

Evaluating the Consumer-Friendliness of Terms and Conditions of Motor Vehicle Dealers - Identifying Interventions for Enhancing Consumer Protection

by

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Abstract

This report examines the consumer-friendliness of the Terms and Conditions (T&Cs) used by motor vehicle dealers in Thimphu, with the goal of identifying potential gaps and proposing interventions to enhance consumer protection. The study considered parameters such as transparency, fairness, consumer rights, quality assurance, flexibility, financial transparency, dispute resolution, and data protection. The report uncovers significant inconsistencies and areas of concern, including unclear terms, restrictive refund and cancellation policies, and insufficient safeguards for consumer rights. As a result, consumers are left vulnerable to potential exploitation.

The report calls for the development of standard T&C template, improved transparency in pricing structures, and the establishment of fair, accessible dispute resolution processes. Key recommendations focus on improving disclosure practices, enhancing consumer benefits like warranties and after-sales support, and reinforcing the protection of consumer data.

The findings underscore the crucial role of transparent and fair T&Cs in building consumer confidence and promoting ethical business practices. The proposed interventions are designed to balance business operational needs with the protection of consumer rights, ensuring fairness and accountability in the marketplace.

Background

Consumer protection remains a pivotal component of market regulation, ensuring that businesses act fairly and transparently while safeguarding the interests of consumers. Terms and Conditions (T&Cs) form the foundation of this protection, serving as legally binding agreements that outline the rights, obligations, and liabilities of both businesses and consumers. However, many T&Cs favor businesses disproportionately, creating potential for unfair practices that undermine consumer confidence.

In Bhutan, vehicle dealerships play an essential role in the automotive industry. As vehicle imports and sales continue to increase, consumer complaints against dealers have also risen. Despite existing consumer protection laws, concerns have emerged regarding the one-sided and often ambiguous T&Cs imposed by vehicle dealers, which can lead to unfair contractual agreements. Consumers frequently commit to substantial financial investments based on these contracts, making clarity and fairness in T&Cs a critical issue.

This report assesses whether the T&Cs of prominent vehicle dealers in Thimphu adequately protect consumer interests, ensure transparency, and do not unduly favor businesses. It further explores the potential interventions the government can introduce to strengthen consumer protection.

Methodology

The study randomly selected 10 out of the 26 motor vehicle dealerships operating in Thimphu for evaluation. A comprehensive review of their T&Cs was conducted, along with an analysis of consumer

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complaints lodged with the Competition & Consumer Affairs Authority (CCAA). To ensure a thorough and unbiased assessment, predefined parameters and checklists were developed and evaluated by panel of four people. T&C that has clear unambiguous term were assigned 1 and those which were either unclear or were not included were assigned 0 to calculate the final percentage of dealers meeting or not meeting any given criteria (Annexure I).

Findings and Discussion

- Transparency and Clarity

All evaluated dealerships provided T&Cs written in clear, straightforward language, free from excessive legal jargon. Most dealerships disclosed relevant costs such as taxes, fees, and warranties. However, while these terms were highlighted, many T&Cs lacked sufficient detail on key conditions, such as refund, cancellation, warranties, and delivery timelines.

Furthermore, while all dealers provided written contracts, online access to T&Cs was limited, restricting consumers' ability to review terms prior to visiting the dealership.

- Fairness

There was significant variation in the cancellation policies across dealerships. While 80% allowed cancellations within a reasonable time frame with minimal penalties, others did not specify cancellations at all.

Seventy percent of dealerships presented some form of return and refund policy, though these were often restrictive. The remainder failed to provide any clarity on the matter. Similarly, penalty clauses for delayed payments or cancellations overwhelmingly favored the businesses, with only 10% offering reasonable penalties for delays or breaches.

- Flexibility

None of the dealerships addressed amendments to the T&Cs or notified consumers of revisions post-signing. This omission could lead to potential consumer disadvantage if terms change unfavorably after an agreement has been made. Additionally, late vehicle deliveries, a common complaint, were not addressed in any dealership's T&C, nor was compensation for delays offered.

- Consumer Rights

While 80% of dealerships provided warranties covering both parts and labor, 20% did not mention warranties in their T&Cs at all. Furthermore, only 40% of dealers disclosed full vehicle history, including accidents or prior repairs.

Pre-purchase inspections were only explicitly allowed by 30% of dealerships, leaving the majority of consumers without clear avenues for thorough vehicle assessments before committing to a purchase.

- Compliance with Laws

While all dealerships adhered to basic consumer protection laws, many clauses within their T&Cs were still highly unfair to consumers, particularly in relation to penalties and limited liability on dealers themselves.

- Dispute Resolution

Only 20% of dealerships outlined clear procedures for lodging complaints or resolving disputes, highlighting a significant gap in accessible consumer recourse.

- Specific Consumer Benefits

While 30% of dealerships offered promotions such as free servicing or loyalty discounts, the terms for redeeming these benefits were often unclear. Additionally, while 80% provided after-sales support, the remainder did not.

