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**From:** [REDACTED]  
**Sent:** Friday, 10 February 2023 3:49 pm  
**To:** IP Guidelines  
**Subject:** Draft Guidelines on the Application of Competition Law to Intellectual Property Rights

[REDACTED]

[REDACTED]

Please find below some feedback from the Motor Industry Association (MIA) on the above-named draft guidelines.

The MIA is a voluntary trade association set up to represent the interests of the new vehicle industry specifically the official representatives of overseas vehicle manufacturers. Members account for over 98% of all new vehicles imported and sold in New Zealand across the passenger car, light and heavy commercial vehicle and motorcycle (including on and off-road) sectors.

The Association has over 44 members (official distributors appointed by vehicle manufacturers) covering 82 different marques.

The MIA was concerned that the removal of the exceptions in Commerce Act regarding IP rights (particularly section 36(3)) might affect new motor vehicle distributors abilities to enforce the IP rights of a brand logo/trademark and prevent unauthorised businesses from displaying those logos (either at places of business, in advertising/sponsorship, or on websites and social media). The MIA sought legal advice on this point, which we have attached for your information (please treat as confidential, and not for publication).

[REDACTED]

The MIA intends to provide the final guidelines, and our lawyers corresponding legal opinion, to its members in due course.

However, we would welcome further clarity in the draft guidelines in relation to protecting the IP rights of trademarks from unauthorised use by third parties, and whether doing so would be considered to have a material impact on competition (when considering, in the case of the new vehicle sector, that consumers have multiple other vehicle brands to choose from), or clarifying whether in fact protecting trademarks is permitted under the revised Act.

I would welcome feedback from the Commerce Commission on this point.

Regards,

[REDACTED]