

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

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Summary

Caravan, RV & Accommodation Industry of Australia Ltd (CRVA) is supportive of the Act and its objectives of in their current form. The public policy objectives of, road safety, reduced environmental degradation/theft and choice are all objectives industry is supportive of. At present within the legislation there is the capacity to achieve these outcomes however, **there are significant issues surrounding the processes and the implementation of these regulations that can be addressed through non-legislative means.** Self-certification in relation to the import of trailers has weaknesses that potentially enable opportunistic non-compliance. The ADRs are an important consumer safeguard that ensures higher quality vehicles and delivers on the objectives of the Act. Other standards which do not meet minimum Australian design standards should not be introduced or accepted in their place. Industry strongly supports full compliance with the ADRs to all vehicles supplied into the Australian marketplace; this applies equally to imported or domestically manufactured vehicles.

Industry Recommendations

- **There is not a need for major legislative overhaul of the Act**

- **There is a need to adopt a more rigorous inspection procedure to ensure compliance**
- **In the concessional light-trailer category self-certification needs to be balanced with a more rigorous inspection and enforcement scheme**
- **The Department needs to take a more nuanced and rigorous approach towards understanding patterns of non-compliance in the caravan and camping sector**
- **The Act needs to exclude caravans, RVs and trailers from eligibility under the pre-1989 scheme**
- **The Department needs to engage with peak industry associations and the industry more actively to provide education on compliance and safety for industry and consumers**

Who is CRVA

CRVA is the peak national body for the caravanning and holiday parks industry, representing manufacturers, retailers and repairers including, caravans, motorhomes, camper trailers, tent trailers, camping, cabins, plus other RV's, and industry suppliers, as well as caravan holiday parks.

In its role as the peak national body, CRVA is responsible for the growth and development of the Australian caravanning and camping industry for the benefit of all industry participants, including consumers and operators.

CRVA is putting forward this submission after extensive consultations with State Caravan Industry Associations and National Industry Peak Bodies. Particularly the Caravan Trade & Industries Association of Queensland (trading as Caravanning Queensland), Caravan Trade & Industries Association of Victoria, Caravan & Camping Industry Association of NSW and RVM Australia have been consulted in the preparation of this submission. This submission has been written to develop an understanding the concerns Industry currently has with the operation of the Act.

CRVA encourages the development of a high quality industry that results in safer and higher quality experiences for those engaged in the caravanning and camping sector. High quality vehicles manufactured locally or imported are an important part of ensuring a safe and high quality experience. The Motor Vehicle Standards Act 1989 is therefore of significant concern to the industry as a whole.

Caravan and RV manufacture in Australia contrasts with a range of other manufacturing sectors. Caravan and RV manufacture in Australia continues to grow in both the overall size of its operation and in the sophistication of its products. Caravan and RV manufacture in Australia has close linkages with upstream material and component manufactures as well as downstream retailing and aftermarket care, both of which are substantive in size and labour creation. The caravan and RV manufacture sector is a significant source of jobs and economic growth within a wider manufacturing sector itself that has more broadly been characterised as retreating especially in the wake of the potential withdrawal of the major automotive manufacturers. The majority of caravans and RVs on the Australian roads are

manufactured in Australia and in 2012 there were 20,780 manufactured in Australia¹ with 470,000 registered recreational vehicles according to most recent figures².

Moreover ensuring the compliance of imports in accordance with the ADRs and the quality of these imports as well as locally manufactured vehicles is of importance to the industry and the local manufacturing sector. Unlike other vehicle manufacturing segments the manufacturing of caravans and RV product continues at near record levels. Lower quality and non-compliant product poses a risk to the reputation of the industry as lower quality product is more likely to fail or have consumer complaints that reflect poorly on the sector potentially limiting growth, particularly given the tough geographic conditions these vehicles are likely to encounter through use in regional Australia. This is especially evident given that 90% of all caravan and camping is undertaken in rural or regional Australia³.

CRVA is a member of the National Tourism Alliance (NTA), a Master Licensee for TQUAL, holds TAAL accreditation and is a category sponsor of the Australian Tourism Awards. CRVA encourages open competition while seeking compliance within the regulatory framework.

Objects of the Act

- **The objects of the Act are supported by industry**
- **There is no rationale to offer fewer restrictions on the import of used vehicles**
- **Full compliance with the ADR should be ensured**

CRVA is fully supportive of the current object and objectives of the Act. Within the caravanning and camping sector (that is focused on trailers) the systems in place have reduced the regulatory burden at the federal level but there remain significant issues at the state level in the registration of vehicles. The range of concessionary schemes available is beneficial as it creates a clear pathway for vehicle entry, but it needs to be made clear that these concessionary schemes should not be offering concessions to the applicability of ADRs, not only to trailers but also to caravans and RVs. The Act for our industry achieves a balance in relation to import schemes that industry views as effectively supporting the object of the Act.

