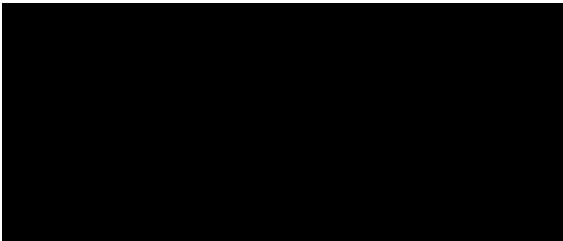


21 December 2023



### **Official Information Act #23.134 – First response**

1. We refer to your request received on 8 December 2023 for further information about the complaints the Commerce Commission (the Commission) has received about the clean car discount.
2. We have treated this as a request for information under the Official Information Act 1982 (OIA).

### **Our response**

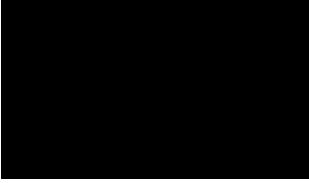
3. We have decided to grant your request.
4. We note that you asked for further details about **ENQ0576772** in particular. This first response will focus on that complaint. Further information on the rest of the complaints will follow in due course, by 29 January 2024.
5. We consulted with the complainant in **ENQ0576772** and they have consented to the release of their complaint. They did not provide any attachments with their complaint.
6. The wording of their complaint is set out in **Appendix A** below.

### **Further information**

7. Please note the Commission will be publishing this response to your request on its website. Your personal details will be redacted from the published response.

8. Please do not hesitate to contact us at [uia@comcom.govt.nz](mailto:uia@comcom.govt.nz) if you have any questions about this response.

Yours sincerely



OIA and Information Coordinator

**Appendix A****ENQ0576772**

From: [ ]

Sent: 16 March 2023 17:05

To: Commerce Commission Enquiries &lt;contact@comcom.govt.nz&gt;

Subject: Huge variation in electric vehicle prices between AU and NZ

You don't often get email from [ ]. Learn why this is important

Hi guys,

I was eagerly awaiting the unveiling of the Cupra Born EV, which went on pre-order in NZ today, only to find that it has been priced at NZD \$79,990 (conveniently just under the CCD price ceiling).

In Australia, this exact same car is priced at AUD \$59,990 or \$62,490 drive away in Sydney.

That's an absolutely massive delta of \$20k in absolute terms, which cannot be explained by any rational means, be it exchange rate, additional shipping costs, demand difference in our country, local compliance and GST costs. If anything we actually have a higher overall demand rate due to the CCD.

Having a pricing differential between the two countries isn't unheard of, but to be quite this large at this price range (maybe I could accept a \$20k delta on a \$250k car) is just insane. I've never seen the like of it in the 25 years I've been looking at prices of cars in both countries.

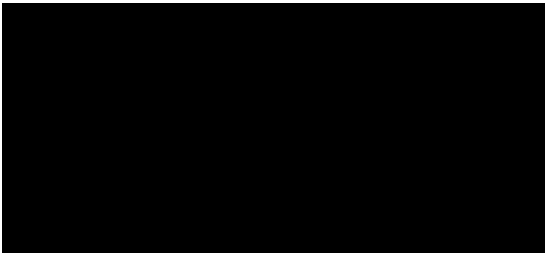
From a consumer point of view, we are getting rorted and taken for a ride. I don't know what tools are at your disposal, but I honestly think that as our CCD is so obviously promoted above board, that local automotive resellers of EVs are just pricing their cars to that upper limit in the knowledge consumers will get the discount, but way above what our Aussie consumers are paying for their vehicles.

I would love there to be an investigation into the pricing of EVs and how that's influenced by the CCD, in comparison to prices of the same model in Australia and then looking more generally at the global price in similar markets to NZ.

Regards,

[ ]

29 January 2024



### **Official Information Act #23.134 – Second response**

1. We refer to your request received on 8 December 2023 (following on from our response to you in OIA 23.110) for further information about the complaints the Commerce Commission (the Commission) has received about the clean car discount, including the name of the dealership involved, if relevant.
2. On 21 December 2023, we provided our first response to you, as you requested the details of ENQ0576772 be provided as a priority.

### **Our response**

3. We have decided to grant the remainder of your request and provide the details of the remaining complaints about the clean car discount, and any supporting material provided to us by the complainants. We note the identity of the complainants is out of scope of your request.
4. We consulted with each of the remaining 13 complainants on release of their complaints: 11 complainants agreed to release of the detailed information and two did not agree.
  - 4.1 One complainant explained they did not agree to the release of their complaint because it was not about the clean car discount, rather it was about the clean car standard. Therefore, **ENQ0577217** has not been included in Appendix A as it is out of scope of the request.
  - 4.2 The complainant in **ENQ0570006** does not consent to their complaint being released. We consider good reasons exist to withhold the details of this complaint under section 9(2)(ba)(i) of the OIA to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of

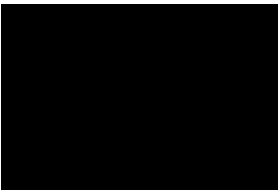
similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied.

