

ANNUAL REPORT 2011



MOTOR INDUSTRY OMBUDSMAN



Dr M Phosa
Chairperson

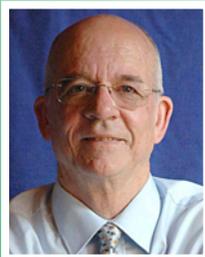


JHL van Vreden
Ombudsman



TJ Swart
Deputy Chairman

ADVISORY BOARD MEMBERS



A Bezuidenhout



JL Krause
Deputy Ombudsman



M Moeletsi



P Molefe



B Pretorius



N Vermeulen



Contents

Contents	1
Chairperson's comments	2
Ombudsman's report - 2011	4
Activities	7
New telephone system	8
Administration department	9
Main causes of complaints	10
Value of complaints dealt with	13
Case studies	14
The way forward	16
Letters received by the MIO	17



Chairperson's Comments

Economic cycles are an accepted phenomenon amongst businesses and economists the world over. However, it is not often that an industry like the motor industry has to face and manage two extreme low periods and one high in one decade. The current international economic crisis has not left the motor industry untouched, however, the South African motor and component industry has shown remarkable recovery during the year under review. Confidence is high that the industry will be testing record export levels during 2012.

As previously reported, South Africa remains focused on its export drives and industry sources are confident that the 6,8 percent contribution to the GDP (Gross Domestic Product) during 2011 will assist to grow the export of vehicles to an estimated 300 000 vehicles in 2012 as well as a 10 percent growth in the export of components. The motor industry remains one of the most important sectors in the South African economy and its continuous drive to create jobs cannot be underestimated. Important is the export to 39 African countries that has grown to 67 442 units compared to the 42 553 units in the previous year.

The challenges for the South African consumer were many during the year under review. The fuel price remains stable but at such a level that it impacted negatively on basic foodstuffs and production costs in all sectors. This could be seen in the steady rise in the price of consumers' monthly basket. Despite this, South Africa has managed the impact during the year but will have to, in all sectors, react with discipline and with educated foresight to stave off what can be a serious economic threat during 2012.



Challenges for the motor industry did not only occur on the economic front but manifested itself locally when trying to come to terms with the new Consumer Protection Act, issues pertaining to labour and the impending new tolling of main roads in Gauteng. As reported previously, the draft Code for the Motor Industry was delivered to the Consumer Commission in March 2011. Industry still awaits progress on that front.



Dr Matthews Phosa
Chairman

There is nothing like experience to deal with day-to-day issues and pressures that consumers and industry battle with. The office of the Motor Industry Ombudsman is twelve years old and with these twelve years comes a unique experience to carry out its mandate. Thousands of consumers contact the office of the Motor Industry Ombudsman every year and although it is not always possible to help everyone, the statistics attest to the great work of the Ombudsman, Johan van Vreden and his loyal team ably assisted by the members of the advisory board.

I would like to take this opportunity to thank them for their dedication under very difficult circumstances such as a limited budget and coping with minimum staff levels. I wish to thank Theo Swart who, as deputy chairman during the year, had to share many of the chairman's duties as time constraints did not always allow me to get more involved.

In closing I would also like to take this opportunity to welcome Brand Pretorius on to the Advisory Board of the Motor Industry Ombudsman and I hope that he will continue to contribute to the industry in this capacity as he does in all the other areas where he so ably serves.

Dr Matthews Phosa
Chairman



The Ombudsman's report - 2011

The year 2011 was a time of expectation for every alternative dispute resolution organisation (ADR) to see what impact the Consumer Protection Act 68 of 2008 (CPA) would have on the respective industries. What soon became clear was that, although the Act is comprehensive in its coverage, interpretation was a problem from the outset. For the consumer it brought confusion as the CPA was expected to heal all ills at the mere mention of the Act. For business it meant millions of rand in training expenditure and the challenge to the Motor Industry Ombudsman (MIO) was clearly not only to apply the Act but also to educate. Fortunately, training in the office of the MIO started as early as 2009 with the result that the MIO was well prepared for the task at hand.