The Act as it presently stands makes an effective balance between the local industry and need for specialist and enthusiast vehicles. As there is still a strong manufacturing sector in Australia for caravans and RVs, unlike motor vehicle manufacturers, this balancing object within the Act is still relevant. With specific regard to caravans and RVs the current state of the global automotive industry provides **no** rationale to reduce restrictions on the import of

¹ RVM Australia

² 2011 motor vehicle census

³ TRA 2012 Caravan or camping in Australia Snapshot

used vehicles, given that international caravans and RVs have different and often less effective safety standards. This relevance underlies industry's view that there should not be fewer or no restrictions upon the importation of used (or new) caravans and RVs.

Industry is strongly supportive of the goal of ensuring that all vehicles, locally manufactured and imported comply fully with the ADRs. The full application and compliance with the ADRs is in the interests of ensuring that the national road toll is reduced. Ensuring that these standards are applied equally and effectively to locally manufactured and imported product creates a level playing field that creates consumer choice and a guarantee of safety for road users.

Public policy purposes of Act

- **Industry is supportive of the purpose of uniformly applied standards to all vehicles no matter their source**
- **The two tiered import and registration system is a problematic process to enforce compliance**
- **State pathways to the registration of vehicles do not ensure ADR compliance**
- **Stronger enforcement of regulation is required; this does not require legislative changes**

Uniform standards and the regulation of imported used vehicles both contribute towards the objectives of the Act of which Industry is supportive. In relation to caravans and RVs the application of uniform standards increases road safety though ensuring that the purchaser of a vehicle has an expectation in relation to vehicle safety that is consistent irrespective of source. The environmental aspects of the object though has some limitations in relation to trailers as the policy focus is examining features that are not relevant because of their focus on emissions. Despite this weakness there is not a need for the legislation's objects to be amended.

A weakness of the existing regulatory system is the two tiered system involving the uniform federal legislation and the individual state requirements for vehicle registration. Between the states there are differences in relation to the registration process of product. While all products are meant to comply with the ADRs fully, the import system, based around self-certification (particularly in relation to light trailers), does allow for either opportunistic non-compliance or an unsophisticated compliance response (utilising the definitions from the 2013 DIAT compliance strategy). Registration at the state level should identify non-compliance in registration, yet differences in what is examined exist between the states. Registration (with regard to imports) does not necessarily find non-compliance to the ADRs, within the state registration process, as this process relies upon the federal import certification. The use of self-certification in relation to trailers creates a pathway for

opportunistically non-compliant product to be imported and registered without an assessment that such a vehicle is ADR compliant.

There are a range of non-regulatory/non-legislative means of enhancing the capacity of the existing regulations effectiveness towards enhancing road safety. To enhance the safety of caravan and RV products when engaging in consultation on relevant compliance issues and on registration every opportunity should be taken to involve peak industry bodies such as CRVA, RVM Australia or relevant state Caravan and RV Associations. Involving industry stakeholders in a consultative fashion provides an effective non-legislative solution to enhance outcomes for road safety, environmental impact and consumer choice. This consultation would also be able to leverage Industry programs such as the newly released RVMAP compliance audit system to ensure that imported and locally manufactured product meets the Australian Design Rules.

Objects of the Act 1 (3a) National Standards, Certification and approval of Road Vehicles

- **Potential for non-compliance is high**
- **Processes of enforcement and Inspection do not guarantee compliance**
- **The registration process also does not ensure compliance**

In relation to the first of the objects of the Act there are issues relating to the import of trailers, while imports are growing within our sector, there is as outlined in the national compliance strategy, significant potential for non-compliance. As such understanding the specific details of this segment is important to ensuring compliance.

With the growing supply market, particularly in this trailer segment, the Act is sufficiently rigorous to ensure that new imports are compliant with the Australian design rules **yet there is not an effective process of enforcement or inspection to guarantee this.** In relation to trailers though the process is reliant upon self-certification that allows potential non-compliance, the result being that the Act is sufficient but there are process weaknesses that need to be understood. The lack of departmental scrutiny on the self-certified imports potentially allows products that are not compliant to get through the import and registration process then ultimately into the retail/ wholesale market and onto the roads. Adopting more inspection of trailers for ADR compliance, rather than relying upon materials supplied by importers will enhance the quality of available product on the market. Adopting a risk profile of “unsophisticated” in relation to trailer imports/trailer importers is one way in which limit non-compliance. Allowing individual importers who exhibit high levels of compliance behaviour to move into the “sophisticated” category and importers who regularly have issues to be classed as “opportunistically non-compliant” is a way in which to effectively utilise resources to manage compliance behaviour. Similar approaches to monitoring compliance

should also be utilised for examining local manufacturers as well. Further scrutiny and testing may be an option to ensure the compliance with the ADRs.

