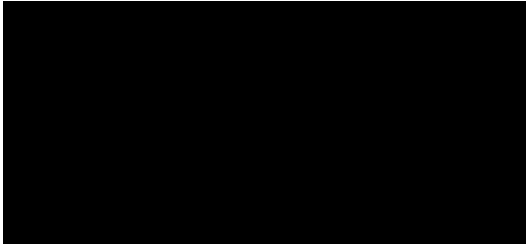


8 December 2023



Official Information Act #23.110 – Clean Car Discount Pricing

1. We refer to your request received on 13 November 2023 for information about Clean Car discounts. Specifically, you would like to know:
 - 1.1 If the Commerce Commission (the Commission) has received any complaints about Clean Car Discounts and any pricing manipulation by car dealers.
 - 1.2 If so, you requested any evidence provided with the complaints, or any relevant analysis conducted by the Commission.
2. We have treated this as a request for information under the Official Information Act 1982 (OIA).

Our response

3. We have decided to grant your request.
4. As at 17 November 2023, the Commission has received a total of 14 complaints relating to Clean Car discounts. This data was pulled from our complaint database. This search dates back to July 2021, which is when the Clean Car Discount Scheme came into effect.
5. The 14 complaints have been determined as having potential pricing manipulation, with alleged issues such as advertising vehicles that do not qualify for the scheme and allegations of traders increasing the price of cars due to the discount.
6. We have provided summaries of the 14 complaints in **Appendix A** below. Some of the complainants also provided attachments with their complaint. If you would like us to consider providing these attachments, we would need to consult with each complainant. Please advise if you would like us to undertake this exercise.

The Commission's screening process

7. To provide context on how complaints are assessed, we have outlined the Commission's screening process below.
8. The Commission receives thousands of complaints every year. Each complaint is initially assessed by the Screening and Enquiries Team on the basis of the information available at the time. When conducting this initial assessment, the Screening and Enquiries Team considers:
 - 8.1 the likelihood of a breach of the relevant legislation (the Fair Trading Act 1986, Credit Contracts and Consumer Finance 2003, and the Commerce Act 1986);
 - 8.2 the Commission's Enforcement Response Guidelines;¹ and
 - 8.3 the Commission's strategic priorities and resourcing constraints
9. The Commission has the power to act on complaints but is not required to take action in relation to all possible breaches of the legislation that we enforce.
10. If a complaint is appropriate for further consideration, it is reviewed by a panel of managers and subject matter experts from within the Competition, Fair Trading and Credit Branches. The panel decides which complaints are to be prioritised for further assessment by the Branch with reference to our Enforcement Response Model.²
11. This process enables us to identify complaints that best reflect our current enforcement priorities.³ The outcomes of the process are not final and we may revisit any complaint at a later stage, should we wish to reconsider the issues it presents.

Further information

12. If you are not satisfied with the Commission's response to your OIA request, section 28(3) of the OIA provides you with the right to ask an Ombudsman to investigate and review this response. However, we would welcome the opportunity to discuss any concerns with you first.

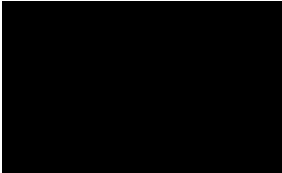
¹ Available at: <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-response-guidelines/>

² Our Enforcement Response Model is discussed in more detail from page 3 of the Commission's Enforcement Response Guidelines, available here: https://comcom.govt.nz/_data/assets/pdf_file/0030/62589/Enforcement-Response-GuidelinesOctober-2013.pdf.

³ ⁴ For further information, see: <http://www.comcom.govt.nz/the-commission/commissionpolicies/enforcement-criteria/>

13. Please note the Commission will be publishing this response to your request on its website. Your personal information will be removed before publication.
14. Please do not hesitate to contact us at oiacomcom.govt.nz if you have any questions about this request.

