**Blenheim**  
NEW: 59 2014: 62 ▼ 4.8%  
USED: 44 2014: 54 ▼ 18.5%

**Christchurch**  
NEW: 922 2014: 812 ▲ 13.5%  
USED: 1,611 2014: 1,486 ▲ 8.4%

**Timaru**  
NEW: 75 2014: 68 ▲ 10.3%  
USED: 119 2014: 88 ▲ 35.2%

**Oamaru**  
NEW: 26 2014: 26 ■ 0%  
USED: 24 2014: 30 ▼ 20.0%

**Dunedin**  
NEW: 249 2014: 287 ▼ 13.2%  
USED: 355 2014: 253 ▲ 40.3%

**Invercargill**  
NEW: 118 2014: 121 ▼ 2.5%  
USED: 146 2014: 117 ▲ 24.8%



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### LATEST SCHEDULE

Port Calls	Coral Mermaid V1	Morning Miracle V16	Liberty V12	Morning Midas V2
Osaka	1 Apr	4 Apr	16 Apr	3 May
Nagoya	-	5 Apr	17 Apr	4 May
Yokohama	-	6 Apr	18 Apr	5 May
Auckland	13 Apr	22 Apr	6 May	20 May
Wellington	-	29Apr	9 May	27 May
Lyttelton	-	1 May	8 May	29 May

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### Imported Passenger Vehicle Sales by Make - March 2015

MAKE	MAR '15	MAR '14	+/- %	MAR '15 MKT SHARE	2015 TOTAL	2015 MKT SHARE
Toyota	2,804	2,441	14.9	22.8%	7,866	22.7%
Nissan	2,076	1,842	12.7	16.9%	5,867	16.9%
Mazda	1,942	1,765	10.0	15.8%	5,612	16.2%
Honda	1,240	1,124	10.3	10.1%	3,520	10.2%
Suzuki	772	617	25.1	6.3%	2,231	6.4%
Subaru	655	433	51.3	5.3%	1,834	5.3%
BMW	585	413	41.6	4.8%	1,532	4.4%
Volkswagen	486	373	30.3	3.9%	1,309	3.8%
Mitsubishi	479	371	29.1	3.9%	1,378	4.0%
Audi	276	177	55.9	2.2%	686	2.0%
Mercedes-Benz	250	161	55.3	2.0%	679	2.0%
Ford	167	107	56.1	1.4%	509	1.5%
Volvo	89	50	78.0	0.7%	217	0.6%
Chevrolet	58	61	-4.9	0.5%	199	0.6%
Mini	58	31	87.1	0.5%	146	0.4%
Hyundai	54	41	31.7	0.4%	151	0.4%
Jaguar	43	39	10.3	0.3%	122	0.4%
Land Rover	42	26	61.5	0.3%	122	0.4%
Lexus	40	36	11.1	0.3%	102	0.3%
Holden	29	17	70.6	0.2%	91	0.3%
Peugeot	25	10	150.0	0.2%	67	0.2%
Dodge	20	12	66.7	0.2%	66	0.2%
Daihatsu	12	15	-20.0	0.1%	50	0.1%
Austin-Healey	10	0	1000.0	0.1%	10	0.0%
Renault	10	4	150.0	0.1%	23	0.1%
Fiat	9	4	125.0	0.1%	21	0.1%
Jeep	9	3	200.0	0.1%	21	0.1%
Porsche	9	17	-47.1	0.1%	41	0.1%
Chrysler	8	2	300.0	0.1%	25	0.1%
Austin	7	0	700.0	0.1%	8	0.0%
Alfa Romeo	5	4	25.0	0.0%	9	0.0%
Kia	4	3	33.3	0.0%	16	0.0%
Ferrari	3	2	50.0	0.0%	7	0.0%
Vauxhall	3	2	50.0	0.0%	6	0.0%
Bentley	2	3	-33.3	0.0%	10	0.0%
Others	32	41	-22.0	0.3%	123	0.4%
<b>Total</b>	<b>12,313</b>	<b>10,247</b>	<b>20.2</b>	<b>100.0%</b>	<b>34,676</b>	<b>100.0%</b>