The South African Automotive Industry Code of Conduct (Code), that is based carefully on the CPA is unfortunately at this time still not published or accredited and we await its arrival with great expectation. Accreditation of the Code will contribute greatly to make the lives of consumers and participants in the motor industry, whom are essentially not lawyers, so much easier.

The MIO was established twelve years ago to adjudicate and conciliate in matters where service providers in the motor industry and their customers have reached an impasse and a dispute is declared. This process utilises the South African law, objectivity, fairness and good engineering practices. The process is further carried out in a way that provides for transparent, accessible and effective redress and upholds the requirements as set out in the preamble of the CPA.

Co-operation with other stakeholders is of great importance and the MIO works closely with the Department of Trade and Industry (DTI) and will in future endeavour to assist and advise the



Johan van Vreden
*Motor Industry
Ombudsman*

National Consumer Commission and the National Tribunal on automotive-related matters to fulfil their mandate.

The MIO further assists motor-related service providers with advice on consumer issues and training and advice on the CPA. The MIO maintains good relationships with automotive trade associations as well as consumer groups and it is important to note that the MIO's jurisdiction is contractually seated and can therefore be legally enforced.

The funding model of the MIO remains unchanged and the non-interference clause has once again stood the test of time, ensuring the independence of the MIO when carrying out its mandate.

During the year under review, the MIO has managed to retain its streamline infrastructure while continuing to improve its systems and processes. While already very effective, the statistics revealed weaknesses in the processes, especially considering the number of complaints and issues with which the MIO has had to deal with on a daily basis and those issues will be focused on during 2012.

The personnel structure of the ombudsman's office consisted of:

- a. The Ombudsman;
- b. Legal director and Deputy Ombudsman;
- c. Financial officer;
- d. Adjudicators / conciliators;
- e. Call centre manager;
- f. Liaison manager;
- g. Liaison officers (provincial in main economic centres);
- h. Administrative staff, including a receptionist.



The MIO can confidently state that it enjoys the full support of the formal automotive and related industries in South Africa. I wish to thank the following organisations and institutions for their generous support:

- Members of the South African motoring public, who have ensured the ongoing growth of the MIO;
- Vehicle manufacturers, importers and the retail motor industry;
- Government through the provincial consumer protection agencies, the National Consumer Tribunal, provincial consumer protectors, the consumer courts, the Department of Trade and Industry and the Departments of Justice and Transport;
- The media through its positive and ongoing support;
- The chairpersons and executive directors of NAAMSA, the Retail Motor Industry organisation, Independent Dealers Association and the Automobile Association of South Africa;
- The South African Consumer Union and the South African Fraternity of Attorneys;
- The Ombudsman for Banking Services;
- The Ombudsman for Short-term Insurance;
- The FAIS Ombudsman;
- The Credit Information Ombudsman.

I would also like to thank my fellow directors of the MIO for their dedication and hard work during the year and the members of the advisory board for their continuous, unselfish contributions to this office. The leadership and mentoring provided by the chairperson and vice-chairperson were of great value and the MIO remains fortunate to be able to benefit from such wise counsel.

The MIO also wishes to extend its sincere thanks to the dealer groups and the greater number of individual motor-related businesses for realising the importance of consumer care and retention as the basis for success. Their support and continued acknowledgement have resulted in the MIO growing from strength to strength. We trust that our services will continue to benefit all parties in 2012.

Johan van Vreden
Motor Industry Ombudsman



Activities

During the year under review, the staff of the MIO attended several training courses that were focused on the CPA. Although the MIO staff has been subjected to thorough training in all aspects of the CPA, training remains ongoing to ensure competence when applying the Act.

The Code for the motor industry forms a major part of the training syllabus and equips the MIO staff with the necessary knowledge and understanding of the Act when dealing with consumer complaints and giving advice.

Practical CPA training courses were arranged by the MIO's legal department during the year under review and feedback remains positive.