The ADRs for the Australian trailer market have more relevance in relation to the creation of a safe road network than simply adopting international standards. The ADRs for small trailers as expressed through the **VSB1 have significant benefits for road safety over any international standards**. Some critical differences include the requirement for the presence of safety chains in the Australian marketplace (not required in Europe), wiring rules for Australian caravans that are safer (than American standards), a range of tow ball sizes and gas piping that has different requirements to other countries (Australia requires copper whereas other countries allow steel gas piping). The ADRs in relation to the import of small trailers have significant safety benefits over other international standards.

3b: Administration, Court Proceedings and Miscellaneous

- **Existing regulation is appropriate yet not effectively utilised**

At present within the Act although there is sufficient legislative and regulatory mechanisms to support the objectives of the Act **these are not utilised effectively with weaknesses in the enforcement of the Act**. The justified reliance upon self-certification for the import of trailers is generally sufficient; there needs to be a more careful application of risk profiles to this import segment. Applying a more nuanced understanding of the risk of non-compliance can recognise the potential for non-compliant imports pre-emptively and work to prevent non-compliance. If the Department is to effectively lead in the enforcement of the Act adopting, in relation to some importers, more cautious inspections and audits of self-certified imported product, particularly in regard of used imports. With a more considered approach to the administration of this Act it can primarily support the desired policy objectives. At present the links between the Act and other legislation is clear and effective and industry does not view a need to revisit this situation. There are, some jurisdictional gaps at the level of state government, this is not something that amending this legislation can address. Continuing consultation and harmonisation between the states should be worked towards.

Other concessional options

- **Concessional schemes are an appropriate means to import vehicles not supplied in full volume PROVIDING that such vehicle are/ or are made to be fully compliant with the ADRs**
- **Concessional schemes should not offer concessions to the ADRs**
- **Self-certification in relation to light trailers is problematic**

- **There needs to be stronger inspection procedures to ensure compliance**

The Act needs to continue to have concessional schemes for the import of vehicles into Australia that are not supplied in full volume. These concessional schemes provide a means for vehicles to be imported, while still complying with the ADRs that are not supplied in full volume. Trailers as a category of concessional import should not be rationalised as a category. Trailers should remain as a distinct category, with distinct rules and requirements and should not be split or rationalized within any other discretionary import scheme. The category allows for the specific needs in relation to ADRs to be effectively encapsulated. Rationalising this category could have pernicious impacts that negatively affect road safety. The process when being rationalised has the potential to not effectively encapsulate the range of issues within the sector. The current system that has an individual concessional import scheme for trailers is the best option for the policy outcomes of road safety environmental/security and choice outcomes. The reliance on self-certification though is problematic and industry believes stronger oversight is needed to ensure the compliance of products.

1989 scheme

- **The pre 1989 concessional scheme for trailers, caravans and RVs is problematic**
- **The Pre 1989 scheme needs to be limited**

The pre 1989 scheme for importing vehicles allowing certain concession to the ADRs in relation to the caravanning and camping sector has challenges. While only being a minority of vehicles the potential for non-compliance in trailers from the pre 1989 scheme is high. Particularly with second-hand American RVs and trailers where length and wiring will not be compliant providing exemptions from the ADRs in these instances may be problematic. Importing caravans and RVs through this scheme is not the intent of the pre-1989 scheme yet they are not specifically excluded. Limiting the pre 1989 scheme specifically to motor cars rather than all vehicles may be appropriate.

The pre 1989 scheme raises broader questions about allowing concessions to the ADRs (allowing non-compliant products into the country). Allowing concessions to the ADRs is something industry is not supportive of and especially so in relation to used vehicles. Imported used motorhomes and fifth wheelers have been shown by RVMAA (Now RVM Australia) to have specific safety concerns that there should not be ADR concessions for. Such vehicles have been shown to grossly exceed the maximum permissible length, position the access door on the incorrect side of the vehicle, excessive rear overhang, incorrect ground clearance, failure of gas appliances to meet Australian Standards, failure of electrical devices to meet Australian standards, inappropriate lighting and excessive tinting of

windcreens. Any one of these issues has the potential to render a vehicle not compliant with Australian laws but also dangerous to other road users.