### Imported Passenger Vehicle Sales by Model - March 2015

MAKE	MODEL	MAR '15	MAR '14	+/- %	MAR '15 MKT SHARE	2015 TOTAL	2015 MKT SHARE
Suzuki	Swift	666	521	27.8	5.4%	1,919	5.5%
Mazda	Axela	584	505	15.6	4.7%	1,617	4.7%
Nissan	Tiida	487	557	-12.6	4.0%	1,390	4.0%
Honda	Fit	475	423	12.3	3.9%	1,251	3.6%
Mazda	Demio	465	520	-10.6	3.8%	1,396	4.0%
Subaru	Legacy	335	229	46.3	2.7%	987	2.8%
Volkswagen	Golf	309	218	41.7	2.5%	808	2.3%
Toyota	Wish	294	257	14.4	2.4%	772	2.2%
Mazda	Atenza	293	219	33.8	2.4%	893	2.6%
Mitsubishi	Outlander	257	133	93.2	2.1%	713	2.1%
Toyota	Vitz	242	240	0.8	2.0%	762	2.2%
Mazda	MPV	207	188	10.1	1.7%	585	1.7%
Toyota	Corolla	200	290	-31.0	1.6%	589	1.7%
Toyota	Estima	174	140	24.3	1.4%	519	1.5%
Mazda	Premacy	163	118	38.1	1.3%	470	1.4%
Honda	Odyssey	160	150	6.7	1.3%	516	1.5%
Toyota	Auris	159	139	14.4	1.3%	397	1.1%
Nissan	Dualis	158	61	159.0	1.3%	465	1.3%
Nissan	Bluebird	155	139	11.5	1.3%	424	1.2%
Nissan	Skyline	148	99	49.5	1.2%	405	1.2%
BMW	320i	138	104	32.7	1.1%	347	1.0%
Nissan	Note	137	171	-19.9	1.1%	394	1.1%
Subaru	Impreza	136	68	100.0	1.1%	355	1.0%
Toyota	Mark X	132	82	61.0	1.1%	324	0.9%
Nissan	Murano	130	82	58.5	1.1%	346	1.0%
Nissan	March	121	169	-28.4	1.0%	333	1.0%
Nissan	Teana	121	92	31.5	1.0%	317	0.9%
Toyota	Ist	119	157	-24.2	1.0%	332	1.0%
Honda	Accord	118	146	-19.2	1.0%	362	1.0%
Honda	Stream	118	89	32.6	1.0%	297	0.9%
Subaru	Outback	112	95	17.9	0.9%	294	0.8%
Toyota	RAV4	112	73	53.4	0.9%	292	0.8%
Toyota	Blade	105	102	2.9	0.9%	377	1.1%
Toyota	Ractis	104	42	147.6	0.8%	275	0.8%
Mazda	Verisa	104	76	36.8	0.8%	239	0.7%
Others		4,575	3,553	28.8	37.2%	12,914	37.2%
<b>Total</b>		<b>12,313</b>	<b>10,247</b>	<b>20.2</b>	<b>100.0%</b>	<b>34,676</b>	<b>100.0%</b>



# Surge in sales of used imports

The amount of used imported passenger vehicles sold increased by 20.2 per cent in March compared to the same month of 2014.

There were 12,313 units sold around the country last month, while 10,247 were registered in March 2014.

Toyota's sales went up by 14.9 per cent to 2,804 units in March compared to 2,441 in the same month of last year. Nissan came next on 2,076 with Mazda third on 1,942

Suzuki's Swift was last month's top-selling model on 666 units. Mazda's Axela was second on 584 and it was followed by Nissan's Tiida on 487.

Nigel Thomson, of Nigel Thomson Motor Company in Christchurch, says: "We opened a week before the earthquakes in 2011 and we've gone from holding 25 vehicles to 300 today.

"We're just growing with the rebuild and the market is very buoyant in our price range – we're easily selling 80 cars per month.

"We are advertising on television and radio, as well as using banner advertising online to get our name out there, and we're also doing a lot of repeat and referral business.

"We buy exclusively off AutoTerminal, and there is a lot of good stock coming through in our price range, which is between \$10,000 and \$20,000."

Thomson says his business is not the only car dealership in the city that's performing strongly with other people recognising the opportunities there.

"There have been a couple of high-volume and low-margin

enterprises that have opened up," he told Autofile.

"But a lot of Cantabrians read between the lines. They see a vehicle that's \$4,000 cheaper than every other dealership and see it as too good to be true."

He believes a lot of these more recent entrants to the market are less likely to take trade-ins.

"Christchurch people are very loyal and come back if you give them a good service," says Thomson.

"We have grown the service side of the business and now have nine mechanics.

vehicles such as the Toyota Vitz."