Visits to manufacturers, importers and motor dealers formed an important part of keeping communication channels open to the benefit of consumers and industry alike. Due to operational pressure, it was not possible to visit all stakeholders, however, this will continue in 2012 to ensure that communication channels remain healthy.

Several conferences and workshops were attended during the year under review. These workshops continued to be dominated by the CPA, however, useful technical workshops were also attended. The year 2011 also saw the first of a series of specialised technical training courses being presented by the office of the MIO. These were well attended by senior technical staff from various organisations.

The MIO remains the treasurer of the Ombudsman Association of South Africa. Networking with the other ombudspersons in other industries and sectors of society has once again ensured that the MIO remains in step with national and international trends.

New Telephone System

A new telephone system will be installed at the office of the MIO in 2012 to further improve its service to the consumer. Due to the ever increasing number of telephonic requests for assistance and advice being received by the office of the MIO, the current telephone system can no longer cope with the volume of calls. The current system does not have enough incoming lines, has no all-round management system or recording facility. As the system has no engaged ringing mode, consumers often reach a phone that just rings although all the lines are engaged.

To solve this problem, a Siemens HiPath Pabx system with a fully automated management system and auto attendant will be installed in the beginning of June 2012.

The management system will make provision for the recording of some incoming and outgoing calls to adjudicators for training purposes. This will make a major contribution to a more effective and prompt way of handling telephonic enquiries from consumers and industry alike. The system will also enable management to capture data that can be used for planning and research purposes.

The auto attendant function will guide the caller through different options to ensure that the call is answered by the correct department or person in the shortest possible time. Another time-saving option of this function will allow the caller to access the telephone numbers and e-mail addresses of other Ombudsmen handling vehicle-related matters, such as financing and insurance, should that be required.

If all the lines are busy, the new system will ring engaged, minimising caller frustration.

The new contact numbers as from 1 June 2012 will be:

Telephone: 086 11 64672 or 086 11 MIOSA

Telephone: 010 590 8378

Fax: 086 630 6141

E-mail: info@miosa.co.za

Postal address: Suite 156, Private Bag X025, Lynnwood Ridge, 0040

Administration Department

The administration department was bolstered with two much-needed staff members. A new filing system was added to the administration office making the day-to-day running of the office a lot easier.

The administration process remains in good shape and basically flows as follows:

After receiving a new "Application for Assistance" form from a complainant, it gets logged on the system generating a unique reference number for the case file. All case-related documentation is then scanned and attached to the system, then referred to all parties concerned via fax and e-mail for their comments.

Once all the written responses have been received, the case file leaves the administration office and is handed over to the adjudicators.

Delays, due to late responses, unfortunately slows the process down. However, this is inevitable and is managed as part of the process.

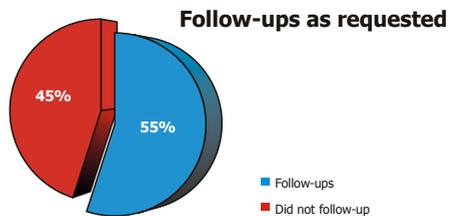
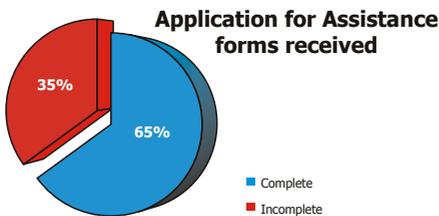
Information requested on the "Application for Assistance" form is crucial to enable staff to issue a reference number and to proceed with the case. Without the information requested, the department is unable to initiate the case - thus causing a delay, sometimes for months.

An important cause of delays is when consumers do not read and complete the "Application for Assistance" form in full, as required, delaying the processing of the dispute.

35% of complaints received in 2011 were received incomplete.

45% of complainants did not follow up as requested after referral.

5% of complainants did not inform the MIO that the case had been resolved between the parties.