Solutions

- **Self-Certification creates potential non-compliance, inspection can counter this**
- **The Department requires a more nuanced approach towards enforcing regulation**
- **The Department needs to work with industry to understand patterns of compliance and assist in the education of manufactures, importers and consumers**
- **There is not currently an effective understanding of the extent of non-compliance to the ADRs in relation to trailers**
- **Industry aims to work with government to ensure the compliance of ALL recreational vehicles no matter their source**

Within the current Act there is the capacity to effectively manage the import of trailers to create the intended policy outcomes of the Act. There are weaknesses within some of the procedures surrounding self-certification. Self-certification, while an appropriate strategy to manage imports is effective but there needs to be more auditing of the process. The changes to the import addendum form for small trailers enhances the efficacy by specifically asking about a range of features of the ADRs (this will reduce opportunistic non-compliance with ADRs). There does though need to be an assumption that incidental non-compliance may occur because of an unsophisticated engagement with compliance. Encouraging a more active examination of imported product will over time increase the sophistication of importers responses to the requirement to import compliant vehicles.

Encouraging a more sophisticated industry response to the requirement of compliance should be the primary goal any changes to legislation, regulation or administration (and industry's position is that any changes can be limited to administration). Industry through CRVA, RVM Australia and state based Caravan and Camping Industry Associations have been actively promoting a culture of compliance, DIAT through collaboration within peak industry associations will be able to increase the level of sophistication of compliance. Through enhanced communication with industry, through targeted industry forums information about compliance can be distributed. When non-compliance is reported through cooperation with peak industry associations such examples can be communicated back to industry so that other businesses can address similar weaknesses.

Within the 2013 strategy for compliance DIAT states that "the potential for non-compliance with regulatory requirements is significant, although such non-compliance may be marginal"

in relation to light trailers. What this underlies though is problem understanding actual levels of compliance within trailer imports, that is, it is unclear as to how much non-compliance actually occurs. Within an Industry forum recently it has been suggested that there is a lack of willingness to openly inform authorities about non-compliance when seen in the marketplace. The establishment of a confidential reporting procedure for the Department (or industry) to be informed of potential non-compliance is a potential means to report and a result more effectively understand patterns of compliance within the sector.

Ensuring the safety of the road users is of paramount concern to the caravanning and camping sector. More compliance will result in a safer road network that is of benefit to the caravanning and camping sector. At present the Motor Vehicle Standards Act 1989 provides a sufficient means with which to ensure the identified policy outcomes. There are process improvements that are available to make without legislative or regulatory changes to the existing framework. Improvements to the process of certification and inspection of imported vehicles provide the capacity to improve the standards of imported vehicles. Through consultation and engagement with Industry and Industry associations there can be identified opportunities to enhance the sophistication of the compliance systems.

While accidents involving caravans and RVs are not major cause of fatalities in road crashes (and specifically excluded from data collection) being concerned for the potential safety dimension of these products remains important. Moreover accidents involving caravans can have significant capacity to cause injuries and productivity losses. Improving the quality of product on Australian roads holds the potential to reduce these impacts,

Industry is supportive of the aim of the Motor Vehicle Standards Act 1989 of ensuring a safer road system.

The uniform application of ADRs to all motor vehicles is a public policy goal that industry is strongly supportive of.

Industry is strongly supportive of efforts to ensure that all domestically manufactured and imported products are fully compliant with the ADRs to ensure the safety of consumers.

Industry supports the existing Act and regulations but is critical of the current approach towards ensuring compliance taken by the Department.

Industry would support a more active process of ensuring compliance of all vehicles through inspections of product. Industry would also be supportive of increasing the education available to manufacturers and importers with reference to ADR compliance to improve the rates of compliance.

Appendix: Membership of CRVA

CRVA is a membership based organisation with the individual State Caravanning (Parks and Trade) Associations and RVM Australia as members.

CRVA also has over 1,200 industry businesses which make a financial contribution towards industry promotion and development through a co-operative Fund, and communicates to over 155,000 caravanning and camping consumers through a consumer VIP Club (representing approximately 120,000 caravanning and camping vehicles).

- Caravan & Camping Industry Association of NSW
- Caravan Industry Association WA
- Northern Territory Caravan Parks Association
- Caravan Trade & Industries Association of Queensland
- Caravan Parks Association of Queensland
- Recreational Vehicle Manufacturers Association of Australia
- Caravan & Camping Industries Association of South Australia
- Caravan Parks Association of South Australia
- Caravan Industry Australia (Tasmania)
- Victorian Caravan Parks Association Inc.
- Caravan Trade & Industries Association of Victoria