



THE MOTOR INDUSTRY OMBUDSMAN OF SOUTH AFRICA



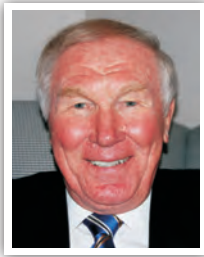
ANNUAL REPORT 2012

THE ONLY INDEPENDENT DISPUTE RESOLUTION FORUM FOR THE
SOUTH AFRICAN MOTOR INDUSTRY AND ITS CUSTOMERS



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DR MATTHEWS PHOSA
CHAIRPERSON



CHAIRPERSON'S COMMENTS

South Africa's economy has continued to show moderate growth despite international markets taking strain. Although challenges in this slower growth, higher risk international environment remained, the challenge was accepted by the South African motor industry. The innovation of our local motor industry remained world class during the year under review and with that in mind, we can remain an export-orientated industry with confidence. Despite volatility in the local market, the South African government remains committed to fast-track the growth and development of the local motor industry which clearly points to the industry's strategic significance.

Taking all the above into consideration, the South African motor industry for the first time during 2012 exceeded the 300 000 unit mark and is testing the R100 billion export level. Although the office of the Motor Industry Ombudsman of South Africa remains the main focus of this report, it is significant to mention contributing factors that played an important role in the abovementioned achievements. The comparative and strategic advantages of South Africa cannot be denied considering that South Africa is ideally positioned providing easy access to the countries of the Southern African Customs Union (SACU) and the Southern African Development Union (SADU). The two unions represent 15 countries with a combined population of 268 million.

South Africa's major strengths are its sophisticated physical and economic infrastructures. Combine this with an abundance of natural mineral and metal resources, growing manufacturing and service sectors, as well as the potential to grow and develop a strong tourism industry. It is then no wonder that South Africa is regarded as one of the most diversified exporters in the world.

Although increasing trade liberalisation has contributed quite significantly to the country's growth and future prosperity, this was unfortunately marred during 2012 by industrial action that

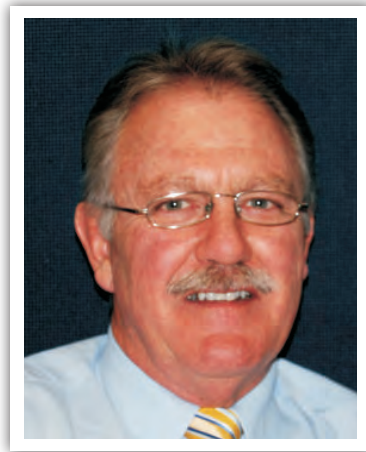
impacted on the country as an investment destination. However, as this is, and will always remain part and parcel of any democracy, one can reasonably expect that business leaders, government and the unions will find ways to address their differences.

With the advent of the Consumer Protection Act 68 of 2008 (CPA), consumers have quite rightly become more vocal as the Act became known. Several organisations, including the office of the MIOSA, have contributed greatly to the education of consumers. A motor industry Code of Conduct (Code) was also completed and handed over to the Department of Trade and Industry (DTI) during 2012. The MIOSA played a leading role in convening a drafting committee to facilitate the drafting of what is most probably the first industry specific Code that will be accredited and included in legislation. Not only did the MIOSA drive this project but will also be the custodian of the Code.

I would like to thank the Ombudsman, Johan van Vreden and his staff as well as the members of the Advisory Board and congratulate them on their achievements during the year. A special note of gratitude goes to Mr Theo Swart, whom in his capacity as Deputy Chairperson of the Advisory Board, has continued sharing his vast experience with the MIOSA. I am also looking forward to view the progress of the MIOSA during 2013 and will undoubtedly then report on further significant achievements.