5. Upon notification, one of the traders (**ENQ0568868**) expressed their wish to remain anonymous as they disputed the accuracy of the complaint, as they did not consider their inventory records aligned with the complaint details. It is difficult to conclusively confirm the accuracy of our record given the passage of time. We have decided to withhold the trader's name under section 9(2)(a) of the OIA as withholding of the information is necessary to protect the privacy of natural persons.
6. We consider that good reasons exist for withholding information under section 9 of the OIA and this is not outweighed by other considerations which would make it desirable, in the public interest, to make the information available (section 9(1) of the OIA).

#### **Further information**

7. 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.
8. Please note the Commission will be publishing this response to your request on its website. Your personal details will be redacted from the published response.
9. Please do not hesitate to contact us at [oja@comcom.govt.nz](mailto:oja@comcom.govt.nz) if you have any questions about this request.

Yours sincerely



OIA and Information Coordinator

## Appendix A

### ENQ0585771 – Tristram European North Shore

“In these TradeMe auctions listed below (and plenty more on the site), the seller is listing the cars as "NZ NEW", but at the same time the vehicle is not eligible for a clean car rebate as it has been registered in NZ already. I don't see how both of these things can possibly be true, I believe there is widespread fraud going on at this dealership, claiming government rebates that they are not eligible for, or misrepresenting their vehicles as "NZ NEW". <https://www.trademe.co.nz/a/motors/cars/mg/zs/listing/4312508095>  
<https://www.trademe.co.nz/a/motors/cars/mg/zs/listing/4265403292>  
<https://www.trademe.co.nz/a/motors/cars/mg/zs/listing/3785852039>  
<https://www.trademe.co.nz/a/motors/cars/volkswagen/e-golf/listing/4225126103>  
<https://www.trademe.co.nz/a/motors/cars/mg/zs/listing/4312508071>”

### ENQ0585338 – Toyota NZ

“HI I was looking on the Toyota website - specifically this site:  
<https://www.toyota.co.nz/new-car/hilux/HILUX-JTDFU-SI2/?skuCode=HILUX-JTDFU-SI2-218-20#> And I'm concerned with their wording and pricing. They have a major Campaign called "Toyota Driveaway Price" which is supposed to be a reasonable price for the product and is supposed to limit haggling to drive down the price. The problem with this is they advertise a "Toyota Driveaway Price" which is advised on their website, and it's described as "The price you pay to drive the car away", however they then have the clean car fee separate which adds on an extra \$4000+ which in this case is an extra 10% on the price of the car. It seems very misleading to advertise a "Driveaway Price" yet you are forced to pay more than that. Shouldn't they be including the fee within their "Toyota Driveaway Price" or not be charging the fee at all. They do advise the Clean car fee is not included in the "Toyota Driveaway Price" in their fine print but it's right at the bottom and is not very clear up front and negates the actual "Toyota Driveaway Price" because you are paying more than that price making the entire campaign very misleading. I was very taken aback to discover that the price of my vehicle was going to be an extra 10% and made it unaffordable in the long term. Thanks,”

### ENQ0579305 – Tesla NZ

Dear Sir/Madam,

We are writing to file a complaint against Tesla for engaging in unethical sales practices. My complaint is based on a recent experience where I purchased a car from Tesla and was misled about the offer and benefits associated with the purchase.

I was pushed to buy the car and was informed that the clean car rebate was guaranteed only until 31st March due to a policy review by the government. However, I later discovered that this was not the case and that I was misled by Tesla's sales team. Additionally, even if the sales team was unaware of any forthcoming price reductions

(within less than 7 days of our purchase), I believe that Tesla as a company would have known and should not have pushed older car sales by misleading customers.

As per the Commerce Commission's guidelines, businesses advertising "special offers" or "specials" must be offering something genuinely special such as lower prices, add-on or additional features, or they risk misleading consumers. In this case, I feel that I was misled by Tesla's sales team, and the offer presented to me was not genuine or special.

I am disappointed that these deceptive sales malpractices have taken the joy out of my new car purchase, and I feel cheated by a brand that I previously associated myself with. While the amount in question is only \$3,000, I believe that the unethical sales practices employed by Tesla should be brought to your attention.

I request that the Commerce Commission investigate this matter and take appropriate action against Tesla for its unethical sales practices.

