



AUSTRALASIAN FLEET MANAGEMENT ASSOCIATION

Submission to the Department of Infrastructure & Transport

Consultation on the Motor Vehicle
Standards Act 1989 and its
Associated Regulations

21st June 2013

Forward

The Australasian Fleet Management Association (AfMA) thanks the Commonwealth Department of Infrastructure and Transport for the opportunity to share the Association's views on the currency and operation of the *Motor Vehicle Standards Act 1989* (the Act), and its associated Regulations.

AfMA is a not for profit organisation which has almost 600 members across Australia and New Zealand. Collectively these members are responsible for the management of approximately 800,000 vehicles. Purchasing actions of fleet managers have a major impact on our economic and social structure as fleet sales account for in excess of 50% of all yearly new vehicle registrations.

In addition the Fleet sector is the major source of vehicles into the used (retail) vehicle market. Purchasing decisions as to the level of vehicle safety, safety features and emission standards made via fleet acquisitions continues to influence the market for up to a decade after being initially acquired.

For many years now the Australian automotive industry has been in a state of constant flux. Changes in customer purchasing sentiment both in the business and retail sectors have had a profound impact on the industry.

Local manufacturers, traditionally the main supplier of the large passenger vehicle, have seen their market share in both real numbers and percentage of market share fall dramatically over the last eight years. AfMA sees this outcome as being predictable as Australian vehicle manufacturers have struggled to compete with importing competitors in the areas of the fitment of safety features as standard equipment and emission performance.

This trend we expect to continue in the near future at least as we are again seeing the rising spectre of significant over supply/production of new vehicles in all the major markets around the world. This will likely manifest itself in the Australian market in the form of a price war which while it is good for new vehicle purchases, is likely to adversely impact local manufacturing further.

Executive Summary

The Association has participated in numerous requests for submissions (Vehicle Safety, Australian Design Rules, Emissions and Euro 5 and 6 standards to name a few) on many issues affecting the Australian Automotive Industry and what we see as their impact on Australian society.

While we will address the specific questions posed in this request the Association would first like to share its views on how we perceive the status of the Australian automotive market.

While successive Federal Governments have had opportunities to lead through an active role in vehicle safety and emission reduction such opportunities were, in AfMA's view, not taken.

To date intervention by government would appear to have been one of maintaining the status quo rather than advancing a more positive outcome. The result has in the Association's view

left the Australian market with inferior products and always one step behind comparable overseas markets. The areas of vehicle Safety, Emissions and the current ADR system we would contend have contributed to an outcome that lags behind what is standard practice in comparable overseas markets.

There are a number of studies that confirm this to be the case. In particular we draw your attention to two inquiries, one into vehicle safety and another concerning the ADR system (see detailed submission) which provides a bleak assessment of the health of the Australian vehicle market.

While the action of setting a standard can in itself be perceived as an active approach, it is where those standards are set that in reality dictates if the action is active or passive.

To any observer there is no doubt that the Australian Automotive sector lags considerably behind most other mature automotive markets in the important areas of safety and emission performance and this has serious consequences for business and the public at large.

To bring the Australian market up to current standard practice A/MA would suggest the following actions be addressed with some urgency:-

- ✓ Move to the full adoption of the United Nations Economic Commission for Europe (UNECE) standards in place of the current ADR system;
- ✓ Establishing a relationship between the Australian New Car Assessment Programs (ANCAP and the European/USA/Japan equivalent) and an acceptable minimum crash protection rating that vehicles must meet before they can be registered for sale/use in the Australian market;
- ✓ Introduce the requirement for ESC to be a standard fitment;
- ✓ Introduce the requirement for side impact protection (curtain airbag or equivalent) as a standard fitment;
- ✓ Expedite the introduction dates of Euro 5 and 6 to match emissions standards already in place in vehicle manufacturing competitive countries.

Initiatives that are proven to save lives, reduce serious injury and improve urban air quality should take precedence over any other consideration. Product users should not bear the consequence of a supplier's inability to meet standard practice.

Detailed Submission

The Executive Summary in the Consultation Paper on the Motor Vehicle Standards Act 1989 declares that:

“Introduced in May 1989, the objective of the legislation was to give effect to the Australian Government’s commitment to road safety and environmental quality on a nationally consistent basis”. Further that

“It is also necessary to consider whether the present legislative framework reflects ‘best practice’ in meeting the Act’s objectives” and

“The views will also assist in determining the regulatory framework’s impact on competition in the supply of vehicles to the automotive sector”.