Dr Matthews Phosa
Chairperson

JOHAN VAN VREDEN
MOTOR INDUSTRY OMBUDSMAN




THE OMBUDSMAN'S REPORT

The implementation of the CPA was to be one of the great consumer events of 2012. Although a very well-thought-out and thorough piece of legislation, we have always maintained that the CPA has as a stumbling block the interpretation thereof. Organisations experiencing difficulty with interpretation included certain groups within the motor industry, the legal fraternity, consumer organisations as well as certain members of the National Consumer Commission (NCC). This made it extremely difficult to implement and created expectations that were not only unrealistic but resulted in "forum" shopping by consumers. Fortunately although not perfect, the MIOSA had the code that was carefully based on the CPA to utilise in matters where disputes arose.

At the time of writing I must report that the Code is still not accredited by the Minister of Trade and Industry and can therefore not be seen as a regulation that forms part of the CPA. It has, however, as expected brought greater understanding of the CPA to the motor industry and the MIOSA has made the Code available on its website for public consumption.

The year under review saw the motor industry, through the office of the MIOSA, consult widely on public forums such as national and local newspapers, websites and the South African Government Gazette to ensure that the Code gets a reasonable chance of succeeding as an industry document that has as its final goal, legislative impact on all parties. This intensive process has resulted in the stakeholders cooperating as never before to ensure that this Code, that is practically a world first, sees the light of day. As a regulation, the Code can be adapted as the need arises and as requirements change. This versatility is not only good for the industry but importantly for consumers. As a further leg to the consulting process, the Department of Trade and Industry published the Code widely to further the consultation process. This has resulted in very useful feedback that will be evaluated and incorporated within the Code to improve the contents.



As in every annual report, the cooperation with other stakeholders cannot be overemphasised especially now that the office of the MIOSA has reached its thirteenth year. Although ministerial accreditation of the MIOSA is a cause for great excitement, the MIOSA has managed over the years to successfully adjudicate and conciliate where disputes arose between the motor industry and its customers. The process can be described as transparent, utilising good engineering practice, the South African law, objectivity and fairness. Noteworthy is that the process of the MIOSA is in line with the preamble of the CPA that sets out the fundamental purpose of the CPA.

Although the cooperation with the NCC got off to a rocky start, I am pleased to report that cooperation between the MIOSA and the NCC has greatly improved and it is the purpose of the MIOSA to support and assist the NCC where motoring matters are concerned. As the expert knowledge and experience of the MIOSA is utilised by bodies such as the NCC and the National Consumer Tribunal they will be far better equipped to carry out their mandate when dealing with automotive related matters.

The advisory section of the MIOSA was greatly enhanced with the upgrading of the systems which resulted in a slight decline in the number of complaints received. This proved beyond doubt that good communication and advice to all parties at first contact with the MIOSA, will result in not only time being saved but also money in what has become a cash-strapped society.

Johan van Vreden
Motor Industry Ombudsman

ACTIVITIES

As in 2011, MIOSA staff in 2012 continued with their ongoing training, not only as far as the CPA is concerned, but also training to familiarise themselves with the proposed Code for the motor industry that is hopefully going to be accredited. Training as previously mentioned remains ongoing as the competence of the MIOSA staff is paramount in both the technical and legal elements of their day- to- day tasks.

The Code for the motor industry forms the basis of most of the in-house training of staff as it focuses on understanding the CPA regarding the motor industry. Practical CPA training courses were arranged by the MIOSA legal department during the year under review and feedback remains positive.

One of the most important activities that take place every year is the visits and interaction with the manufacturers, importers and motor dealers. Although it is not possible for the Ombud to visit everybody during the year, contact where possible was made to keep the communication channels open thereby improving the results achieved by the MIOSA when having to resolve disputes.

Between all the other activities, the MIOSA attended conferences that had a direct bearing on the work of the MIOSA. Courses developed by the MIOSA's technical and legal departments, were successfully carried through during the year under review. The MIOSA is pleased to report that these courses were well attended and the results achieved when the CPA was dealt with from an automotive point of view, were encouraging.