Ian Charlton, of Advantage Cars, which has branches in Manukau and Penrose, Auckland, says: "There are always customers who won't buy Japanese imports and we have seen prices of New Zealand-new vehicles steadily going up.

"There was a trend earlier last year when, regardless of the kilometres on vehicles, customers were after diesels.

"But towards the end of last year, petrol vehicles came online again and more customers were buying petrol SUVs again, including

market being registered as such.

"There was an abnormality all of a sudden when the rules were changed regarding auctions falling under the Consumer Guarantees Act [CGA]," he says.

"A lot of bigger companies and auction houses were told they were in trade, so they registered."

Advantage Cars opened its yard in Penrose about 18 months ago in addition to its other site in Manukau, South Auckland, which Charlton says is breaking new ground for the company by it entering a market where it hasn't operated before.

"Our new site in Penrose is in a completely different world. In Manukau, we sell cheaper cars for less than \$15,000 and the finance penetration is quite high.

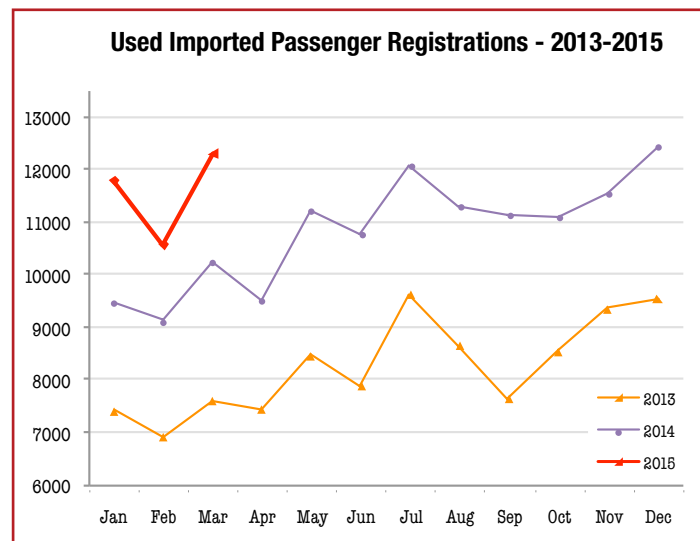
"A lot of people from all around Auckland travel to Manukau to buy cheaper cars. Penrose is an extension of Greenlane and customers expect their cars to be in better condition."

Charlton says customers are a lot more informed about laws relating to vehicle purchases.

"People are clued up and we're constantly reminded of what the Commerce Commission is doing. The slightest thing only has to go wrong with purchases and customers start quoting the CGA.

"A buyer, who had her mortgage come off a fixed rate, came in the other weekend. When she refixed, the new rate was 0.75 per cent lower.

"This worked out to be the same as a monthly repayment on a car and she said it was like getting a free vehicle." ☺



"We're offering the full package and making sure our customers are looked after during and after the sale.

"We aren't selling cars that have done more than 100,000km, so we're eliminating a lot that can go wrong before we get the vehicles.

"As each month goes by, we are exceeding our expectations. We have opened up some really good lines of repeat customers from a few companies, selling them

models such as the Holden Captiva and Ford Territory. When petrol prices come down, SUVs seem to go up in value.

"Big cars in general are resurgent, including Ford's Falcon and Holden's Commodore. Their prices have come up on a year ago when we were paying \$2,000 or \$3,000 less for the same car."