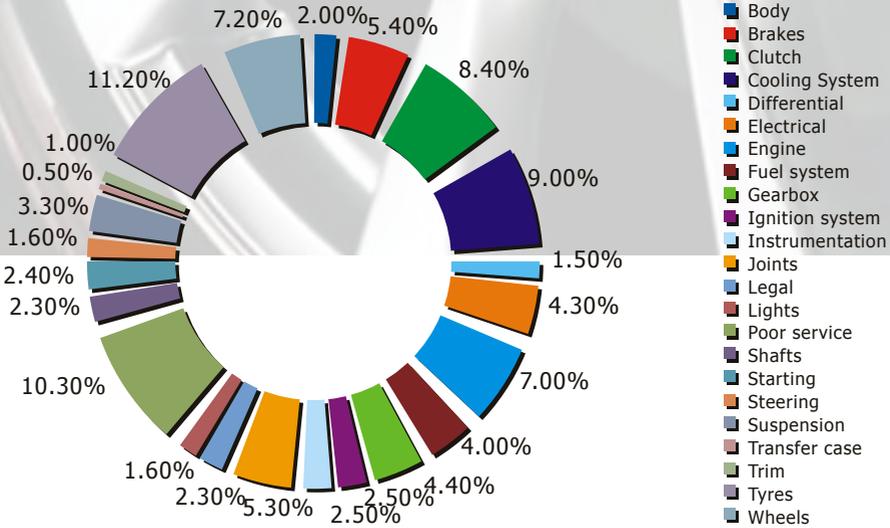


Jenny Johnson
Administration Department

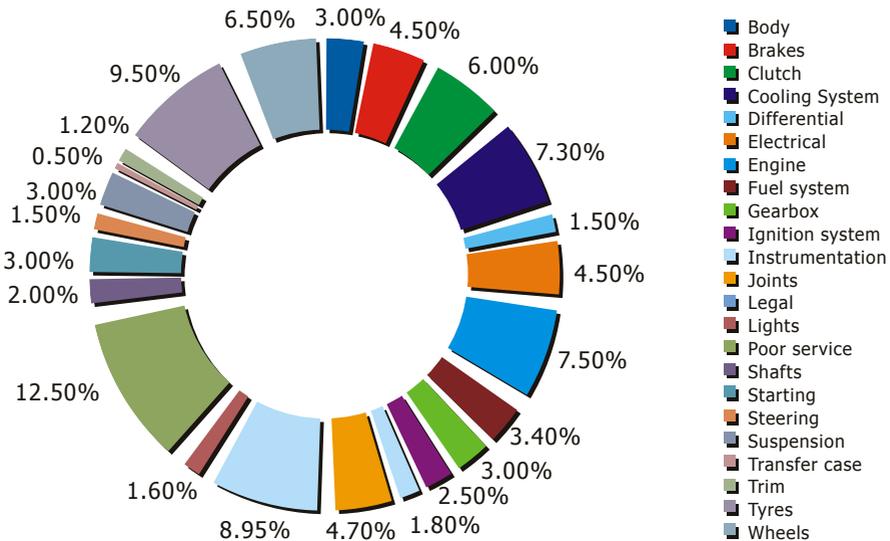
Main causes of complaints

Description	Percentage of total for 2010	Number of complaints for 2010	Percentage of total for 2011	Number of complaints for 2011
Body	2,0%	420	3,0%	749
Brakes	5,4%	1 279	4,5%	1 347
Clutch	8,4%	2 002	6,0%	1 497
Cooling system	9,0%	2 140	7,3%	1 821
Differential	1,5%	382	1,5%	374
Electrical	4,3%	1 016	4,5%	1 123
Engine	7,0%	1 637	7,5%	1 871
Fuel system	4,0%	827	3,4%	848
Gearbox	4,4%	1 023	3,0%	749
Ignition system	2,5%	638	2,5%	624
Instrumentation	2,5%	600	1,8%	437
Joints	5,3%	1 237	4,7%	1 198
Legal	2,3%	530	8,95%	2 223
Lights	1,6%	373	1,6%	399
Poor service	10,3%	2 425	12,5%	3 119
Shafts	2,3%	533	2,0%	499
Starting	2,4%	556	3,0%	749
Steering	1,6%	408	1,5%	374
Suspension	3,3%	765	3,0%	749
Transfer case	0,5%	119	0,5%	125
Trim	1,0%	237	1,2%	299
Tyres	11,2%	2 618	9,5%	2 370
Wheels	7,2%	1 677	6,5%	1 622
Total	100,0%	23 442	100,0%	24 952