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

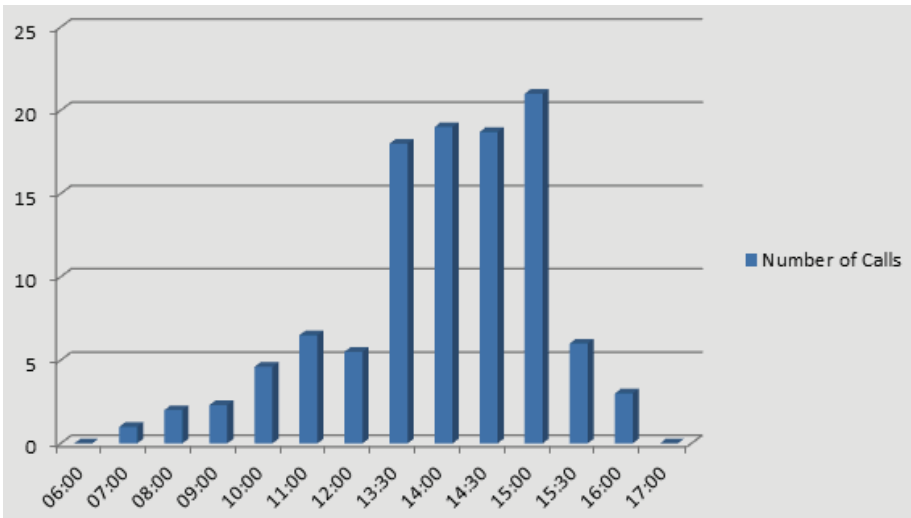
REVIEW OF THE SYSTEMS FOR THE YEAR 2012

With the implementation of a new telephone management system and the continuous upgrade of our complaints handling system, more accurate report writing is being introduced. A total of 20 852 calls were received from the implementation of the system in June 2012 until the end of the financial year, which is an average of 105 calls per working day. The majority of the calls are:

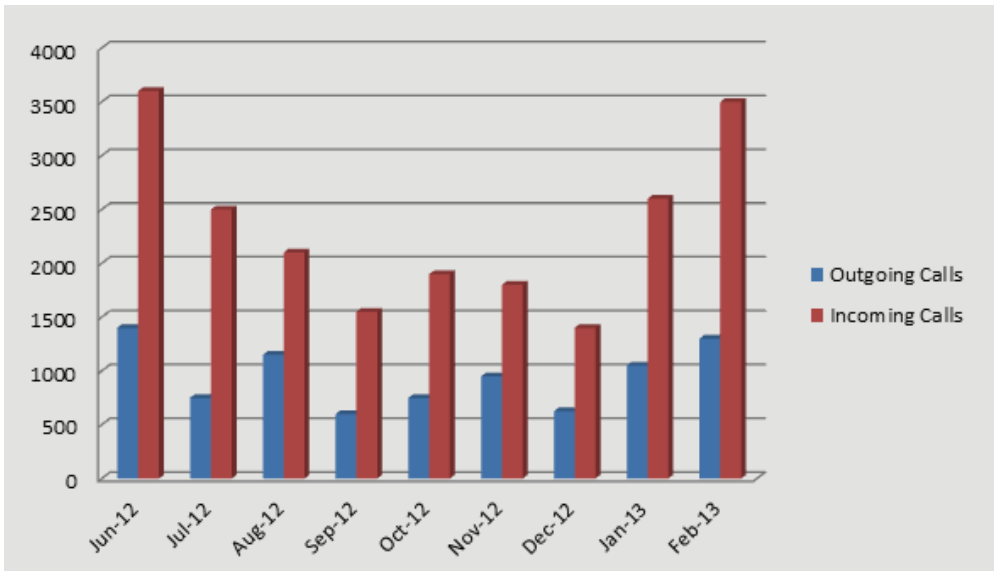
1. Follow-up on current cases
2. Advice on how to lodge a new complaint
3. CPA advice.

Our call centre is open between 13:30 and 15:30 Mondays to Fridays. As can be seen in the table below, this is the busiest time of day.