Charlton feels there hasn't been a surge in dealers new to the

## Ramp inspection before shipping

contact: Kei Mikuriya • mikuriya@heiwa-auto.co.jp

New Passenger Vehicle Sales by Make - March 2015

MAKE	MAR '15	MAR '14	+/- %	MAR '15 MKT SHARE	2015 TOTAL	2015 MKT SHARE
Toyota	970	1,048	-7.4	12.0%	3,817	15.8%
Holden	794	764	3.9	9.8%	2,839	11.8%
Mazda	732	621	17.9	9.1%	2,128	8.8%
Hyundai	669	774	-13.6	8.3%	2,109	8.7%
Mitsubishi	611	640	-4.5	7.6%	1,552	6.4%
Suzuki	483	505	-4.4	6.0%	1,109	4.6%
Ford	461	602	-23.4	5.7%	1,477	6.1%
Honda	434	367	18.3	5.4%	1,042	4.3%
Nissan	434	408	6.4	5.4%	1,333	5.5%
Volkswagen	420	359	17.0	5.2%	1,135	4.7%
Kia	304	277	9.7	3.8%	749	3.1%
Subaru	239	184	29.9	3.0%	527	2.2%
Mercedes-Benz	217	157	38.2	2.7%	563	2.3%
Audi	181	205	-11.7	2.2%	480	2.0%
Bmw	165	171	-3.5	2.0%	507	2.1%
Jeep	129	100	29.0	1.6%	361	1.5%
Land Rover	108	78	38.5	1.3%	278	1.2%
Ssangyong	100	83	20.5	1.2%	293	1.2%
Skoda	90	83	8.4	1.1%	254	1.1%
Mini	64	46	39.1	0.8%	182	0.8%
Lexus	63	65	-3.1	0.8%	171	0.7%
Peugeot	63	114	-44.7	0.8%	235	1.0%
Dodge	54	54	0.0	0.7%	129	0.5%
Fiat	48	31	54.8	0.6%	149	0.6%
Porsche	46	17	170.6	0.6%	150	0.6%
Volvo	33	48	-31.3	0.4%	115	0.5%
Chery	31	23	34.8	0.4%	61	0.3%
Renault	21	9	133.3	0.3%	56	0.2%
Mahindra	17	5	240.0	0.2%	25	0.1%
Yamaha	16	0	1600.0	0.2%	33	0.1%
Citroen	14	45	-68.9	0.2%	73	0.3%
Jaguar	12	11	9.1	0.1%	46	0.2%
Isuzu	11	18	-38.9	0.1%	36	0.1%
Alfa Romeo	9	26	-65.4	0.1%	24	0.1%
Chrysler	9	10	-10.0	0.1%	15	0.1%
Others	23	44	-47.7	0.3%	89	0.4%
<b>Total</b>	<b>8,075</b>	<b>7,992</b>	<b>1.0</b>	<b>100.0%</b>	<b>24,142</b>	<b>100.0%</b>

New Passenger Vehicle Sales by Model - March 2015

MAKE	MODEL	MAR '15	MAR '14	+/- %	MAR '15 MKT SHARE	2015 TOTAL	2015 MKT SHARE
Toyota	Corolla	291	408	-28.7	3.6%	1,385	5.7%
Suzuki	Swift	274	287	-4.5	3.4%	590	2.4%
Honda	Jazz	238	123	93.5	2.9%	615	2.5%
Mazda	CX-5	233	218	6.9	2.9%	619	2.6%
Mitsubishi	Outlander	225	241	-6.6	2.8%	461	1.9%
Toyota	RAV4	214	170	25.9	2.7%	852	3.5%
Toyota	Yaris	206	142	45.1	2.6%	657	2.7%
Holden	Commodore	195	245	-20.4	2.4%	844	3.5%
Mazda	Mazda3	193	237	-18.6	2.4%	704	2.9%
Hyundai	Santa Fe	183	165	10.9	2.3%	495	2.1%
Holden	Captiva	181	152	19.1	2.2%	502	2.1%
Volkswagen	Golf	181	190	-4.7	2.2%	462	1.9%
Nissan	X-Trail	180	123	46.3	2.2%	459	1.9%
Hyundai	ix35	175	197	-11.2	2.2%	579	2.4%
Mazda	Mazda2	174	59	194.9	2.2%	494	2.0%
Holden	Cruze	162	142	14.1	2.0%	603	2.5%
Mitsubishi	ASX	150	80	87.5	1.9%	496	2.1%
Nissan	Qashqai	137	112	22.3	1.7%	461	1.9%
Honda	CR-V	123	130	-5.4	1.5%	272	1.1%
Mitsubishi	Lancer	117	222	-47.3	1.4%	316	1.3%
Subaru	Outback	115	61	88.5	1.4%	249	1.0%
Kia	Sportage	115	121	-5.0	1.4%	263	1.1%
Toyota	Highlander	105	128	-18.0	1.3%	359	1.5%
Mitsubishi	Mirage	100	60	66.7	1.2%	227	0.9%
Hyundai	i20	95	74	28.4	1.2%	280	1.2%
Suzuki	SX4 S-Cross	94	63	49.2	1.2%	221	0.9%
Ford	Territory	84	87	-3.4	1.0%	266	1.1%
Mercedes-Benz	C-Class	83	37	124.3	1.0%	188	0.8%
Ford	Kuga	83	123	-32.5	1.0%	356	1.5%
Holden	Barina	82	51	60.8	1.0%	284	1.2%
Mazda	Mazda6	80	73	9.6	1.0%	220	0.9%
SsangYong	Korando	75	37	102.7	0.9%	190	0.8%
Volkswagen	Polo	75	43	74.4	0.9%	201	0.8%
Ford	Mondeo	73	90	-18.9	0.9%	166	0.7%
Hyundai	i30	72	174	-58.6	0.9%	278	1.2%
Others		2,912	3,127	-6.9	36.1%	8,528	35.3%
<b>Total</b>		<b>8,075</b>	<b>7,992</b>	<b>1.0</b>	<b>100.0%</b>	<b>24,142</b>	<b>100.0%</b>



