

# ADR Automotive Engineering Pty Ltd

## Submission by Bruce Gearing.

### Questions from Consultation Paper MVSA

#### 2) Objects and Objectives:

##### a) The Objects of the Act:

- i) Section 3(a) (to achieve uniform vehicle standards to apply to new vehicles in Australia)

(1) *Have the Act and its Regulations effectively reduced the burden?*

*Vehicles under concessional schemes are often still subject to different requirements by the various states. First supply of new and RAWS vehicles is fine other than Victoria (braking requirements).*

*Requirements written into the ADR's also need addressing – for instance, with motorhomes there are gas and electrical requirements through referenced standards that are enforced differently in the various states, and our standards do not align with international standards. Eg gas fittings and piping methods are antiquated and out of step with many of our major supplying countries.*

*The ability of the states to maintain “control” over vehicles once registered is also limited.*

(2) *Considering the range of concessions to the ADR's available through the LV scheme and other discretionary arrangements, is this object still appropriate?*

*It is very appropriate that requirements Nationally are the same, both for initial registration and preferably ongoing. Requirements for modifications, conversions etc should not differ across state boundaries. The concessional schemes make available a large range of vehicles that are obviously popular with enthusiasts, and these would not be available without the concessional schemes in some shape or form.*

- ii) Section 3(b) (to regulate the first supply of used imported vehicles)

(1) *Has the Act achieved the desired balance and are appropriate categories of used imported vehicles covered?*

*The eligibility requirements under SEVS are no longer appropriate. The market here now is very much an imported vehicle market, with local manufacture becoming a lower proportion of sales by the local manufacturers.*

*One of the major areas of imported used vehicles is currently ‘campervans’, however this is simply a loop-hole to allow people movers in, with states having little to no ability to control use after registration. The intent of the regulations here has been lost.*

It is possibly the case that some of these vehicles were deemed ineligible as people movers when in fact they may have met the criteria in all but a few eyes. Subjectivity in eligibility criteria has both good and bad effects. RAWs legislation and regulation shows that being too legalistic may be a problem, as seen by 7 years of failure to update the major RAWs Determination. Maybe in both these areas there is balance point that does permit 'wriggle room' when something does not fit neatly into either the black or white box.

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

Fewer restrictions regarding eligibility, but with increased policing powers to those not complying with the legislation.

b) The Public Policy Objectives

i) *Do the objects of the legislation still positively contribute to the identified broad policy objectives?*

Yes

ii) *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?*

It would be excellent objective to no longer prohibit the Act to "first supply", but also to require aftermarket components to continue to meet ADR requirements. It is legal to sell items that it is illegal to use. This should no longer be the case. If an item is illegal or unsafe to use, it should be illegal to supply that item to the market.

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

I believe not. The motor vehicle industry is driven at the end of the day by the desire to make a profit. This motive is met in different ways by the basic philosophy of the organisation, and not all organisations are focussed on the objectives of the Act.

iv) *What key principles should underpin any changes to the Act?*

*Continue to provide safe, environmentally sound vehicles to the market, and provide consumers with the opportunity to choose from the many and varied Makes and Models around the world, without providing the means for excessive disparity of pricing in our market over those overseas.*

- 3) Object – achieve uniform vehicle standards to apply to new vehicles in Australia
- a) National Standards, Certification and Approval of Road Vehicles (Parts 2 and 3 of the Act)

- i) *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?*

*Basically yes for new vehicles. There is a concern about the integrity of some of the components marked as being compliant, sometimes even with test reports showing compliance, but with production components not appearing to exhibit the normal standards of conformity of production. This is particularly true of some components originating from China.*

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

*I believe there is a place for the ADR's and not accepting all overseas standards straight off. Over time this may become less, but for the present there is not sufficient alignment.*

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

- i) *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?*
- ii) *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?*
- iii) *Are the links with other legislation clear and effective? Are there any jurisdictional gaps that need to be addressed in the Act?*
- iv) *Any other comments on the effectiveness of the administrative provisions of the Act in supporting the road safety policy objective of the Act?*

- 4) Object – regulate first supply to market of used imported vehicles

- *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?*

*Absolutely. The increased number of deaths occurring whilst using non-Act vehicles indicates that some control would be beneficial.*

- *Any other comments on the effectiveness of the administrative provisions of the Act in supporting the two objects of the Act?*

*Current administration lacks the power to enforce the intent of the Act. Enforcement powers are required.*

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

- i) *Do the RAWS provisions undermine, support or enhance the main policy objective of road safety and in what way?*

I believe that the RAWS provisions support the objectives in providing basically safe and newer/environmentally sound vehicles, together with providing choice. Currently some vehicles are provided to the market without meeting all the safety provisions, especially so where state registry inspections are not performed. Other policing controls need to be added, and then the RAWS should be working more as intended.

- ii) *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?*

RAWS initially assisted through specialist and enthusiast, but it is now more appropriate to look to an Imported Used Vehicle Scheme (rather than specialist and enthusiast).

- iii) *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)?*

(1) *What are its strengths?*

(2) *What are the weaknesses?*

*Strength is that the scheme does provide for vehicles that would otherwise not be available.*

*Weakness is that the legislation does not provide sufficient avenues for policing, is expensive to demonstrate compliance due to the difficulties involved in keeping the regulations and determinations up to current standards, and has a heavy burden on regulators due to lack of power, and participants due to cost of demonstration of compliance.*

- iv) *How successful have the legislated controls been in preventing undermining of the RAWS objectives?*

Dependent upon which state you are in, good to horrendous. More explanation may be provided if requested.

- v) *Any other comments on the purpose and effectiveness of the RAWS?*

*Idea was good, implementation may have been better.*

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

- i) *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?*

*Yes.*

- ii) *In retaining the concessional schemes, are each of the current options still warranted or can they be rationalised?*

There is potential for rationalisation.

- iii) *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?*

Suggest allow any model vehicle not here in Normal Volume, and with much reduced demonstration of compliance options for emissions and occupant protection, provided the vehicles come from a recognised market of USA, Europe or Japan. Commence eligibility at 2 years from first release, and permit import of vehicles then up to 10 years of age. This would accelerate the process of reducing the age of the national fleet with obvious safety and environmental benefit.

Conversion of vehicles left to right hand drive should be undertaken by specialist convertors, and these should be subject to regular checks of standard of design and workmanship by persons appropriately qualified to do so. The department should employ at least one specialist inspector for this purpose. There is a need to address dangerous conversions.

- iv) *Are there undesirable competitive or equity impacts that should be addressed by changes to the Act or these options?*

I believe these have been mentioned above. Financial independence of RAWs exists in the Act, but not in practice.

Bruce Gearing

21 June 2013