

## **Feedback for the Department of Infrastructure and Transport's review of the *Motor Vehicle Standards Act 1989 (MVSA)***

### **Provided by:**

**Department of Transport, Western Australia**

**Main Roads WA**

**Office of Road Safety, WA**

### **in consultation with:**

**Motor Trade Association WA (MTA WA)**

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As the *Motor Vehicle Standards Act 1989 (MVSA)* is mainly confined to a generic definition of powers and administrative processes, there is limited scope for comment on the MVSA in its narrowest context. The following comments cover the broader scope of the in-practice administration of the powers and processes defined under the MVSA. Consequently, a substantial portion of the following comments is more directly relevant to aspects of the subordinate regulations and policy, rather than the MVSA itself.

### **1. Future of the MVSA**

In the environment of the increasing worldwide harmonisation of vehicle standards and the diminishing vehicle manufacturing industry in Australia, the justification for separate vehicle standards requirements has increasingly come into question. The most obvious option is to sunset the Australian Design Rules (ADRs) and move to compliance with United Nations (UN) standards. However, the main concerns are that Australia would lose control of its vehicle standards and would not have a mechanism to deal with safety issues that are specific to Australia.

Because of these concerns, it is recommended that Australia retain its current system, which is understood to be approximately 90% in conformance with UN standards. However, this position should be subject to periodic review.

### **2. Completeness of safety standards under the MVSA**

As the ADRs were designed to guide the conformity of high volume manufactured vehicles, they are by no means a complete standard. As such, it is entirely possible to build a vehicle which is unsafe, even though it complies with all relevant ADRs. This is generally not of concern in the case of high volume manufactured vehicles, as the manufacturers of these vehicles have a worldwide market, a large business liability and substantial product development resources. However, it can be of concern in the case of low volume manufacturers and importers, who may be less likely and less able to conform with the prescriptive ADR requirements, let alone the "unwritten" good safety and engineering practices in design, construction and modification.

It is therefore suggested that consideration be given to an overarching ADR standard for safety and roadworthiness. The requirements in this standard

may be performance based and / or linked to requirements in Vehicle Standards Bulletin (VSB) 6 and VSB 14 - the national codes of practice for the modification of heavy and light vehicles respectively.

### **3. Personally Imported Vehicles**

Currently, personally imported vehicles are exempt from most ADR requirements at the importation stage. However, State or Territory jurisdictions may subsequently refuse to license one of these vehicles if it does not meet one or more requirements in the jurisdiction's in-service vehicle standards regulations. Unfortunately, the owners of these vehicles are often unaware of the differences between federal and State or Territory requirements. The literature on the federal website states that these vehicles need to comply with State / Territory requirements, but in some instances this is not adequately heeded by the owners, who appear to be making the very reasonable assumption that the importation and in-service vehicle standards requirements will be in agreement.

It is highly desirable to align importation and in-service requirements, in order to stop the importation of these non-compliant vehicles, as well as the consequent financial losses to the owners who are unable to license them. Therefore, it is recommended that federal and State / Territory jurisdictions agree on a single set of requirements to be applied to all personal imports as a condition of both importation and licensing. This set of requirements would need to include critical dimensional requirements (especially width), as well as other crucial safety aspects, such as lighting.

### **4. Light Trailer Compliance**

Under the current system, the responsibility for checking light trailer compliance is delegated to the State and Territory authorities. This strategy does not appear to be working, as the compliance rate of light trailers with ADR requirements appears to be gradually deteriorating. The problem seems especially prominent in imported trailers; especially boat trailers, which regularly exceed the 2.5m width limit. It is understood that, in many cases, imported trailers not complying with the requirements are allowed to be imported, as they "can be made to comply". The problem is then passed on to State and Territory authorities, which need to detect the non-compliance in their inspection processes (if any) before the owner can be required to rectify the problem.

The main difficulty in addressing light trailer compliance issues is finding the resources to deal with the high volume of units manufactured and imported. Bearing this in mind, it is recommended that resource efficient means of dealing with this problem be considered. This could include measures that focus on assuring compliance for the relatively higher volume manufacturers and importers, in the same way that high volume manufacturers and importers of motor vehicles are subject to more stringent evidentiary requirements than those in low volume schemes.

## **5. Off-road Vehicles**

At present, the MVSA only enables the setting of vehicle standards for road vehicles. The increasing range and numbers of non-compliant “off-road” vehicles, such as Segways, ATVs, quad bikes, non-compliant motor cycles, etc. is placing increasing pressure on the State and Territory systems for regulating vehicle standards compliance. These vehicles are allowed to be imported as “off-road” vehicles; however in some cases they subsequently find their way onto public infrastructure, either through unlawful use or local political processes.

If the MVSA allowed the setting of standards for off-road vehicles, it is believed that this would allow some measure of control of the compliance of the off-road vehicles that are being imported. In addition, it may encourage the prospective importers to source vehicles that comply with these standards. Therefore, it is recommended that the scope of powers under the MVSA be expanded to include the setting of vehicle standards requirements for off-road vehicles. This would only require the deletion of the word “road” from Clause 7 of the MVSA. It is acknowledged that specific proposals for the regulation of off road vehicles would need to be subject to a regulatory impact statement and cost benefit analysis.

## **6. Individually Constructed Vehicles (ICVs)**

At present, the responsibility for compliance of ICVs rests with State and Territory jurisdictions. In general, the vehicle standards evidentiary requirements for ICVs are less stringent than the requirements under the federal low volume manufacture schemes; this provides an incentive for some low volume manufacturers to masquerade their products as ICVs by pretending that the customers are the builders of the vehicles. The practice most commonly occurs with low volume replica motorcycles.

As such, the current system is providing an opportunity for some low volume manufacturers to fraudulently avoid the appropriate vehicle standards evidentiary requirements and gain an unfair advantage over other industry members. To address this issue, it is recommended that ICVs be brought under the federal low volume schemes and that builders of ICVs be subject to a rigorous process to show that they are the true manufacturer of the vehicle.

## **7. Registered Automotive Workshop Scheme (RAWS)**

Due to current profitability issues for RAWS, industry members are proposing an expansion of the Specialist and Enthusiast Vehicle Scheme (SEVS) register, in the belief that this will enable them to supply a more diverse market. Two issues could arise from this proposal:

- Expanding the range of allowable vehicles under SEVS could potentially increase the amount of vehicles imported per year to above 10,000 (Currently 9,000 per annum). This could raise criticism from the major manufacturers and importers as was the case prior to the introduction of RAWS.

- Most vehicles released into the Australian market are specifically configured for Australian conditions and in some cases a vehicle built for another market may not be entirely suitable. Such vehicles may be more susceptible to certain problems such as overheating and premature failure of components.

However, despite these potential issues, an expansion of SEVS would not be opposed, provided that:

- the above issues are monitored to see if they become a problem requiring ameliorative action; and
- arrangements are made, at a federal level, to provide the additional auditing resources necessitated by the expanded range of models.