Percentage of total complaints for 2010

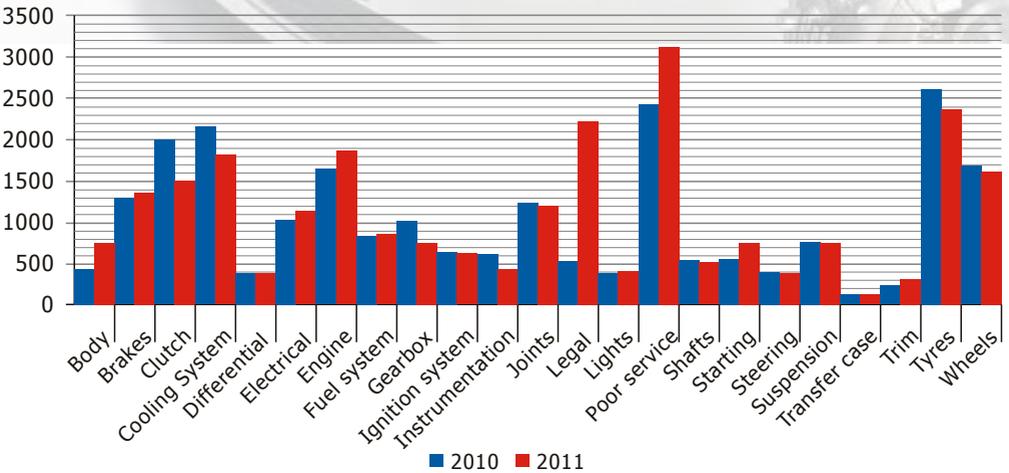


Percentage of total complaints for 2011





Number of complaints for 2010/2011



The year under review brought a number of concerns to the fore that lay at the base of most of the problems experienced by consumers and industry stakeholders. Communication, or lack of continuity, when communicating between the motor industry and its customers, once again led to numerous complaints that could have been resolved in far more amicable ways. In addition, the vast number of different vehicle models available to South Africans presented certain challenges. In the aftermarket, spares and certain components became problematic and led to unfortunate delays in the repair processes.

Although manufacturers, importers, motor retailers and trade associations are fully committed to providing training to their technical staff, the industry still suffers great shortages as far as technically trained people are concerned. It can reasonably be expected that the more qualified people available, the higher the quality of service, workmanship and customer satisfaction will be evident.



Credit conditions were relatively tight during the year, resulting in vehicle sales stabilising at increased but lower levels than previous years. The implementation of the CPA served as one of the excuses used by people who have overestimated their budgets and wanted to return vehicles (so-called: buyer's remorse).