DAILY TELEPHONE CALL TRAFFIC (INCOMING CALLS)



NUMBER OF OUTGOING AND INCOMING CALLS



The number of complaints lodged with the MIOSA are actually reducing due to the new systems which have been implemented. With the CPA in place, the MIOSA is also able to educate the public and therefore help them attend to their own complaints before it becomes necessary to lodge a complaint with the MIOSA.

TRANSACTION PROTECTED PROJECT OF THE MIOSA PASSES 1 000 SUBSCRIBERS MARK.

At the end of November 2012, the Transaction Protected Project (TPP) of the MIOSA welcomed its 1 053rd subscriber. The year 2012 showed a strong growth in independent dealers / service providers and smaller dealer groups subscribing, pushing the number of subscribers over the 1 000 mark. During the year an agreement was also reached with the Independent Dealer Association (IDA) paving the way for its members to subscribe, further increasing the number of subscribers.

The TPP of the MIOSA protects both the dealer / service provider and the consumer from unscrupulous behaviour. This is done by means of a MIOSA-sanctioned contract between the parties or by adding a binding clause to the dealer's / service provider's Offer to Purchase document / jobcard. Should a dispute arise between the two parties, the matter is adjudicated at no cost by the MIOSA.

The TPP establishes an independent forum for speedy, effective dispute resolution between the dealer and the consumer. Referring the matter to the MIOSA avoids the parties entering into lengthy meetings and correspondence and avoids further conflict between them.

The objective is not to minimise the important role played by subscribers' customer care as the MIOSA only takes action if the parties cannot resolve their differences within 14 days after the dispute arose. The office of the MIOSA will also give advice during this period if so requested.

Subscribing to the TPP has no effect on the subscribers' existing warranties and maintenance programmes. These products can still be offered to the consumer if so wished.

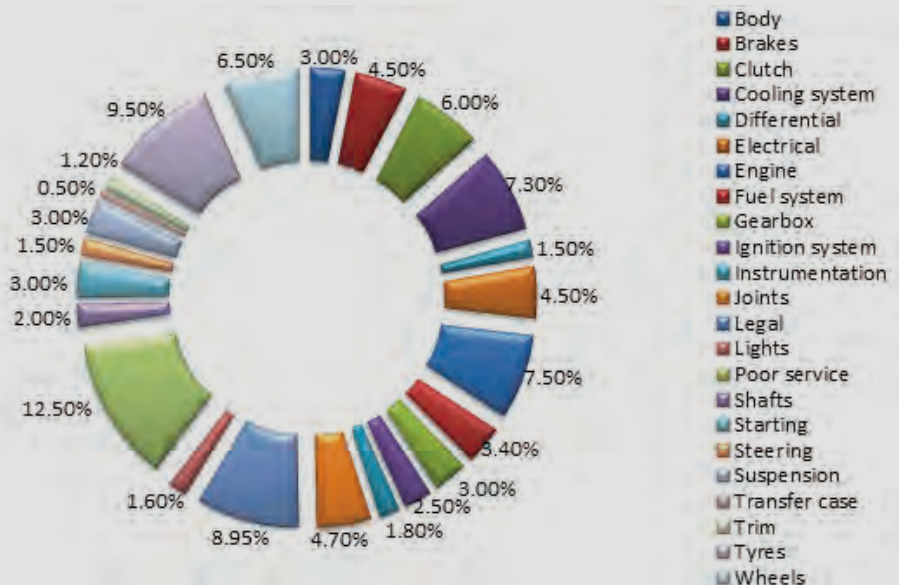
The TPP does not impact on the mediation role of associations as the MIOSA only adjudicates in matters where all else has failed. The TPP also does not exclude a party's rights to approach the Consumer Commission or to bring an urgent application in a court of law with jurisdiction to confirm its rights and to obtain an appropriate order.