Unfortunately the reality, while consistent, is in general the Australian market experiences a lower level of vehicle occupant protection and a higher environmental impact. By any constructive evaluation of the current state of the automotive passenger/light commercial vehicle market the above aims have not been met.

For several years now A/MA has been responding to various Federal government departments on the issues of vehicle safety, emissions/air quality issues and ADR’s to no avail. We are willing to again share our views on these important issues however, the situation remains where the Australian market continues to lag other mature markets and recognised best practice.

Vehicle Safety

In August 2008 a study into the Australian Automotive market was less than impressed at the level of safety features and performance available in the Australian marketplace. Parliament of Victoria, Road Safety Committee, ‘Inquiry into Vehicle Safety’, August 2008, ISBN 978-0-9751534-4-4.

This reports Executive Summary came to several conclusions that clearly show an inadequacy in the current Australian market. According to the committee’s findings (Executive Summary page xi):

- ✓ “The availability of safety technologies is at a far lower rates in Australia than overseas”;
- ✓ “Leading technologies are largely absent from Australian manufactured vehicles”;
- ✓ “The Victorian and Federal Governments have not taken sufficient steps to ensure that vehicle safety in Australia keeps pace with international developments”;
- ✓ “Contributing to disparities between leading countries and Australia is the practice of de-specification. The Committee has seen convincing evidence that vehicles imported, and even those manufactured in Australia, often have safety technologies removed from models sold in Australia. While manufacturers dispute the practice of de-specification the Committee considers that de-specification claims are valid”.

The enquiry made some 37 recommendations one of which was the mandatory fitment of Electric Stability Control (ESC) before a vehicle could be registered for use in Victoria.

This recommendation was adopted in Victoria as of January 1st 2010, however an effort to extend this life saving technology across Australia was unsuccessful.

In response the Federal Government also flagged that it would introduce this initiative but the implementation date was delayed some two years and ten months to November 1st 2013. Recently we have heard that this may be delayed for another year.

The Parliament of Victoria Road Safety Committee made reference to the influence of the Australian Design Rules system and its effect on vehicle safety and best practice.

Subsequently this committee went on to undertake an inquiry into the ADR system which we reference below.

Australian Design Rules (ADR's)

While the Association is not involved in the specific ADR process its members are affected by the outcome of the process and the influence ADR's have and how they affect the marketplace.

AJMA sees ADR's as part of a collective relationship that should ensure that our market does not receive a lesser level of vehicle safety features than those available as standard in other, comparable markets.

There is a misconception that there is a connection between safety, measured in accident survivability, and compliance with ADR's; such an assumption is a fallacy. The current ADR system has been described as lagging behind best practice and as such has become a hindrance rather than an asset.

Accident survivability as measured via the ANCAP testing process shows several vehicle granted ADR compliance achieve a low ANCAP safety rating; as low as one star. These products are on sale in the Australian market.

At such low protection level survivability in what is considered a typical vehicle crash (the 60 kilometre off-set frontal crash) is very low; the likelihood of serious injury is also heightened.

Consideration should be given to establishing a relationship between the New Car Assessment Programs (NCAP and the European/USA/Japan equivalent) and an acceptable minimum crash protection rating that vehicles must meet before they can be registered for use in Australia.

On the issue of the ADR system as previously noted the Parliament of Victoria, Road Safety Committee undertook an inquiry 'into the Process of Development, Adoption and Implementation of Australian Design Rules', November 2009, ISBN 978-0-9751534-8-2.

The committee's findings were less than supportive of the current system where:

- ✓ "The Committee considers that Australian Design Rules are increasingly out dated and do not reflect international developments in vehicle safety";
- ✓ "Australia's independent set of vehicle standards is, despite harmonisation, contributing to a minimum level of vehicle safety that is lower than other economies, such as New Zealand";
- ✓ "ADR's are not keeping pace with technologies being fitted to vehicles sold in Australia. While the Committee appreciates that an ADR cannot be developed ahead of a new technology, there is a need for the ADR review process to be more responsive to developments in vehicle safety".

As an example AMA notes the recent news that the Isofix child restraints have received regulatory approval for use in Australia. This comes some 16 years after its introduction in Europe and 11 years since adoption in America.

ADR's simply identify a minimum standard to be achieved and as such do not promote the adoption of the latest safety technology by manufacturers. As the Committee identified in its report, "a vehicle that meets all its applicable ADR's may only achieve a 1.3 ANCAP star rating".

