



# Australian Automotive Aftermarket Association Ltd (AAAA)

Submission to Consultation Paper on  
the *Motor Vehicle Standards Act 1989*.

18 June 2013



**Australian Automotive Aftermarket Association**  
Serving the automotive parts, accessories, tools & equipment industry in Australia since 1980.

## Introduction

The Australian Automotive Aftermarket Association Ltd (AAAA) welcomes the opportunity to comment on the Consultation Paper on the Motor Vehicle Standards Act 1989 and to contribute to the development of policy for the benefit of the Australian automotive industry.

The AAAA is the national industry association representing manufacturers, distributors, wholesalers, importers and retailers of automotive parts and accessories, tools and equipment in Australia. The Association has over 1700 member companies in all categories of the Australian automotive aftermarket including 350 manufacturers and includes major national and multi-national corporations as well as a large number of small and medium size businesses. The Australian automotive aftermarket turns over \$11 billion per annum, exports \$800 million worth of product and employs over 30, 000 Australians. Member companies are located in metropolitan, regional and rural Australia.

The AAAA agrees that the terms of reference attached to the Consultation Paper adequately cover the issues arising from a consideration of the regulation of Australian vehicle standards. We are of the view that the Act is broadly achieving its objective of a nationally consistent regulatory regime of road safety and environmental quality.

However we were concerned to learn that this consultation process is not in fact a review of the Act, and that no recommendations for action will be made. At the very least, we believe that the outcome of this consultation should be a formal review of the legislation leading to improved regulatory outcomes that result in safer vehicles and lower vehicle emissions.

We were also somewhat perplexed by the tone and implication of the reference to the aftermarket in Appendix A - Terms of Reference part d). The Australian automotive aftermarket is an increasingly important and integral part of the national automotive industry, and should not be regarded as somehow separate from it. We therefore reject absolutely any implication that the aftermarket is in some way a threat to the *integrity of the Australian Design Rules*. You may be aware that the aftermarket is an active supporter of the ADR process and our member companies comply with the relevant in service vehicle regulations.

The Australian automotive market is becoming more fragmented, with a large number of manufacturers and importers serving a relatively small market. As a result of this market fragmentation and diversity, dedicated Australian design and manufacture of vehicles solely for the domestic market is becoming increasingly difficult. Ford's recent decision to cease local manufacturing after 2016 is the clear case in point. In addition, the Australian industry is becoming more closely integrated into the global automotive industry and vehicles are increasingly designed for a global market, and not specifically for Australian conditions. The result is that now and into the future vehicles will need to be modified in the aftermarket to suit Australian conditions. In addition, the thousands of different derivatives of vehicles that now make up the Australian car parc will need to be maintained and repaired for an average life of 10 years at a workshop within realistic travelling distances of the car owner.

With over 60 makes and 300 models of vehicles being sold in showrooms today, for many Australians it can be a long drive to their nearest dealership workshop.

This legislative review presents an opportunity to address two issues of concern to the AAAA – The lack of national consistency of in-service vehicle standards and the sharing of vehicle repair and service data (Choice of Repairer).

## National Consistency

The current Act has achieved its aim of implementing a set of nationally consistent design standards for all vehicles sold into the Australian market. The AAAA fully supports a uniform system whereby manufacturers do not have to comply with a range of differing state-based requirements. Clearly any change to the current arrangements should reinforce uniformity and consistency, and eliminate unnecessary bureaucracy and duplication of regulation.

However, vehicle standard inconsistencies still exist, particularly in relation to the modification of vehicles after first registration. In this area the current system of differentiation between states is both confusing and inefficient. Standards are regulated and changed on a state-by-state basis, causing confusion amongst both consumers and industry who operate across state lines. Unnecessary time delays occur as States wait for and are hampered by the actions or inactions of others, and ultimately the safety of Australian road users is jeopardised. Harmonisation of national standards has been something the AAAA and numerous other bodies have been working to achieve for more than a decade.

One of the greatest inefficiencies in and subsequent frustrations of the current system is the delay in implementation. Often, after an extensive period assessing, discussing, developing and reviewing changes to vehicle standards a decision on a set of standards will be reached; and yet, due to deliberations between the states, actually seeing the regulations implemented can take a much longer period of time.

For example, the AAAA was involved in the 2009 review of VSI 50 in New South Wales, which examined the raising and lowering of vehicles. After two years of meetings, analysis and drafting of a new regulation, the new VSI was referred to the Federal Standing Committee on Transport with the intent of achieving an agreed national position on raising and lowering vehicles. As of today this issue remains unresolved and the NSW requirements for vehicle height modifications remain as they were.

It is our preference that VSI (Vehicle Standard Information) regulations or bulletins relating to in-service vehicle modifications be implemented at a national level. Modifications to all facets of a vehicle, be it engine based, structural or cosmetic, affect the integrity and operation of the vehicle – for this to vary across state boundaries is nonsensical. The National Code of Practice for Light Vehicle Modification (VSB 14) was supposed to achieve this objective however after a decade of drafting and deliberations we still do not have a

national standard. Some States have adopted VSB 14 (almost always with variations) some still have not.

It is this disharmony between jurisdictions that causes the delays in implementation, imposes unnecessary costs and undermines the integrity of the ADR system. In commenting on the efficacy of the current system, it is appropriate to remark that it is fractured and functioning well below capacity. Unnecessary bureaucracy is hampering the efforts of those committed to implementing necessary reforms, meaning vehicle safety standards are continually lagging behind advances in technology.