The subscriber informs the consumer that the business is a part of the TPP by displaying the logo of the Ombudsman at his premises, on advertisements and stationery. The names of subscribers appear on the Ombudsman's website www.miosa.co.za

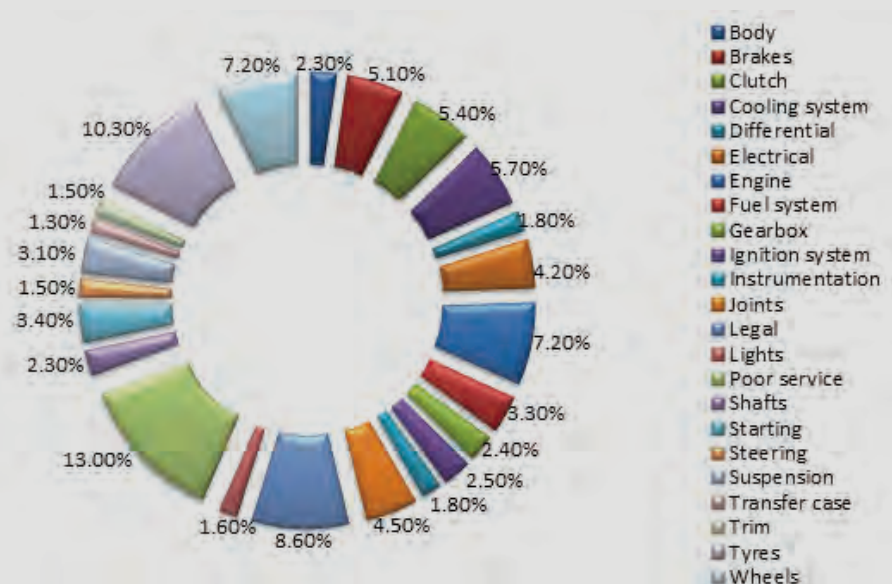
MAIN CAUSES OF COMPLAINTS

Description	Percentage of total for 2011	Number of complaints for 2011	Percentage of total for 2012	Number of complaints for 2012
Body	3,0%	749	2,3%	513
Brakes	4,5%	1 347	5,1%	1 138
Clutch	6,0%	1 497	5,4%	1 205
Cooling system	7,3%	1 821	5,7%	1 272
Differential	1,5%	374	1,8%	402
Electrical	4,5%	1 123	4,2%	937
Engine	7,5%	1 871	7,2%	1 607
Fuel system	3,4%	848	3,3%	737
Gearbox	3,0%	749	2,4%	536
Ignition system	2,5%	624	2,5%	558
Instrumentation	1,8%	437	1,8%	402
Joints	4,7%	1 198	4,5%	1 004
Legal	8,95%	2 223	8,6%	1 920
Lights	1,6%	399	1,6%	357
Poor service	12,5%	3 119	13%	2 902
Shafts	2,0%	499	2,3%	513
Starting	3,0%	749	3,4%	759
Steering	1,5%	374	1,5%	335
Suspension	3,0%	749	3,1%	692
Transfer case	0,5%	125	1,3%	290
Trim	1,2%	299	1,5%	335
Tyres	9,5%	2 370	10,3%	2 299
Wheels	6,5%	1 622	7,2%	1 607
Total	100,0%	24 952	100,0%	22 320