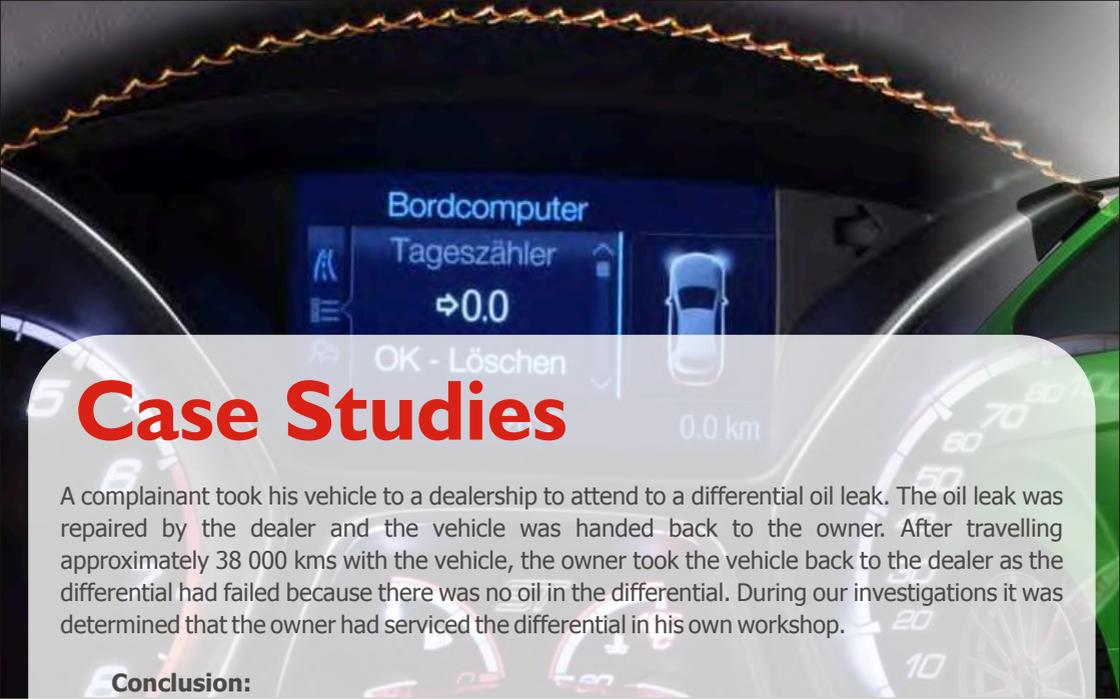
High-volume service, spares and repairs were provided and carried out as well as anywhere else in the world. Only the turnaround time of repairs, where low-volume components were affected, did the MIO notice long and in some cases completely unacceptable time being taken to carry out these repairs.

The MIO dealt with 24 952 cases during 2011. A total of 10 150 were resolved at first contact. The advice given by the adjudicators is proving to contribute greatly in bringing down the number of complaints that the MIO has to deal with in the normal course of the complaint process. The MIO could not financially justify a full-time call centre during 2011 but we are positive that the installation of a new telephone system in 2012 will greatly relieve the pressure that is being experienced.

Written complaints numbering 14 802 were referred to the relevant manufacturers, importers, dealers and service providers. This resulted in 7 640 recommendations being made to the parties and 725 rulings being issued. The statistic that we find most encouraging is that 6 437 were resolved between the parties through facilitation by the MIO.

Value of Complaints

Estimated value of complaints rose by 8,2 percent in comparison to the 12,5 percent rise of the previous year. This resulted in a rise from R142 300 461.00 to R154 396 000.00. Steady performance in vehicle sales as well as modest cost increases to the consumer by vehicle manufacturers, importers and dealers has had an effect on the increase. The improved road infrastructure in Gauteng has also contributed to the lower level of complaint increase experienced during the year under review.



Case Studies

A complainant took his vehicle to a dealership to attend to a differential oil leak. The oil leak was repaired by the dealer and the vehicle was handed back to the owner. After travelling approximately 38 000 kms with the vehicle, the owner took the vehicle back to the dealer as the differential had failed because there was no oil in the differential. During our investigations it was determined that the owner had serviced the differential in his own workshop.

Conclusion:

The MIO ruled that, based on the balance of probabilities, the technician who serviced the differential at the owner's workshop, failed to secure the drain plug which caused the oil to leak out, causing the failure of the differential. The ruling was accepted by both parties and the matter was closed.

A complainant took his vehicle to a dealership and instructed them, amongst other things, to supply and fit a second-hand engine. Within 24 days after receiving the vehicle back, the engine developed a terrible noise and was towed to the nearest motor dealership. Then the complainant approached the MIO for assistance. A conciliation session was held in which both parties participated. It was discovered that the dealership did not supply a second-hand engine as per the quote but reconditioned the old engine. An independent inspection was carried out to determine the cause of the noise. The outcome of the inspection was made available to the parties.

Conclusion:

The MIO ruled that the dealership should repair the engine or replace it with an engine of similar wear and tear with no cost to the complainant and waive the cost of storage.

