



**AUSTRALIAN IMPORTED MOTOR VEHICLE INDUSTRY  
ASSOCIATION (INC).**

**Submission to:**

**Department of Infrastructure and  
Regional Development**

**on:**

**2014 Review of  
the *Motor Vehicle  
Standards Act 1989***

*“To support a fair and competitive vehicle import industry”*

Prepared October 2014

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## Introduction

Thank you for the opportunity to provide this submission to the Department of Infrastructure and Regional Development's Review of the *Motor Vehicle Standards Act 1989*. We make this submission in response to the September 4<sup>th</sup>, 2014 release of the Options Discussion Paper and the associated request for feedback from all interested parties.

### Australian Imported Motor Vehicle Industry Association (AIMVIA)

The AIMVIA is a business association that has been established to represent the used vehicle import industry; its founding members include international logistics, shipping and inspection companies, as well as importers, compliance specialists, and retailers of used vehicles. The AIMVIA is closely associated with a long-established similar association in New Zealand.

The AIMVIA's New Zealand counterpart, the IMVIA, had informal consultations with the Productivity Commission during the research for their report.

### Public Release Disclosure

The AIMVIA has no objection to the release of any part of this statement.

### Privacy Disclosure

The AIMVIA has no objection to being identified as the submitter.

### Contact

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### Executive Summary

In general, the Australian Imported Motor Vehicle Industry Association (AIMVIA) welcomes the recommendations of the Productivity Commission's report on the automotive manufacturing Industry.

If implemented by the government, the recommendations will provide increased competition in the market, and will offer greater choice to the motoring public.

In particular, the AIMVIA **strongly endorses** the recommendation that the Government should remove the \$12,000 specific duty on imported second-hand vehicles from the Customs Tariff as soon as practicable.

The AIMVIA also supports the recommendation that the government should remove the five percent (5%) tariff on all imported passenger and light commercial vehicles as well as the luxury car tax.

The AIMVIA supports the proposal that the importation of used vehicles be limited to vehicles imported from countries that have vehicle design standards which are consistent with those recognised by Australia, and that the new regime should be preceded by a regulatory compliance framework that includes measures to provide appropriate levels of community safety, environmental performance, and consumer protection.

The AIMVIA appreciates the Productivity Commission's recommendations to move cautiously with regard to the timing of the implementation of any new regime, but questions the need to delay this implementation to 2018, and to initially limit any relaxation of the current restriction to vehicles no older than 5 years.

### **Scope of submission and recommendations**

The AIMVIA recognises the Australian - specific conditions that affect Heavy vehicles and RV/campervans. We make no claims about how these categories of vehicles should be treated. The scope of our submission and recommendations is focused exclusively on Light Passenger Vehicles.

### **Recommendations**

Summary of recommendations:

1. Immediately introduce legislation making vehicles with inaccurate odometers a prohibited import.
2. Implement policy that will promote competition in the imported vehicle market by reducing barriers to the personal and commercial importation of new and quality used vehicles.
3. Enact policy that will encourage the creation of jobs in the imported motor vehicle industry to help replace those lost in the manufacturing sector.
4. Abolish the Luxury car Tax and tariffs on imported motor vehicles.
5. Implement a periodic review of international standards to approve those that compliment Australian design rules with the intent of moving toward international harmonisation.
6. Harmonise legislation with Consumer Law to recognise the importer of second-hand vehicles as the "manufacturer", adopting all responsibilities thereof.
7. Introduce new legislation drafted to provide effective and balanced controls to the commercial importation of new and used vehicles.

8. Replace the RAWs and Low Volume Certification regulations with a consolidated Special Interest Vehicle certification scheme.

## **Commentary**

The following sections highlight the AIMVIA's policy positions on specific areas of discussion.

### **Why Review the Motor Vehicle Standards Act 1989?**

The AIMVIA sees this review as an opportunity to create a system of regulations that are more in line with Australia being part of a global economy. Additionally, the AIMVIA fully supports continuing efforts to increase the efficiency and safety of the fleet. We argue however, that these efforts must be balanced by the purchasing power of the Australian consumer.

It is uncontroversial that consumers will buy the best vehicle they can afford. Increasing the availability of affordable, safe, and efficient vehicles can only better the condition of the fleet.

### **Brief Options Discussion**

The following section briefly outlines our position on each of the options presented by the Options Paper. Our recommendation should be seen as a collective solution; the responses to each option below support the response to every other option, with no one response being valid in isolation.