Thank you for your attention to this matter and please advise us if we are being treated unfairly and what are the steps (if any) to pursue further. We were also willing to bring this to your attention as similar complaints of sales malpractices might have been individually sent to you and will help you identifying the bigger picture.

More context in trail mail.

Sincerely,

[ ]

----- Forwarded message -----

From: [ ]

Date: Sat, Apr 22, 2023 at 2:05 PM

Subject: Re: New Tesla Car Purchase and Disappointment

To: [ ]

Cc: [ ], [ ]

Hi [ ],

After much deliberation over last few weeks and discussion with advisors in relevant field.

We are planning to go ahead with a complaint to commerce commission as we were definitely misled about offer and benefits, pushed to buy the car and even if we agree that your sales team did not have a clue about reducing prices in next week of our purchase, Tesla as a company would definitely have known and should not have pushed older car sales by misleading customers e.g. telling us that clean car rebate is guaranteed only till 31st March as policy is under review by government.

Following from commerce commission does fall perfectly on this case:

"Businesses advertising "special offers" or "specials" must be offering something genuinely special – such as lower prices, add-on or additional features – or they risk misleading consumers."

Even though the amount in question is 3k, we are massively disappointed as these deceptive sales malpractices have taken the joy out of new car with a strong feeling of getting cheated by a brand which we associated ourselves.

We would wait for your reply before taking next steps.

Regards

[ ]

On Tue, 11 Apr 2023, 11:00 am [ ] wrote:

Hi [ ],

Thanks for replying. Hope you have not received too many of these queries as your reply looks a standard template.

I don't think it is addressing any concerns, offering resolution, or at least being lodged as a complaint anywhere.

Your sales practices as explained earlier are very Unfair and deceptive.

I do not know how close you are to breach the Consumer Guarantees Act and Fair-Trading Act in NZ. However, on personal front not only we have financial loss with a big asset/s but also more importantly a broken trust.

Regards

[ ]

[ ]

[ ]

[ ]

From: [ ]

Sent: Tuesday, 11 April 2023 10:00 am

To: [ ]

Cc: [ ]; [ ]

Subject: RE: New Tesla Car Purchase and Disappointment

Hi [ ],



Thank you for your email feedback and hope you enjoyed the weekend holiday.

I am sorry to hear of your experience and that you feel cheated, frustrated and disappointed. By no means was it our intention to mislead you or take advantage of your support towards us as a brand.

Periodically we may adjust our pricing and unfortunately there is no perfect time to do so.

Best Regards,

[ ]

[ ]

[ ]

[ ]

The content of this message is the proprietary and confidential property of Tesla Inc, and should be treated as such. If you are not the intended recipient and have received this message in error, please delete this message from your computer system and notify me immediately by reply e-mail. Any unauthorized use or distribution of the content of this message is prohibited.

From: [ ]

Sent: Thursday, April 6, 2023 11:16

To: [ ]

Cc: [ ]; [ ]

Subject: New Tesla Car Purchase and Disappointment

Hi [ ],

We are writing to you with a great deal of disappointment regarding my recent experience with Tesla.

We purchased a Tesla Model Y ([ ]), and the reason for my disappointment is that I feel that sales team (via Tesla policy) pushed us into purchasing the car by promoting incentives which were non-existent (even worse than current). We were contacted and encouraged by call/SMS and follow-ups to buy before end of March (probably to meet your end of year targets) and followed up with also. Do note we were in no hurry and never contacted Tesla in the first place.

Just after we purchased the car (29th March) and within less than a week, we found out that the price has been reduced, which made me feel misled and taken advantage of i.e., being pushed to buy an in-stock car for a higher price than what would be the new market rate. I do understand that pricing can increase or decrease once we have purchased (even

on next day), however being pushed into buying with end of year deadline does raise lot of concerns and doubts.

I would not have expected Tesla to take advantage of undoubtful, early adopter and loyal customer. I have always been a big supporter of Tesla, and I was excited to purchase my second Tesla car. However, this experience has left me feeling cheated and frustrated with a massive disappointment to the brand which I have been so associated with.

I am writing to you today to lodge the complaint formally to help address the situation.

I am a loyal Tesla customer, and I would like to continue to support your brand, but I cannot do so if I do not feel that I am being treated fairly.

Thank you for your attention to this matter.

PS: [ ] @ Tesla were in touch with us for this purchase and he has been very helpful in all respect. This complaint is against the sales policies and not against him.