A complainant purchased a pre-owned vehicle from a dealership and after a month of ownership reported that the automatic transmission had failed. The transmission was repaired by the consumer and then claimed the repair costs from the dealership. The dealership refused any assistance, basing its decision on the fact that the 1month/1000 km dealer warranty had expired and that they could not have known about any defects in the transmission. The MIO was not granted the opportunity to assess the cause and damage to the transmission.



Conclusion:

The MIO ruled that, in accordance with sections 55 and 56 of the CPA, the cost of the repairs be split between the complainant and the selling dealer. This was based on the fact that the complainant had the transmission repaired without authority from the selling dealer, who at the time was the warrantor, and also the fact that the failure was not caused through wear and tear.

A complainant purchased a pre-owned vehicle from a dealership. A month later the engine developed a noise and smoked excessively. The dealership repaired the engine, however, within two weeks the engine stalled. The dealership towed the vehicle to their workshop and reported that the timing chain had broken. The dealership shifted the blame to the parts supplier and refused to accept liability. The complainant then approached the MIO for assistance. The MIO instituted an independent inspection which concluded that the cause of the engine failure was the result of poor workmanship.

Conclusion:

The MIO ruled that the dealership should repair the complainant's vehicle at no cost to the complainant.

A complainant had an accident with his vehicle where, according to him, the ABS braking system failed and locked the wheels while negotiating a bend at high speed, causing the vehicle to spin and roll. The complainant held the manufacturer responsible for a defect or workmanship fault relating to the braking system.

Conclusion:

The manufacturer requested a mechanical inspection by a MIO accredited inspector. The MIO concluded that there were no faults detectable in the related systems or components and ruled that the accident was a result of driver error.

A complainant purchased a pre-owned vehicle which still had the balance of the manufacturer's warranty and maintenance policies from a non-franchised dealer. The manufacturer's policy conditions for transfer stated that the vehicle be inspected and approved by an authorised franchised dealer. The inspecting authorised dealer approved the vehicle and the manufacturer transferred the warranty and motorplan policies into the new owner's name. A month later a diagnosis of a misfire revealed that the engine needed to be replaced. The manufacturer's response was that no assistance from their warranty or motorplan policies could be claimed as an



erratic service history rendered both the policies null and void. The approval and transfer of the warranty and motorplan policies gave the complainant a false sense of security in that he thought the service history was in accordance with the manufacturer's requirements. The complainant questioned the transfer of the warranty and motor plan in light of the erratic service history. If the erratic service history had been detected when the first inspection was conducted, the consumer might have been able to take steps to prevent the current consequential damage from occurring.