# Franchises report roaring trade

The registration of 8,075 new passenger vehicles last month came in at 83 units higher than the total for same month in 2014 to make it the strongest March since 1984.

The Toyota Corolla was the top-selling passenger model with its 291 registrations accounting for a 3.6 per cent share of the market.

Suzuki's Swift took out second place in March with 274 sales, while Honda's Jazz notched up 238 units.

Toyota topped the passenger vehicles ladder with a 12 per cent market share and 970 units.

It was followed by Holden with 794 registrations and Mazda taking out third place on 732.

Peter Swaney, managing director of Autoworld Timaru, which holds franchises for Kia and Volkswagen, says business has been "tracking far better than last year".

He told Autofile: "March ended up being a far better month than the two prior months, and growth and activity has remained strong heading into April."

Despite the weather and drop in dairy pay-outs, Swaney says farmers in his area just seem to be getting on with it.

"The drought and dairy issues have had effects, and we first noticed them coming into play October right through until March. However, the market has steadied and been more consistent especially with a bit more rain."

Swaney says the local economy continues to grow on the back of Port of Tauranga's investment in PrimePort Timaru.

"We are also probably in a situation when we are likely to see

a growth in population with all of the activity at the port and some of our new retail investment," he adds.

"Employment is going to have to come from out of town and we're seeing a few new sub-divisions popping up.

"Overall, I think 2015 will be a very good new vehicle year and volumes could grow quite significantly given the deals that are out there at the moment."

Paul Brown, dealer principal of John Andrew Ford in Auckland, says: "The new Ford Mondeo is about to hit showrooms. That's going

there's not a massive amount of people interested in getting into the industry," he adds. "It's about getting the right type of people."

Richard van den Engel, dealer principal of Ebbett Volkswagen in Hamilton, describes the German marque as "an incredibly good value proposition".

"The Golf is a motoring icon and continues to be our bestseller, especially with the \$29,990 campaign," he says.

"The Tiguan is gaining traction as buyers start to understand they can have the same

year on year in 2014 against market growth of 12 per cent."

Van den Engel says the dealership takes "an holistic approach to marketing and tries to match each offer with a suitable media channel".

For example, it makes more use of digital platforms when it believes an offer may appeal to a younger audience.

"There is still a place for traditional media. Many of our customers still pick up the paper to read it on Saturday mornings."

Van den Engel says his background in accounting with Deloitte has given him a good understanding of what it takes to run a business profitably.

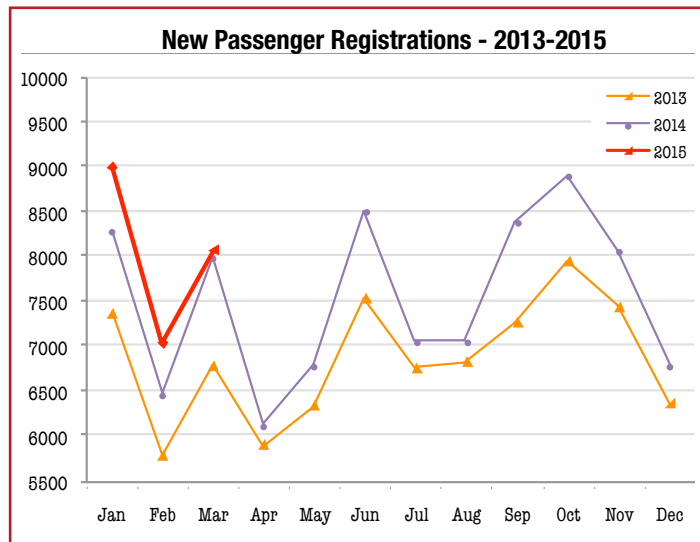
"But perhaps more importantly, Deloitte, like the motor industry, is a people's business," he says.

"People buy from people. At Deloitte, I learned how to build a connection, understand our clients' businesses and add value. It is those skills that I use every day in the motor industry."

