

Attention : #####

Infocentre Public Mailbox
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Dear #####

ACCC Response Reference: ###

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Complaint against Tesla Motors Australia Pty Limited

We confirm that we act on behalf of ##.

We are instructed to make a formal complaint against Tesla Motors Australia Pty Ltd (**Tesla**).

We summarise below the pertinent facts and submissions in relation to our client's complaint.

1. On # February 2020, our client purchase d a Tesla Model 3 Long Range All-Wheel Drive Performance, VIN ### (**Vehicle**).
2. The base price of the Vehicle was \$60,900, however our client purchased a number of extra options, which increased the price to \$101,394 (including GST and taxes).
3. One of the available options, which was available when our client purchased the Vehicle was marketed as "Full Self Driving" capability. Tesla represented on its website that this product would enable the Vehicle to make "automatic lane changes while driving on the motorway" and "automatic parking in both parallel and perpendicular spaces".
4. At that time, Tesla also represented that the product would have the following features "Coming later this year", the year being 2020:
 - a. "recognise and respond to traffic lights and stop signs";
 - b. "automatic driving on city streets";

- c. the ability to “summon” your car which means that “your parked car will come find you anywhere in a car park. Really”; and
- d. "automatic driving from motorway on-ramp to offramp including interchanges and overtaking slower cars”,

(First Representations).

- 5. Based upon the First Representations, our client purchased the Full Self Driving feature on 15 April 2020 for \$8,500 (inclusive GST). Instrumental to our client's decision to purchase the Full Self Driving product was the "automatic driving on city streets" feature. The last available wayback machine screenshot of the Tesla website before our client purchased the Vehicle in February 2020 will be provided to you.
- 6. Tesla asserts that its website did not contain the First Representations on 15 April 2020 but instead contained the representation that some of the features referred to in paragraph 4 were "Upcoming" (**Second Representation**). Our client does not accept that the website had changed before he purchased the Full Self Driving product. The way back machine screenshot of the Tesla website as at 14 April 2020, being the day before our client purchased the Full Self Driving product will also be provided to you.
- 7. According to the way back machine screenshot on 14 April 2020, Tesla represented that, 2 of the features of the Full Self Driving product referred to in paragraph 4 above and listed below were only described as "upcoming" (not "coming later this year"):
 - a. “recognise and respond to traffic lights and stop signs”; and
 - b. “automatic driving on city streets”.
- 8. Again, instrumental in our client's decision to buy the Full Self Driving product was the feature which allowed "automatic driving on city streets" and our client understood that this feature would be imminently provided to him.
- 9. In our respectful submission, it does not matter whether the Tesla made the First Representations or Second Representation in relation to the Full Self Driving product having the "automatic driving on city streets" feature “coming later this year” [2020] or "upcoming" because both representations were misleading and deceptive and/or false and misleading in breach of the *Australian Consumer Law*.
- 10. Despite the lapse of over four years since our client purchased the Vehicle and the Full Self Driving product, Tesla has not yet provided the "automatic driving on city streets" feature. It is plainly unreasonable, on any objective view, to suggest that a consumer should have to wait more than 4 years after paying for a product to receive it.
- 11. An alternative way of viewing this is that Tesla has not yet supplied the complete Full Self Driving product it promised to supply despite being paid for it over 4 years earlier.
- 12. We respectfully submit that Tesla’s responses to our client’s and our correspondence in this regard have been disingenuous and plainly wrong at law and they highlight the need for Tesla to undertake Australian Consumer Law compliance training to ensure that it complies with its legal obligations when dealing with its customers. Our client has no doubt that there will be many other customers who have been similarly misled and who are being unfairly denied a refund for a product that has not yet been supplied. In fact, there is widespread commentary

available on the Internet about Tesla refusing to give customers refunds for the Full Self Driving product when its main feature has not yet been supplied to the customers.

13. Our client's contentions in relation to Tesla's conduct are set out more fully in the correspondence with Tesla, which is provided with this complaint.

In the circumstances, our client invites the Australian Competition and Consumer Commission to undertake an investigation in relation to Tesla's conduct, especially in relation to the representations it has made regarding the Full Self Driving product and its handling of refund requests from customers.

We **attach** the following documents to assist you in your investigation:

1. Way back Machine Screenshot of Tesla website on 18 December 2019;
2. Invoice dated # February 2020 issued by Tesla to our client for the purchase of the Vehicle;
3. Way back machine screenshot of Tesla website on 14 April 2020;
4. Invoice dated # April 2020 issued by Tesla to our client for the purchase of the Full Self Driving product;
5. Email exchange between our client and Tesla, including email dated 11 December 2023 seeking a refund in relation to the Full Self Driving product;
6. Letter from Tesla to our client dated 15 January 2024 responding to our client's email of 11 December 2023;
7. Our letter to Tesla dated 26 February 2024;
8. Letter from Tesla to us dated 15 March 2024;
9. Our letter to Tesla dated 2 April 2024; and
10. Letter from Tesla dated 23 April 2024.

Kindly acknowledge receipt of this complaint and advise, in due course, what action is taken in relation to it.

Should you have any questions or require further information, please do not hesitate to contact us.

Yours faithfully
Lawyers