In addition should ADR's contain elements that are uniquely Australian, overseas manufacturers may be reluctant to make production changes purely to meet an ADR. This has the potential to disadvantage the end-user as such vehicles would not be available in the Australian market.

There is also a need to remove the ADR compliance gap between passenger vehicles and light commercial vehicles. By this we mean that while passenger vehicles have, although sometimes only as an option, side and curtain airbags, in many instances these are not available, even as an option, on light commercial vehicles.

An example from our previous submission on ADR's is a comment from one of our members on the subject who noted:

"... the recent Hi-Lux update globally. In Europe the specification provides for side and curtain airbags but in Australia all it got was a shiny grill".

The conclusion therefore is that on balance adoption of the UNECE system will benefit the Australian consumer.

In addition, mirroring legislated requirements of regimes such as the European Union and/or the USA is also a consideration. For example, the USA has adopted, by legislation, a number of mandatory safety features; ESC, enhanced head (side impact) protection, remote monitoring tyre pressure systems, enhanced rear visibility requirements and electric window anti-choking safety system requirements.

If these are considered as standard, in a market where on the whole new vehicle prices are significantly lower than in Australia, why are they not standard in Australian market.

Standardising vehicle specifications across different markets is not a new concept. The European 'block exemption' program was one such program that was designed to address differing pricing, repair and servicing strategies by manufacturers across markets of the European Community.

Euro 5 and Euro 6 standards and Urban Air Quality

The majority of Australians live clustered along the coastal fringes thus increase in population will extend the population density and is likely to exacerbate the urban air quality but also negatively impact population health issues.

Major cities in Australia have ongoing pollution problems, including frequent breaches of air quality standards, resulting in pollution related health problems. There are substantial costs¹ due to vehicle emissions and AfMA is of the view that every opportunity to mitigate these substantial costs, both in human and economic terms, should be seized.

¹ (Infrastructure Australia, Major Cities Unit. State of Australian Cities 2010. Executive summary page 2).

Declining air quality is linked to commonly reportable health conditions among children and young adults, with respiratory conditions and exposure to urban air pollution now accounting for 2.3% of all deaths. Infrastructure Australia, Major Cities Unit. State of Australian Cities 2010.

Australian vehicle emission standards lag behind those already implemented in other mature markets. In several instances the standards Australia is seeking to introduce (Euro 5 and Euro 6) have already been standard practice for many years in overseas markets. In some cases by the time these become mandatory in Australia comparative markets will have already moved on to higher specifications.

Table one below shows how much the Australian market lags behind other mature markets such as Europe. One would hope that imports from these areas would be meeting their home market requirements rather than being of an inferior specification.

Table one Comparison of the adoption dates for Euro 5 and 6 specifications

Standard	Euro 5	Euro 5	Euro 6	Euro 6
Location	New Models	New Registrations	New models	New registrations
Europe	September 1 st 2009	January 1 st 2011	September 1 st 2014	January 1 st 2015
Australia	November 1 st 2013	November 1 st 2016	July 1 st 2017	July 1 st 2018

In addition to emissions output Euro 5 introduces a durability requirement for a period of 160,000 kilometres travelled for emissions management systems and associated components.

One reason why this is important is that according to Federal Government figures some 2,400 persons die prematurely each year due to poor air quality (Australian Government, Department of Transport and Regional Services, Bureau of Transport and Regional Economics (btre): Health Impacts of Transport Emissions in Australia. Economic Costs, btre working paper 63)

The recent newspaper article on the Ford Motor Company's closure of manufacturing in 2016 cited the inability of the current engine manufacturing plant to make Euro 5 compliant engines. We believe that the initial introduction date for Euro 5 was 2012 but that introduction was delayed by the Federal Government.

AfMA would like to see an early introduction, no later than January 1st 2015, of Euro 5 and 6 as we feel that it will benefit the community as a whole.

Public Policy Objectives

Section 2b of the consultation paper (page 8) has as one of its objectives "The Australian community expects to be able to purchase that vehicle at the lowest cost".

Regulation that inhibits parallel importing without restriction, either via complex process or compliance requirements, should be removed. Should a vehicle be compliant with the UNECE standards it should automatically be granted import status.