For the overall market, the sale of 11,755 new passenger and commercial vehicles amounted to the strongest March for 31 years according to the Motor Industry Association (MIA).

"New vehicle registrations for 2015 continue to reflect a strong economy," says David Crawford, chief executive officer.

Last month, overall sales jumped by five per cent compared to March 2014, or by 517 units, and eight per cent year to date when stacked up against the same period last year, reports the MIA – a difference of 2,394 units. ☺



exceptionally well and we have already received a lot of orders.

"The new Territory has exceeded our expectations, while the big segment moving forward is the small SUV and we have a strong offering with the Kuga."

Brown describes his team at the dealership in Grey Lynn as "pretty loyal and stable".

"With the talent pool we are looking at when employing,

technology, safety, fuel efficiency and quality of the much-loved Golf in an SUV format.

"Waikato people know Volkswagen means quality and its vehicles are now more affordable than ever before. As people begin to understand this value proposition, new car sales continue to grow.

"Ebbett Volkswagen increased its new vehicle sales by 28 per cent

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# Two-way battle between utes

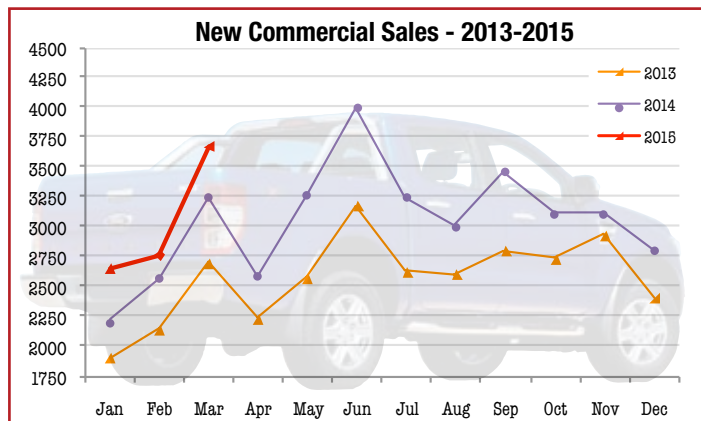
The Toyota Hilux has again topped the ladder for sales of commercial vehicles with 548 registrations during March.

Ford's Ranger had to settle for second on 514 units while Holden's Colorado came third with 346.

Year to date, the Ranger is the best-selling ute with 1,312 registrations, but it is closely followed by the Hilux on 1,299.

Sales of new commercial vehicles last month came in 437 units higher than in the same month of 2014, which made for the best March since 1982.

Paul Brown, of John Andrew Ford in Auckland, says: "Commercial products, such as the Ranger, continue to go incredibly well.



"The Ranger is perfect for a lot of small businesses in the city because it's so fit for purpose."

Peter Swaney, of Autoworld Timaru, says: "There's really good strength in utes and vans because

of the building trade placing orders.

"Volkswagen's Amarok is certainly getting interest from those people and it's good for that industry.

"Timaru is also on the up and the employment rate is still incredibly low.

"The port is ahead of schedule as far as growth goes and there is a lot of commercial building going on with a new retail complex about to be built here.

"There seems to be a general upturn and overall the market is looking positive for the rest of the year."

"Isuzu's D-Max is in a great stage where there's a lot of interest in it," says Chris Drysdale, dealer principal of Wings & Wheels in Taupo.

"Our targets are growing consistent to where the brand is."

The best-selling new commercial vehicles marque in March was Toyota on 818 units. Ford came next on 629 while Holden was third with 357. ☺

## New Commercial Sales by Make - March 2015

MAKE	MAR '15	MAR '14	+/- %	MAR '15 MKT SHARE	2015 FULL YEAR	2015 MKT SHARE
Toyota	818	753	8.6	22.2%	1,933	21.1%
Ford	629	600	4.8	17.1%	1,596	17.4%
Holden	357	186	91.9	9.7%	802	8.8%
Mitsubishi	326	231	41.1	8.9%	658	7.2%
Nissan	280	270	3.7	7.6%	800	8.7%
Isuzu	246	199	23.6	6.7%	624	6.8%
Volkswagen	136	114	19.3	3.7%	388	4.2%
Mazda	123	101	21.8	3.3%	319	3.5%
Hyundai	86	62	38.7	2.3%	208	2.3%
SsangYong	67	81	-17.3	1.8%	212	2.3%
Hino	61	62	-1.6	1.7%	144	1.6%
Mitsubishi Fuso	58	71	-18.3	1.6%	132	1.4%
Fiat	53	30	76.7	1.4%	139	1.5%
Foton	51	27	88.9	1.4%	134	1.5%
Volvo	48	44	9.1	1.3%	84	0.9%
Mercedes-Benz	44	49	-10.2	1.2%	110	1.2%
Great Wall	40	99	-59.6	1.1%	155	1.7%
LDV	38	50	-24.0	1.0%	113	1.2%
DAF	28	38	-26.3	0.8%	58	0.6%
UD Trucks	24	22	9.1	0.7%	69	0.8%
Others	167	154	8.4	4.5%	480	5.2%
<b>Total</b>	<b>3,680</b>	<b>3,243</b>	<b>13.5</b>	<b>100.0%</b>	<b>9,158</b>	<b>100.0%</b>