It is our position that our recommendation represents the optimum balance of commercial competition and opportunity with consumer protection, minimal requirement for government overhead with maximal oversight and public protection.

#### **Option 1: Do nothing**

The AIMVIA does not support this option.

We believe that the current regulatory regime needs to be reviewed, modernised, and in some cases completely redesigned.

We can think of no rationales why doing nothing would be in the public's best interest.

#### **Option 2: Repeal the Act**

The AIMVIA does not support simply repealing the Act as a valid solution.

Repeal would leave a sizable segment of the market unregulated, open to abuse and would increase the likelihood of unintended or unwanted consequences of decreased safety, environmental, and health outcomes for consumers and the general public.

#### **Option 3: Modernise the Act**

The AIMVIA supports the introduction of new government policy reflected in a new piece of legislation that recognises and secures for the Australian consumer, Australia's position in a modern global market. Regardless of specific changes made, the Motor Vehicle Safety Act should be revised to reflect this.

Changes in the Motor Vehicle Safety Act should also utilise and demonstrate increases in efficiency and streamlining of governance process that modern technology allows.

Finally, changes should be written to accommodate not a specific subset of vehicle technologies, but to allow for the evolution of technology and emergence of new solutions which can enhance the safety and efficiency of the Australian fleet.

We would like to voice a strong objection to allowing implementation of “modernisation”, in the sense of simply making the Act reflect current practice, becoming the sole focus of this review. “Modernisation” in this sense should be an inevitable side-effect to other efforts.

#### **Option 4: Strengthen the Act**

Generally, the AIMVIA supports strengthening the Act in conjunction with its modernisation.

The focus should remain on effectively increasing public and personal safety, environmental protection, as well as providing for improved enforcement and streamlined implementation.

#### **Option 5: Harmonise Australian Vehicle Standards with International Standards**

As a matter of principle, the AIMVIA supports the progressive harmonisation of ADRs with international standards.

In the interim, the AIMVIA recommends the implementation of a policy requiring the periodic review of international standards (per jurisdiction) to approve those which compliment current Australian Design Rules. For example, the AIMVIA would currently suggest recognition of US, Japan, and EU standards.

We continue to recognise that there are conditions unique to Australia and would like to reiterate the previously stated scope of our submission, limited to light passenger vehicles.

#### **Option 6: Streamline New Vehicle Certification**

The AIMVIA does not have industry expertise in new vehicles.

However, in general we support streamlining regulation and policies, and suggest consideration of allowing self-certification by OEM distributors.

#### **Option 7: Reduce Barriers to the Personal Importation of New and Quality Second Hand Vehicles**

In principle, the AIMVIA supports the right of consumers to participate in the global market concerning the personal importation of new or second hand vehicles.

The AIMVIA recommends the removal of barriers which currently exclude the importation new or used vehicles which are supplied to the Australian market under a full volume approval by anyone other than the approval holder themselves.

However, we have serious concerns about the loss of protection of consumer law<sup>1</sup> for private importers. We also acknowledge the concerns of OEM distributors concerning the issue of recalls.

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<sup>1</sup> [http://www.consumerlaw.gov.au/content/acl\\_resources/downloads/industry\\_guides/motor\\_vehicle\\_sales](http://www.consumerlaw.gov.au/content/acl_resources/downloads/industry_guides/motor_vehicle_sales)

To reconcile the principle with the concerns, we recommend a system which shields the consumer from risk by promoting a product flow from international business to domestic business to consumer as opposed to directly from international business to domestic consumer. This structure, requiring a licenced importer, offers consumers a channel which maintains consumer protections.

We recommend this be supported by a replacement of the SEVS, RAWS, and Low-Volume Certification with a Special Interest scheme as highlighted below under option 8.

### **Option 8: Reduce/ Consolidate Concessional Arrangements**

The AIMVIA strongly recommends the introduction of new legislation drafted to provide for the effective reduction of barriers to the commercial importation of new and used vehicles that meet specified standards, including from approved jurisdictions with complimentary standards.

Australia will not become the dumping ground of other nations' used vehicles. The requirement for Consumer Guarantees to apply to the sale of imported used vehicles will ensure the market promotes quality vehicles, mitigating risk. Additionally, by requiring all vehicles to comply with Motor Vehicle Standards, the new legislation is necessarily including controls to prevent substandard vehicles from entering the fleet.

While we feel an approach to controls that directly addresses safety and efficiency will be more effective in making the fleet safer and more efficient than an arbitrary and inflexible nominated age, we recognise age is often used as a proxy. As such, we support the findings of the Productivity Commission and acknowledge the use of age in setting limitations until such time that a more effective solution can be found.