## Access to Technical and Diagnostic Information

A particular issue that has become more important since the passage of the current Act, and which is only recognised in a cursory way in the Consultation Paper's terms of reference, is the importance of the consumer and the reduction of the regulatory burden on business to enhance productivity. **AAA strongly submits that these objectives will only be achieved through a greater emphasis on fair competition in the industry and a full disclosure of necessary repair and service information to the consumer's nominated repairer.**

The absence of any regulatory framework or voluntary agreement in Australia, as exists in Europe and the USA, to protect competition in the vehicle repair and service sector, means that vehicle manufacturers and importers are not obliged to make technical and diagnostic information available to repairers outside their authorised dealer networks. Independent repairers provide competition and diversity of choice in service, without which vehicle owners would be forced to rely entirely on dealership based service departments, thereby becoming, in effect, captive customers.

Modern vehicles are becoming too complex to repair without access to the manufacturer's diagnosis and repair information. Without effective access to technical information, re-initialization codes, software downloads, multi-brand diagnostic tools and test equipment, rapid advances in vehicle technology will mean that the independent aftermarket will be unable to complete even the most basic service tasks on many vehicles in future. This scenario would have a significant impact on competition in the industry by creating a technological monopoly for the vehicle manufacturers and their dealer networks. Independent repairers, which are predominately small businesses, cannot repair and service vehicles without data sharing. Without competition, Australian motorists would lose the right to have their vehicle serviced, maintained and repaired at competitive prices in the workshop of their choice.

A key role of the independent aftermarket is to provide cost effective and quality servicing of vehicles, particularly those older than three years that are no longer covered by statutory or extended warranties. The depth and breadth of the independent repair network, which has over eight times the number of retail outlets than the dealer network, also ensures that consumers in regional and rural areas of Australia have access to cost effective repairers within realistic travel distances. As demand for vehicle service is clearly and significantly

higher than the capacity of the authorised dealer networks, a decline in the number of independent repairers will result in longer lead times, greater travel time and a significant increase in the cost of vehicle servicing and replacement parts for Australian motorists.

To protect consumer choice and competition in the vehicle repair and service industry, the AAAA launched the Choice of Repairer campaign in 2009. As part of this campaign the AAAA called on the Federal Government to intervene to require vehicle manufacturers to provide to the independent aftermarket, the same information and tools they currently supply to their authorised dealerships in a non-discriminatory manner, at a fair price, and in a useable form.

Following a meeting with Assistant Treasurer David Bradbury in October 2010 the Government announced a Commonwealth Consumer Affairs Advisory Council (CCAAC) Inquiry into the sharing of repair information in the automotive industry. The final report and major recommendations of this inquiry were published in December 2012. The full report can be downloaded from <http://ccaac.gov.au/>

On 10th June 2013, in his formal response to the CCAAC Inquiry, Assistant Treasurer Bradbury announced that the Government will adopt all of the CCAAC recommendations in full. The Government has asked the Chairman of CCAAC, Mr Colin Neave AM, to monitor industry-led negotiations on a voluntary code of conduct, to facilitate the sharing of repair and service information. If industry representatives fail to make substantial progress on the code by the end of 2013, the Government will start a process to examine other regulatory options, including a mandatory code of conduct.

Mr Bradbury will also be asking the nation's consumer affairs officials to develop an awareness campaign to educate consumers about their warranty rights. Under the Australian Consumer Law, suppliers have a legal obligation to guarantee the quality of goods and services. Any suggestion by car manufacturers that cars need to be serviced at a authorised dealer to maintain the owner's consumer guarantee rights, is not correct.

The AAAA congratulates Assistant Treasurer Bradbury for his leadership on this issue and we are optimistic that with continued Government involvement and oversight, that we will be able to negotiate an agreement with the car industry on information sharing that provides a fully functioning market with open competition in which the consumer has choice.

To complement the mandatory industry code we have suggested that Australia follow the European Union precedent and mandate access to repair and service information in the Australian Design Rules. The ADRs may be amended to prescribe the information requirements for each vehicle component, or alternatively a general ADR may be introduced that relates specifically to information sharing. While the ADRs do not provide a pricing mechanism or a dispute resolution mechanism, cross referencing them with an industry code of conduct would strengthen any new competition framework by linking vehicle type approval with the provision of the vital data and tools required to repair and maintain the vehicle on an ongoing basis.

For further information refer to the AAAA's submission to the Commonwealth Consumer Affairs Advisory Council Inquiry at:  
<http://www.aaaa.com.au/files/issues/AAAA%20CCAAC%20Repair%20Information%20Submission%20Final.pdf>

## Conclusion

AAAA members collectively service, modify and improve a significant proportion of the Australian passenger car fleet. It is our desire that Australia has modern harmonised Vehicle Standards and we support a regime of adopting, implementing and enforcing these standards. But complying with these regulations is a challenge when the repair data is not shared and when the rules change at the state border. **Just adopting international vehicle standards is not the full solution to safe and environmentally responsible vehicles on Australian Roads** – maintaining the vehicle at that standard is a critical component and the aftermarket's ability to effectively maintain vehicle standards will be compromised without the sharing of data and repair information and without national harmonisation of regulations.

The AAAA welcomes this opportunity to raise relevant issues that we believe should be considered in relation to motor vehicle standards in Australia and we look forward to presenting our views as this review progresses.

Should you require any additional information or to discuss the issues raised in this submission, please do not hesitate to contact me.

Kind regards

*Stuart Charity*

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