## New Commercial Sales by Model - March 2015

MAKE	MODEL	MAR '15	MAR '14	+/- %	MAR '15 MKT SHARE	2015 FULL YEAR	2015 MKT SHARE
Toyota	Hilux	548	505	8.5	14.9%	1,299	14.2%
Ford	Ranger	514	550	-6.5	14.0%	1,312	14.3%
Holden	Colorado	346	168	106.0	9.4%	764	8.3%
Mitsubishi	Triton	287	156	84.0	7.8%	592	6.5%
Nissan	Navara	280	270	3.7	7.6%	800	8.7%
Toyota	Hiace	249	225	10.7	6.8%	580	6.3%
Isuzu	D-Max	160	114	40.4	4.3%	384	4.2%
Mazda	BT-50	123	100	23.0	3.3%	319	3.5%
Ford	Transit	115	46	150.0	3.1%	281	3.1%
Volkswagen	Amarok	92	72	27.8	2.5%	265	2.9%
Hyundai	iLoad	84	60	40.0	2.3%	204	2.2%
SsangYong	Actyon Sport	67	81	-17.3	1.8%	212	2.3%
Foton	Tunland	48	24	100.0	1.3%	127	1.4%
Fiat	Ducato	39	26	50.0	1.1%	116	1.3%
Mitsubishi	L300	39	75	-48.0	1.1%	66	0.7%
LDV	V80	38	50	-24.0	1.0%	113	1.2%
Isuzu	N Series	37	37	0.0	1.0%	98	1.1%
Volvo	FM	35	39	-10.3	1.0%	55	0.6%
Mercedes-Benz	Sprinter	35	39	-10.3	1.0%	86	0.9%
Hino	500	34	30	13.3	0.9%	77	0.8%
Others		510	576	-11.5	13.9%	1,408	15.4%
<b>Total</b>		<b>3,680</b>	<b>3,243</b>	<b>13.5</b>	<b>100.0%</b>	<b>9,158</b>	<b>100.0%</b>



# NOW SELLING RENTAL VEHICLES

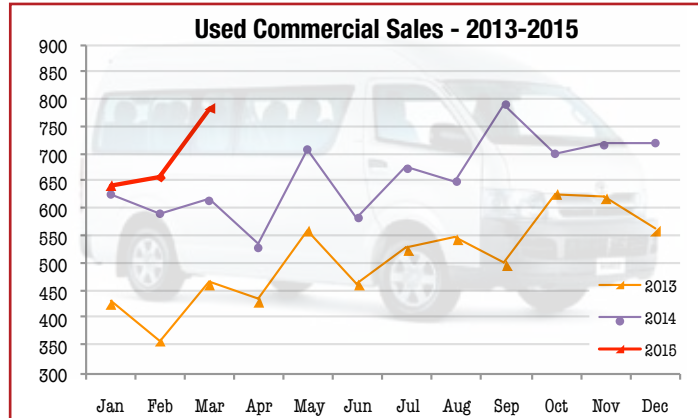
# Commercials notch up big rise

There were 785 used commercial vehicles registered in March, which was up by 27.2 per cent on sales during the same month of 2014 for a year-to-date total of 2,110.

Toyota's Hiace topped the ladder on 298 units, followed by Nissan's Caravan on 73 and Mazda's Bongo on 36.

Nigel Towler, joint dealer principal of Northland Autos in Whangarei, says he has customers trading back second-hand Great Walls and they are selling quite quickly.

"They tend to be on the yard for days rather than weeks," he told Autofile. "Even retail values on the second-hand Great Walls give excellent returns.



"We've had some of them back from three years ago with close to 100,000km on the clock and they are retailing for 65 per cent of their new prices."

