



RESTRUCTURING

Buying or selling a car on finance will never be the same again for motor dealerships or customers

Background



On 25 October 2024, an unexpected Court of Appeal ruling held that motor dealerships, acting in their capacity as credit brokers, owed a “disinterested duty” and an “ad-hoc fiduciary duty” to source a finance deal that serve the best interests of their customers. Where lenders pay commission for finance products sold, the Court determined that unless that commission was fully disclosed, a customer could not have given informed consent to the finance agreement.

While likely to be many months away, the decision may lead to a requirement for brokers and/or lenders to make redress payments to customers, akin to payments made for mis-sold payment protection insurance (PPI).

Defendants in the Court of Appeal cases await the outcome of any decision by the Supreme Court, should permission to appeal be granted.

Implications for motor dealerships



We are seeing the impacts of the ruling across the motor retail sector, and expect to see an escalation of these effects in the short term:



Some finance providers temporarily withdrew finance offers.



Commission paid being reduced or removed altogether, impacting margins for the motor dealerships.



The pool of finance providers available to fund vehicle purchases reduced.



Car prices increasing to reflect the anticipated reduction in finance and insurance (F&I) commission receivable.



Trust in motor dealerships under pressure.



Increased transparency in customer interactions.



Implications for motor dealerships (cont)



In the longer term, motor dealerships may experience the following:



Financial penalty risk

While the extent to which any redress may be payable by the motor dealerships is unknown, the risk of financial penalty has increased significantly on the back of the Court of Appeal ruling. Previously, the focus was largely on lenders rather than on the dealerships.



Customer demand

Motor dealerships may seek to recover profitability in other ways. This could include vehicle price increases, reduced trade in offers and limited consumer incentives. The cost of car ownership is likely to increase as a result, at a time when customers are already under financial pressure from list price increases and higher interest rates.



Manufacturer response

Manufacturers may seek to protect its dealer network, but we may also see some accelerate the move towards an agency or a direct-to-customer model. Motor dealerships need to be able to respond quickly.

Recommended actions



It is too early to fully assess the financial impact on the motor dealerships. Before the direction of travel becomes clearer, there will be considerable activity in the legal market to assess the prospects of success of any appeal.

In the meantime, motor dealerships should consider proactive measures to protect their businesses, focusing on these key areas:

Profit and cash management:

Assessment of profitability and liquidity to service debt if sales and income reduces in the short term.

Funding options:

Is the business at the optimal size to address the changing volumes, reduction in F&I income and/or the potential for finance refusal that the changing landscape demands? Maintaining an open dialogue with incumbent lenders will be important to maintain confidence in the business' ability to withstand change and pressure. In time, new market dynamics may result

in acquisition opportunities for the more adaptable and agile businesses in the sector, for which strong financing relationships may be necessary.

Business model adaptation:

Operational changes should be assessed to address the anticipated impact of changing customer demand or accelerated moves by manufacturers towards an agency operating model. Adjustments to the business model will likely be fundamental to address the reduced commission income and reshaped customer journey. This process will require scenario modelling, stakeholder management and carefully considered communications.

Options analysis:

What options are available to the motor dealerships to help protect the business from subsequent claims? Considering all options to address the longer-term impact of changing business models will ensure motor dealerships are prepared should a rapid response to OEM, finance company or FCA actions be needed.



Key Contacts



If you would like to discuss any of these challenges and the potential solutions further, please feel free to contact [Omar Mirza](#), [Chris Johnston](#), [Kevin Lamb](#) and [Brian Walford](#)



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