One consequence of a tightly regulated/restricted market is that price competition can be severely reduced. We bring your attention to a recent article in the newsletter 'GoAutoNews, May15 edition page 14, re the reduction of the McLaren 12C sports car. Announcing a price reduction of \$102,000 it is reported that McLaren Automotive "slammed what it called historic overpricing in the Australian market". Additionally, the article continued stating that "a number of the core manufacturers employed premium pricing policies - in other words they were gouging local buyers".

To any observer there is no doubt that the Australian Automotive sector lags considerably behind most other mature automotive markets in the important areas of safety and emission performance and this has serious consequences for business and the public at large.

It is in the hands of the Federal Government to address these issues in the most expedient time scale for the benefit of the general population.

A/MA thanks the Committee for the opportunity to share its thoughts and concerns on this important subject.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Thompson', with a long horizontal flourish extending to the right.

Marja Thompson
Executive Director

Australasian Fleet Management Association (A/MA)

Consultation Paper on the *Motor Vehicle Standards Act 1989*

Response to specific questions

2a The Objects of the Act

The first Object of the Act, at section 3(a) is - to achieve uniform vehicle standards to apply to new vehicles in Australia. This is aimed at reducing the regulatory burden on the automotive industry associated with complying with the ADRs, which at the time were applied slightly differently by each of the States and Territories.

Question

- ✓ Have the Act and its Regulations effectively reduced this burden?

AfMA response

It is evident that Australia lags behind other mature markets in safety. According to the Victoria All Party Committee inquiries into vehicle safety and the ADR's system the current legislation has several serious flaws that negatively impact the Australian marketplace.

Question

- ✓ Considering the range of concessions to the ADRs available through the low volume scheme and other discretionary arrangements for new vehicles (e.g. over length vehicles, special purpose vehicles), is this object still appropriate?

AfMA response

AfMA has no expertise in this area and therefore has no response to offer.

The second Object of the Act, at Section 3(b) is: to regulate the first supply of used imported vehicles. This object was introduced with the 2001 amendments and was aimed at making a distinction between new vehicles and used vehicles, but was intentionally broad to cover the wide number of options available to permit the importation and supply of used imported vehicles. The Government's objective in making this change was intended to balance the Government's commitment to the local automotive industry, the interests of importers and converters of used imported vehicles, and consumers' desire for specialist and enthusiast vehicles.

Question

- ✓ *Has the Act achieved the desired balance and are appropriate categories of used imported vehicles covered?*

AfMA response

Restricting (making it difficult) the importing of vehicles creates a false market particularly in the luxury car segment. ADR compliance and the import process deters personal imports allowing closed market conditions. Recently one luxury car maker reduced its price by \$102,000 and commented on how this sector has been price gouging.

Question

- ✓ *Given the global environment for the automotive industry, should there be no or fewer restrictions on the importation of used vehicles?*

AfMA response

There should be no restrictions as long as vehicles comply with the UNECE standards or equivalent.

2b The public policy objectives

The Act, and its associated Regulations, seek to achieve an outcome that balances these, sometimes competing, policy objectives of increasing community safety, reducing environmental impact, reducing the community costs of car theft and appropriately maintaining consumer choice.

Question

- ✓ Do the objects of the legislation still positively contribute to the identified broad policy objectives?

AfMA response

No. The industry has lagged behind best practice and has some excessive pricing practices particularly in the luxury car market.

Question

- ✓ Should the objects of the Act be amended to increase the legislation's contribution to the broad policy objectives or should the objects be amended to focus on fewer policy objectives?

AfMA response

No comment.

Question

- ✓ Are there non-regulatory ways of achieving the same policy objectives of road safety, environment, security and consumer choice?

AfMA response

Yes, adopt international standards and do not allow the importation of inferior (de-specified) products.

Question

- ✓ What key principles should underpin any changes to the Act?

AfMA response

Adoption of a 'best' practice approach.

3a National Standards, Certification and Approval of Road Vehicles (Parts 2 and 3 of the Act)

These parts of the Act form the principal mechanism for achieving the first object of the Act – achieve uniform vehicle standards to apply to new vehicles in Australia – which in turn

contribute to the policy objectives of road safety, environmental outcomes and vehicle security.

Part 2 of the Act provides the legislative authority for a national system of vehicle design standards – the Australian Design Rules (ADRs). The current standards, the Third Edition ADRs, are administered by the Australian Government Department of Infrastructure and Transport. This Part also provides for the processes associated with setting the ADRs and testing of vehicles for compliance with the ADRs. However this review is not seeking feedback on individual ADRs.