Towler adds Nissan's Navara

is the used commercial he has received the most trades of recently.

"There's a real lack of cheaper commercials – the stuff you could trade for \$7,000 and sell for about \$10,000," says Gareth Karrasch,

director of 317 in Takani, South of Auckland.

"We used to buy them in every shape or form. Now it's nearly impossible to find a good commercial that will retail for \$10,000 or under.

"I think people just drive them until they go to scrapyards. We had a good example with a used Courier in that price bracket. The owner decided not to trade it because he wanted to pass it onto his son.

"We're coming up against a lot of this stuff and people can be in a better position financially by selling the vehicle themselves."

Toyota was last month's top marque on 395 units. Nissan came next on 147 with Mazda taking out third on 44. ☺

## Used Commercial Sales by Make - March 2015

MAKE	MAR '15	MAR '14	+/- %	MAR '15 MKT SHARE	2015 FULL YEAR	2015 MKT SHARE
Toyota	395	302	30.8	50.3%	1,066	50.5%
Nissan	147	142	3.5	18.7%	409	19.4%
Mazda	44	25	76.0	5.6%	121	5.7%
Isuzu	35	38	-7.9	4.5%	85	4.0%
Hino	33	13	153.8	4.2%	64	3.0%
Mitsubishi	30	18	66.7	3.8%	72	3.4%
Ford	22	24	-8.3	2.8%	63	3.0%
Holden	18	9	100.0	2.3%	35	1.7%
Chevrolet	12	14	-14.3	1.5%	39	1.8%
Fiat	8	2	300.0	1.0%	29	1.4%
Dodge	5	0	500.0	0.6%	10	0.5%
GMC	5	4	25.0	0.6%	16	0.8%
Kenworth	5	0	500.0	0.6%	10	0.5%
Volkswagen	4	2	100.0	0.5%	17	0.8%
Mercedes-Benz	3	8	-62.5	0.4%	7	0.3%
Vauxhall	3	1	200.0	0.4%	4	0.2%
Mack	2	0	200.0	0.3%	3	0.1%
Suzuki	2	2	0.0	0.3%	8	0.4%
Citroen	1	0	100.0	0.1%	2	0.1%
DAF	1	0	100.0	0.1%	4	0.2%
Others	10	13	-23.1	1.3%	46	2.2%
<b>Total</b>	<b>785</b>	<b>617</b>	<b>27.2</b>	<b>100.0%</b>	<b>2,110</b>	<b>100.0%</b>

## Used Commercial Sales by Model - March 2015

MAKE	MODEL	MAR '15	MAR '14	+/- %	MAR '15 MKT SHARE	2015 FULL YEAR	2015 MKT SHARE
Toyota	Hiace	298	235	26.8	38.0%	802	38.0%
Nissan	Caravan	73	66	10.6	9.3%	193	9.1%
Mazda	Bongo	36	19	89.5	4.6%	102	4.8%
Toyota	Regius	32	25	28.0	4.1%	90	4.3%
Nissan	Vanette	29	47	-38.3	3.7%	85	4.0%
Toyota	Toyocace	24	7	242.9	3.1%	51	2.4%
Toyota	Dyna	23	19	21.1	2.9%	70	3.3%
Isuzu	Elf	22	16	37.5	2.8%	47	2.2%
Hino	Dutro	21	4	425.0	2.7%	41	1.9%
Mitsubishi	Canter	16	8	100.0	2.0%	38	1.8%
Nissan	NV200	16	1	1500.0	2.0%	47	2.2%
Nissan	Atlas	13	14	-7.1	1.7%	37	1.8%
Toyota	Hilux	13	11	18.2	1.7%	34	1.6%
Fiat	Ducato	8	2	300.0	1.0%	29	1.4%
Nissan	Navara	8	7	14.3	1.0%	20	0.9%
Hino	Ranger	8	4	100.0	1.0%	17	0.8%
Mitsubishi	Triton	8	3	166.7	1.0%	17	0.8%
Ford	Ranger	7	4	75.0	0.9%	18	0.9%
Holden	Colorado	6	2	200.0	0.8%	11	0.5%
Holden	Commodore	6	2	200.0	0.8%	15	0.7%
Others		118	121	-2.5	15.0%	346	16.4%
<b>Total</b>		<b>785</b>	<b>617</b>	<b>27.2</b>	<b>100.0%</b>	<b>2,110</b>	<b>100.0%</b>

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