Yours sincerely



OIA and Information Coordinator

Appendix A			
Enquiry number	Date received	Complaint	Outcome
ENQ0585771	08/10/2023	Complainant alleged that the trader was listing vehicles as "NZ New" on Trade Me. The vehicles were not eligible for the Clean Car rebate, however, as they were already registered in NZ.	No Further Action (NFA) ⁴
ENQ0585338	28/09/2023	Trader (car dealer) advertised vehicles at a "Drive away price", which bundled On-road costs including 5 years of WOF and other services. The price excluded the clean car fee that applied to some vehicles, including the Hilux that the complainant was looking at purchasing. Complainant stated that the fine print was misleading because the actual drive away price for vehicles subject to the fee was higher.	NFA
ENQ0579305	14/05/2023	Complainant felt coerced into purchasing a car from the trader, on the basis that the trader said the clean car rebate was ending soon.	NFA
ENQ0577217	28/03/2023	Complainant alleged price fixing between car manufacturers regarding pricing of utes following the introduction of the Clean Car standard and relevant fines for non-compliant cars i.e., if one manufacturer lifts prices, then the other will follow.	NFA
ENQ0570362	14/10/2022	Complainant was concerned that trader was pushing high emission vehicles by paying the "clean car fee" for consumers to promote the product. Complainant was concerned with how the government is finally pushing rebates etc for purchasing clean cars and that traders were promoting the opposite.	NFA
ENQ0570006	05/10/2022	Complainant alleges that trader is charging \$79,990 excl. on-road costs (ORC) for a vehicle and representing that it is still eligible for the	NFA

⁴ The Commission may decide not to take further action in relation to a complaint for a number of reasons. These reasons include, but are not limited to, circumstances where we consider the complaint is better suited to private action by the complainant, the complaint is subject to the jurisdiction of another agency, or where there is no clear breach of the law. However, each complaint and enquiry provides information that is valuable to the Commission. This contributes to future priorities, potential issues for us to watch closely or emerging issues to refer to our policy agency, MBIE. In this regard, we will monitor complaints on information we receive as we look to future prioritisation.

Appendix A			
Enquiry number	Date received	Complaint	Outcome
		Clean Car Rebate. However, according to NZTA guidance, the rebate did not apply unless a vehicle was purchased for less than \$80,000 (including ORC).	
ENQ0568868	31/08/2022	Complaint that trader was advertising vehicles already registered with no possibility of claiming the government funded clean car rebate. Complainant alleged that trader was ordering cars and claiming the rebates for themselves by only allowing customers to pre-order and choose the colour—effectively “double-dipping” on the vehicles’ profit.	NFA
ENQ0568390	18/08/2022	Claim that trader was not allowing customers to claim a rebate by pre-registering a vehicle before sale. Complainant claims this was taking away options from consumers.	NFA
ENQ0566242	20/06/2022	Complainant claimed that the trader was advertising a model of vehicle on the trader website that was eligible for the Government funded Clean Car rebate. When complainant enquired with the trader about purchasing advertised vehicle, complainant was told pricing changed a couple of months ago and that the promotion was no longer available.	NFA
ENQ0566019	01/06/2022	Complainant alleged that trader was adding tax amount as a result of the clean car rebate to make the prices of their products significantly higher.	NFA
ENQ0565397	21/05/2022	Trader was advertising vehicles as eligible for the clean car rebate even though they did not qualify.	NFA
ENQ0564127	06/04/2022	Complainant alleged trader advertised cars as being eligible for the Clean Car Rebate when they actually weren't.	NFA

Appendix A			
Enquiry number	Date received	Complaint	Outcome
ENQ0561260	22/12/2021	The complainant stated the trader was advertising the Ford Transit Custom PHEV as eligible for the Clean Car Discount. The complainant alleged the vehicle was not eligible because the vehicle exceeded the maximum sale price.	IPTT ⁵
ENQ0576772	16/03/2023	Complainant alleged that retailers were pricing cars disproportionately high in comparison to Australia due to the Clean Car Discount.	NFA

⁵ We may take the opportunity to contact a trader to assist them in better understanding and complying with the law. We refer to this as Information passed to trader (IPTT). We find that raising such issues directly with businesses can help them to understand and better comply with their legal obligations.