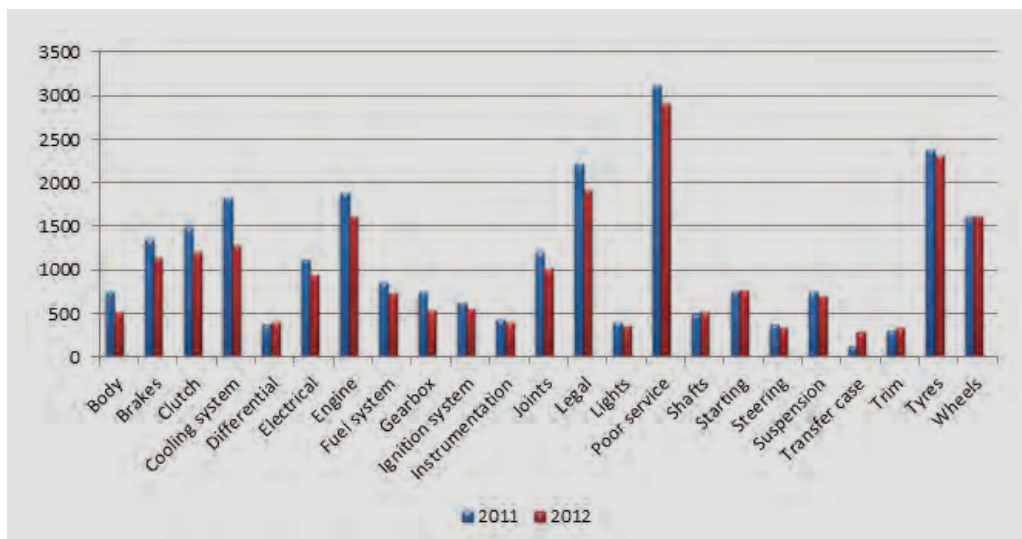
PERCENTAGE OF TOTAL COMPLAINTS FOR 2011



PERCENTAGE OF TOTAL COMPLAINTS FOR 2012



COMPARISON OF THE NUMBER OF COMPLAINTS: 2011/2012



As in every year's report, the MIOSA has in 2012 again identified that the major concern remains the communication between the motor industry and its customers. This is most prevalent during the aftersales and service period of vehicles. If this area of the automotive business is addressed with more vigour than is currently the case, the MIOSA will receive less complaints.

Excellent training facilities have been established by most of the major dealer groups and from reports received by the MIOSA, these are well attended. It, however, does not nullify the fact that the industry is in dire need of younger people to enter the service and repair side of the industry. The average age of qualified automotive technicians remains worryingly high despite the best efforts by industry. The year under review brought this fact to light again when the quality of service, especially in the aftermarket, is evaluated. Franchise dealers and specialised workshops still provide the highest level of quality service, however, this does not always hold true for the average independent service provider. Lack of training, competence and specialised tools have a direct bearing on the sometimes lacking quality of service in this sector of the motor industry.

High-volume service spares were provided and repairs carried out in line with world trends. However, the turnaround time of repairs, where low-volume components were affected, was still a challenge during the year. This was especially prevalent in the auto body repair sector with waiting periods for spares remaining unacceptably long.

With the MIOSA's new approach of providing advice at first contact to assist consumers and the motor industry to resolve their own difficulties, the year 2012 saw a significant shift in the number of cases that had to be dealt with by the MIOSA. With a notable rise in the number of cases that are resolved at first contact and the addition of new adjudicators, the MIOSA will continue with this approach. It also serves to improve the quality of communication between the motor dealers / service providers and their customers. Dealers / service providers cannot abdicate their responsibility towards their customers and should emphasise their involvement with their customers to a greater extent.

VALUE OF COMPLAINTS DEALT WITH

Remarkably, the value of complaints were steady and stabilised at an estimated R156 500 000.00. Although the improved road infrastructure in Gauteng played a major role in keeping breakdown statistics down the motor industry also contributed greatly to the stabilisation by keeping the cost of spares and components at price levels that kept these costs under control.

CASE STUDIES

The complainant purchased a new vehicle and noticed that the engine lacked power. The selling dealer and the manufacturer insisted on repairing the vehicle. The complainant, however, was not happy with this arrangement and as a result approached the MIOSA for assistance.

Conclusion:

On advice from the MIOSA the manufacturer and selling dealer replaced the vehicle with a new one.

The dealer fitted a side-shaft to the complainant's vehicle and it dislodged after about 1 000 km. The vehicle was taken to another dealer who established that the original dealer had fitted the side-shaft incorrectly.

Conclusion:

The MIOSA ruled that the original dealer should carry the cost of the repairs. The MIOSA further ruled that the other dealer should do further assessment on the components related to the side-shaft in order to determine if there were any consequential damages and to forward the final quotation to the original dealer.