Regards

[ ]

[ ]

[ ]

[ ]

#### **ENQ0570362 – Ebbett Taupo**

“Hiya, How is this possibly ? finally government is pushing clean cars and car traders will promote inefficient nissans etc under clean car rebate and the trader paying for it if those cars wouldnt be on the list ? Great to hear some feedback about this. Also several other companies are doing this to push there utes”

<b>Document number</b>	<b>Date</b>	<b>Type</b>
1	Undated	Advertisement

#### **ENQ0568868 – Dealer name withheld under section 9(2)(a) of the OIA**

“Good afternoon

Below is a link to a new hybrid electric car, although purchasers have to pre-order the car is exempt from the clean car rebate as its all ready registered. The car has done zero mileage and you can choose your colour therefore there must be more than one.

Is the dealer claiming the rebates themselves to me it looks like a loop-hole and unfair to consumers.

I don't intend on purchasing a new car I was just browsing, other dealers are doing the same practice.

Regards

[ ]

Generated 31 August, 11:55

Security Note: Trade Me will never ask you for your password via email

Hi, I thought you might be interested in this listing on Trade Me. –[ ]

2022 Suzuki Swift Ltd Hybrid 1.2Ph

\$29,499

PRE-ORDER ONLY!!

km. Hatchback, 1197cc hybrid engine, automatic

Auckland

Listed Fri, 04 Mar

[www.trademe.co.nz](http://www.trademe.co.nz)

Document number	Date	Type
1	31 August 2022	Email with screenshot
<p><b>ENQ0568390 – Ebbett Toyota Hamilton</b></p> <p>“New Demo car (hybrid) registered by dealer and clean car rebate claimed by dealer. When consumer purchases the car no rebate can be claimed. This seems to go against the principle of rewarding consumers for choosing to purchase a clean vehicle and just enabling dealers to make more profit.”</p>		
<p><b>ENQ0566242 – Giltrap Nissan</b></p>		

“wanted to order a new electric polestar, as per their website the model is eligible for the government subsidy, which is my motivation to order this model, to be told there was a price increase some months ago and it is no longer at that price or eligible for the subsidy. It is still showing on their website as per below, at what I am told is the old price. Also eligible for the full Clean Car Discount is the Polestar 2 Long range Single motor. With a 78 kWh battery pack, the \$78,900 Long range Single motor version has a driving range of up to 540 km (WLTP).”

Document number	Date	Type
1	20 June 2022	Screenshot of Giltrap Nissan listing

### ENQ0566019 – Trade Me

From: [ ]

Sent: Wednesday, 1 June 2022 12:30 pm

To: Commerce Commission Enquiries <contact@comcom.govt.nz>

Subject: Vehicle pricing on Trademe

Hello

We are a Registered Motor Vehicle Trader and have been in the industry a long time. With the new Clean Car Tax / Rebate scheme the Govt has introduced Trademe have made alterations within their site to alter our retail prices without our consent to do so.

They are adding the tax amount to our retail price making the price significantly higher against our wishes. If we choose to list a vehicle at an amount we decide and we take it on board to pay the clean air tax then this should not be added to our price. If it clearly states in the listing that there is no clean air tax for the customer to pay then our price should not be able to be altered by an advertising company??

Is this legal for an advertising company to be able to change our pricing??

Even when trying to work with their regime by lowering our price by the exact amount of the clean air tax amount and then trademe adding it back on still results in an incorrect total amount as their system fails to work with 'cents' it only knows 'dollars'.

We pay a huge amount to trademe every month for advertising, so much so it is 53 times more than their biggest competitor being Autotrader for the same listings!

Surely our listed prices cannot be changed by an advertising company?

Please look into this and contact me for more information if required

Thanks

[ ]

**ENQ0565397 – Drive EV Limited**

“They are advertising vehicles as being eligible for the government rebate when they do not qualify. I have written to them advising of the issue but I notice they have not changed advert”

Document number	Date	Type
1	21 May 2022	Screenshot of Drive EV listing

**ENQ0564127 – Toyota NZ**

“Toyota on tv are advertising petrol hybrids available for the clean car rebate. We have recently purchased this vehicle and they are no longer offering this for petrol hybrids”

**ENQ0561260 – Ford NZ**

Describe your concerns:

Ford has been serving an advert in my FaceBook feed that says: "The Ford Transit Custom PHEV is eligible for the clean car discount. Hard working for you and the planet." When you click the "Learn More" button it takes you to a raft of info about the van including the fact that pricing starts from \$89k + GST. However, the NZTA makes clear that the Clean Car Discount is only available to vehicles purchased for no more than \$80k including GST. Eligibility criteria here: <https://www.nzta.govt.nz/vehicles/clean-car-programme/clean-car-discount/eligibility-criteria/> My concern is that Ford is mis-advertising the vehicle as being eligible for a taxpayer funded discount when it is not eligible.

Document number	Date	Type
1	Undated	Screenshot of Ford Facebook page
2	Undated	Screenshot of Ford website