Test-drive options were available at only 40% of dealerships, with no clear stipulations on liability during test drives.

- Privacy and Data Protection

Although 70% of dealerships provided information on the collection and use of personal data, none had meaningful measures to safeguard consumer data from breaches or unauthorized access.

Recommendations

Since there is a variation among T&Cs and appear mostly in favour of businesses, the government should introduce a minimum standard of T&C to protect consumers, while not posing undue burden on the business or stifle healthy competition and innovation. Specifically, the standard must address the following features:

- Enhance Transparency and Clarity

The T&C must fully disclose costs, taxes, and other fees before consumers sign any agreements. Critical clauses related to cancellation policies, refunds, warranties, and delivery timelines should be included in all T&Cs. Dealers should also be required to make T&Cs available online, offering consumers the opportunity to review terms in advance.

- Improve Fairness in Refund and Cancellation Policies

Dealerships should be required to allow cancellations within a defined period, such as 7 days, with a minimal administrative fee. All T&Cs must include clear, unambiguous refund conditions, specifying timelines, methods of refund, and any applicable deductions.

- Strengthen Consumer Rights

Dealers should be mandated to offer warranties that cover both parts and labor for a reasonable period (e.g., 2 years or 40,000 km, whichever comes first). Full vehicle history should be disclosed before the sale, and consumers must be allowed to inspect the vehicle or hire a third-party inspector prior to purchase.

- Establish Clear Dispute Resolution Mechanisms

Dealerships should establish formal, accessible procedures for consumers to lodge complaints. These procedures should include defined timelines for resolution and offer alternative dispute resolution mechanisms, such as mediation or arbitration.

- Strengthen Privacy and Data Protection

Dealers should be required to clearly inform consumers about the data they collect and implement safeguards to protect this data from breaches or misuse.

- Additional Considerations

Dealerships should standardize the terms for test drives, including clear liability coverage. T&Cs should also be available in multiple languages and accessible formats to accommodate consumers with disabilities. Lastly, dealers should promptly notify consumers of any changes to terms, pricing, or delivery schedules.

Conclusion

This study reveals significant disparities in the T&Cs of motor vehicle dealers in Thimphu, most of which favor businesses over consumers. While the government should avoid over-regulating to prevent stifling competition, it is imperative to intervene where consumer rights are at risk. A standardized T&C template that incorporates essential consumer protection measures—without overly burdening businesses—would create a fairer environment for all parties. Furthermore, enhancing transparency and competition will likely benefit both consumers and the broader vehicle dealership sector.

Annexure I: Parameters and Checklist for Evaluating Terms and Conditions of Vehicle Dealers²

1. Transparency and Clarity

- **Plain Language:** Are the terms and conditions easy to understand and free from legal jargon?
- **Full Disclosure:** Are all costs clearly listed example taxes, fees, and warranties?
- **Key Term Highlights:** Are critical clauses like cancellation policies, refund, warranties, and delivery timelines summarized?
- **Access to Terms:** Are the terms and conditions accessible online or available in written format prior to signing the agreement?

2. Fairness

- **Reasonable Cancellation Policy:** Can consumers cancel the agreement within a fair timeframe without heavy penalties?
- **Refund and Return Policies:** Are refund conditions clearly stated example timeframe, method, deductions?
- **Penalty Clauses:** Are penalties for delays or breaches reasonable and proportional?

3. Consumer Rights

- **Warranty Coverage:** Are warranty terms clearly stated, covering both parts and labor for a reasonable period?
- **Vehicle Condition Disclosure:** Do the dealers disclose full vehicle history example accidents, repairs, mileage?
- **Right to Inspection:** Can the consumer inspect or hire a third-party inspection before purchasing?
- **Amendment Notifications:** Are consumers informed of any amendments to the terms and conditions?

4. Compliance with Laws

- **Legal Alignment:** Are the terms compliant with consumer protection laws example warranty and fair-trading requirements?
- **Unfair Practices:** Are there any misleading or deceptive clauses?

5. Dispute Resolution

- **Complaint Handling:** Are there clear procedures for consumers to lodge complaints and resolving disputes?

6. Specific Consumer Benefits

- **Incentives:** Are any promotional offers, such as free servicing, discounts, or loyalty rewards, clearly documented and honored without hidden conditions?
- **After-sales Support:** Are after-sales services, including maintenance, repairs, and spare parts availability, included in the terms?
- **Documentation Requirements:** Are all required documents (eg, ownership transfer, insurance, registration) provided and explained to the consumers?
- **Test-Drive Terms:** Are the terms for the test drives reasonable, including liability coverage for consumers during the test drive?

8. Privacy and Data Protection

- **Data Collection Transparency:** Are consumers informed about what personal data is collected and how it will be used?
- **Security Measures:** Are measures in place to protect consumer data from breaches or unauthorized access?

² Parameters developed by CCAA for evaluating vehicle dealer T&C's friendliness to consumers