The complainant purchased a vehicle from a dealer and experienced gearbox problems within two weeks. The repairs were delayed owing to unavailability of spares. The complainant also reported fuel-related issues which the dealer tried to rectify without any success. The complainant then approached the MIOSA. The dealer decided to replace the vehicle but the complainant was not willing to contribute towards usage and approached the MIOSA again for advice.

Conclusion:

The MIOSA advised the complainant about the cost of usage in accordance with the CPA.

The engine of the complainant's vehicle seized. The manufacturer, after assessing the damage, decided that the engine warning lights would have come on and that the driver must have ignored them and therefore offered no assistance.

Conclusion:

After investigating the MIOSA concluded that the failure was not due to any fault or failure by the complainant and ruled that the manufacturer replace the engine of the vehicle.

The complainant reported that their 2005 model vehicle was using too much oil and that the oil consumption was a problem while the vehicle was still under warranty. The consumer wanted to cancel the purchase agreement.

Conclusion:

The MIOSA could not support the complainant's claims as there was no record of oil consumption complaints. The manufacturer's liability in their product ended with the warranty expiring.

The complainant reported that the turbo unit on his vehicle had failed a second time. The first replacement was still under warranty and further assistance was declined by the service provider because of an incomplete service history. The first turbo was, however, replaced with certain conditions in place.

Conclusion:

The MIOSA applied the conditions of the CPA and was successful in getting the manufacturer to replace the turbo unit free of charge. The complainant was responsible for the labour costs only.

The complainant stated that the failure of the differential on his vehicle was caused after the brakes had locked. The complainant held the supplier responsible for the failure as they had replaced a valve on the differential prior to this occurrence. It was determined after an inspection by the MIOSA that the replacement of the valve had no bearing on the differential failure and

that the brakes locking could not have caused the failure either. The information gained, showed that the vehicle was driven with the diff-lock engaged and that this was the cause of the differential failure.

Conclusion:

The MIOSA ruled that the supplier could not be held responsible for the costs of repair to the differential and that the complainant must carry the cost of the repair.

The complainant intended purchasing a vehicle from a dealer and paid a deposit. The complainant cancelled the purchase the following day and the supplier referred them to the terms and conditions of the Offer to Purchase document. The MIOSA found that this document was altered without all the parties being signatory to the alterations and was therefore null and void. The dealer then referred to the purchase as "Roukoop" (as is) but the MIOSA could not secure any documentation from the dealer in this regard. The dealer then withheld the full deposit paid.

Conclusion:

The MIOSA ruled that in terms of the CPA, the dealer can only withhold 1% of the purchase price. This transaction was viewed as a lay-by transaction and in terms of Section 34(1) of the CPA, the supplier is only permitted to withhold the 1%.

THE WAY FORWARD

As stated in the Annual Report for 2011, maintaining the independence of the MIOSA will remain the priority to ensure that all the decisions taken by the MIOSA will be independent and impartial.

Accreditation of the office of the MIOSA by the honourable Minister of Trade and Industries will go a long way to strengthen the hand of the MIOSA in its endeavours. Unfortunately, during the year under review this did not materialise. The MIOSA remains positive in this regard and is anticipating a positive response during 2013.

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

LETTERS RECEIVED BY THE MIOSA

Thanks to you the problem has been solved.
We are so happy. Thanks to the office of the OMBUDSMAN

A. Galane

Thank you so much for the detailed explanation. Now that I have some contacts I will definitely approach you whenever I need your assistance.

T. Dube

Thank you for the feedback, we would not have been able to so speedily resolve these issues without the assistance of the MIOSA. Your support and guidance in a difficult matter is appreciated.

S. Beck
Manufacturer

I have submitted a Request for Assistance to your organisation. I was extremely fortunate to make contact with one of your adjudicators. I understand that they are very busy. The adjudicator concerned was extremely helpful, friendly, patient and prepared to 'walk the extra mile' with me. You are indeed fortunate to have people like this on your staff. I wish them and your organisation all the very best.

H. van Loggerenberg



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