Question

- ✓ In the context of a growing supply market, is the Act sufficiently rigorous to ensure the integrity of the ADRs and compliance of vehicles with the ADRs, including through testing?

AfMA response

The Association considers itself not qualified other than our comments already made under our detailed response above.

Question

- ✓ What are the arguments for retaining separate ADRs over simply adopting UNECE international standards?

AfMA response

Simplicity and logic dictate that the adoption of UNECE international standards aligns Australia with the Global Community and provides a consistent set of standards.

Question

- ✓ While the Act facilitates the first supply to the Australian market of road vehicles and automotive parts complying with ADRs, are there any gaps in the legislation with regard to testing and evidence requirements?

AfMA response

AfMA have no comment on this question.

Question

- ✓ Does the Act create any barriers to the export of vehicles and automotive parts?

AfMA response

AfMA have no comment on this question.

3b Administration, Court Proceedings and Miscellaneous (Parts 5, 6 and 7 of Act)

- ✓ For these Parts of the Act, is there sufficient transparency and clarity so that the reasons for decisions are understandable? What improvements could be made, if any?
- ✓ Do these Parts of the Act effectively support the primary objective of road safety through the compliance and audit process, legislated powers and penalties or could

they be enhanced? Should legislative powers for the recall of vehicles be vested in the Act or remain with Australian Consumer Law?

- ✓ Are the links with other legislation clear and effective? Are there any jurisdictional gaps that need to be addressed in the Act?
- ✓ Any other comments on the effectiveness of the administrative provisions of the Act in supporting the road safety policy objective of the Act?
- ✓ Is there a case for extension of the coverage of the Act to include safety of non-road vehicles or those that cross over between on-road and off road?
- ✓ Any other comments on the effectiveness of the administrative provisions of the Act in supporting the two objects of the Act?

A/MA response

The Association has no comment on the above other than the introduction of 'Lemon Laws' should be considered along similar lines to those in the USA.

4a Registered Automotive Workshops (Part 4 of the Act)

Registered Automotive Workshops Scheme (RAWS). The previous Low Volume Scheme provided concessional treatment in complying with the ADR's to assist low volume manufacturers of new vehicles to compete in the Australian automotive market. However, the Low Volume Scheme increasingly became the pathway for the importation of used vehicles –

- ✓ Do the RAWS provisions undermine, support or enhance the main policy objective of road safety and in what way?
- ✓ Has the RAWS effectively contributed to the appropriate balance between segments of the automotive industry, that is, brought the low volume focus back onto specialist and enthusiast vehicles and if not, why?
- ✓ Is the RAWS appropriately designed for the current context of specialist and enthusiast vehicles and if not, what elements need improving to better deliver the second object of the Act (to regulate the first supply of used imported vehicles)?
 - What are its strengths?
 - What are the weaknesses?
- ✓ How successful have the legislated controls been in preventing undermining of the RAWS objectives?
- ✓ Any other comments on the purpose and effectiveness of the RAWS?
- ✓ Do the RAWS provisions undermine, support or enhance the main policy objective of road safety and in what way?
- ✓ Has the RAWS effectively contributed to the appropriate balance between segments of the automotive industry, that is, brought the low volume focus back onto specialist and enthusiast vehicles and if not, why?
- ✓ Is the RAWS appropriately designed for the current context of specialist and enthusiast vehicles and if not, what elements need improving to better deliver the second object of the Act (to regulate the first supply of used imported vehicles)?
 - What are its strengths?
 - What are the weaknesses?

- ✓ How successful have the legislated controls been in preventing undermining of the RAWS objectives?
- ✓ Any other comments on the purpose and effectiveness of the RAWS?

AfMA response

The Association has no comment on the above.

4b Other Concessional Options (Part 4 of Act and Regulations)

Consumer access to a broad range of vehicles, albeit in relatively small numbers, better reflects the range of local and international suppliers to the market and supports the Competition Principles Agreement to not unduly restrict competition in achieving the legislative policy objectives.

- ✓ Should the Act continue to provide regulation of used vehicle through concessional schemes? If no, what other mechanisms should be considered to control the importation and supply to the market of used vehicles?
- ✓ In retaining the concessional schemes, are each of the current options still warranted or can they be rationalised?
- ✓ Are there changes to the concessional options which might improve access to a broader range of vehicles for consumers without compromising road safety, environment and security outcomes?
- ✓ Are there undesirable competitive or equity impacts that should be addressed by changes to the Act or these options?

AfMA response

The Association has no comment on the above.