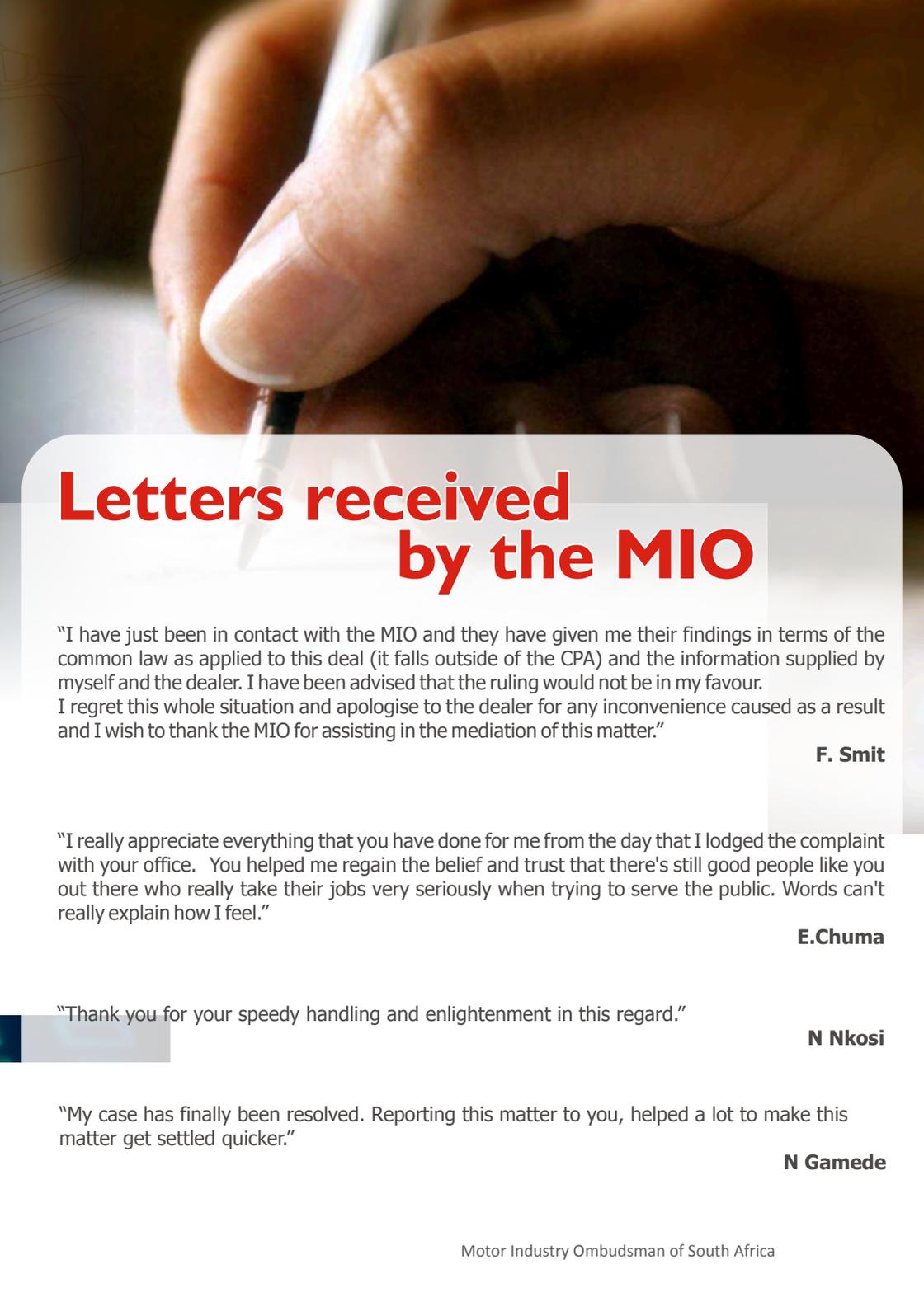
Conclusion:

The MIO ruled that the vehicle should be repaired in accordance with the applicable manufacturer warranty and motorplan policies.

The way Foreward

Maintaining the independence of the MIO will remain the priority to ensure that all the decisions taken by the MIO will be independent and impartial. The accreditation of the MIO by the honourable Minister of Trade and Industries under the CPA will go a long way to strengthen the hand of the MIO in its endeavours. As previously mentioned, the application for accreditation was submitted to the honourable Minister in April of the year under review and the MIO is anticipating a positive response.

Ministerial accreditation will lead to improved financial support of the MIO that will in itself result in a more timely service as well as a wider range of assistance being provided by the MIO.



Letters received by the MIO

"I have just been in contact with the MIO and they have given me their findings in terms of the common law as applied to this deal (it falls outside of the CPA) and the information supplied by myself and the dealer. I have been advised that the ruling would not be in my favour. I regret this whole situation and apologise to the dealer for any inconvenience caused as a result and I wish to thank the MIO for assisting in the mediation of this matter."

F. Smit

"I really appreciate everything that you have done for me from the day that I lodged the complaint with your office. You helped me regain the belief and trust that there's still good people like you out there who really take their jobs very seriously when trying to serve the public. Words can't really explain how I feel."

E.Chuma

"Thank you for your speedy handling and enlightenment in this regard."

N Nkosi

"My case has finally been resolved. Reporting this matter to you, helped a lot to make this matter get settled quicker."

N Gamede



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Director: AA Bezuidenhout
Advisory Board: M Moeletsi, P Molefe, B Pretorius, TJ Swart, N Vermeulen**