The AIMVIA also supports the replacement of the SEVS, RAWS, and Low Volume Certification regulations with a single Special Interest Vehicle certification scheme. We feel a path for enthusiasts and others with an interest in vehicles that might be outside a nominated age range, yet is only imported in nominal quantities, is in the best interest of those consumers and a negligible risk to the public.

Development and implementation of the Special Interest scheme should include consultation from industry and representative interest groups (e.g. car clubs and motor associations). This consultation should be promoted in an ongoing manner to ensure the scheme continues to balance the needs of relevant groups with the public interest.

## **Supplementary and Related Comments**

### **Odometers**

The AIMVIA calls upon legislators to immediately introduce legislation that prohibits the import of vehicles where the odometer does not accurately reflect the distance the vehicle has driven. This policy will promote pre-import certification of odometers

New Zealand has a similar prohibition which has led to odometer verification being an essential component of the pre-import inspections.

### **Australia should remain a RHD Market**

The AIMVIA recommends Australia remains a RHD market - LHD registrations should be prohibited except in exceptional circumstances.

- Ultra-low production vehicle where the Manufacturer's total output worldwide is less than 500 units per annum.
- Ultra-low production vehicles where the model's total production worldwide is less than 100 vehicles per annum.

These exceptions are independent of the recommended Special Interest Vehicles scheme.

### **Mitigation of Loss from the Closure of the Vehicle Manufacturing Industry**

Besides the benefits of allowing quality used vehicles already mentioned, it is our belief that creating such a system would help mitigate the damage of the loss of the vehicle manufacturing industry in Australia. Specifically, we see whole industries being created, industries that will employ Australians.

Some examples of industries we expect to see if our recommendations were adopted and implemented:

- Vehicle preparation
- Vehicle compliance
- Vehicle certification
- Vehicle logistics
- Vehicle inspection

It is also relevant to point out that in many cases, the skill sets involved for these industries could be a subset of those involved in the vehicle manufacturing, requiring minimal retraining.

### **Time Frame for Implementation**

The AIMVIA recommends any policy changes be announced and implemented as soon as possible to avoid periods of uncertainty that could affect the economy.

We argue that since the announcement that Ford, Holden and Toyota are ceasing operations has already occurred, there is no good reason to wait until manufacturing has ceased entirely. On the contrary, any change in policy should be swift to avoid creating a negative impact on consumption patterns as consumers wait for a major system change.

The AIMVIA does believe there will be a sharp price correction of the relevant market segment if competition is allowed. Specifically, we predict that the longer the lead time between announcement and implementation, the higher the probability of a sharper the correction (ignoring any periods of unpredictability due to the lack of consumer confidence and/or speculation). We recommend policy and timing that reduces the impact of this correction by minimising lead time (or removes it).

Finally, immediate implementation would allow the relevant systems and industries to begin finding equilibrium and where applicable, allow for a more graceful shift of the employment force from one industry to the other.

### Importer Licensing and Motor Dealer Licensing

Importers should be licensed in order to ensure consumer protection measures and create a level playing field with licenced business.

The process of licensing should include standards requiring businesses to exist as a legal entity that can be held responsible for violations of Consumer Guarantees and other business responsibilities.

Legislation to prevent unlicensed motor dealing would be appropriate.

### Competition Law

A draft report of the Competition Policy is currently under review<sup>2</sup>. AIMVIA endorses the findings of the Panel, specifically:

- Draft Recommendation 1. This argues that any legislation or government policy restricting competition must demonstrate it, is both in the public interest, and that the interest can only be achieved by restricting competition. We argue that restricting quality imports limits competition without meeting the burden of proof required to show that doing so is in the public interest nor that it is the only way to achieve the interest in question.
- Draft Recommendation 9. This similarly recommends the removal of restrictions on parallel imports unless it can be shown that the restriction is in the public interest and that the interest can only be achieved as a result of the restriction.
- Draft Recommendation 20. The definition of “market” should be clarified to ensure it satisfies the conditions that exist in Australia and Australia’s place in a modern global economy. The idea of “competition” should include goods (and services) imported or capable of being imported into Australia.

The AIMVIA also recognises there will be other consequences related to current debate on Competition Law if the system we recommend is implemented. For example, one issue that has been raised in the debate is related to ownership of vehicle data. As vehicles increase the use of computers and sensors, collecting and utilising more data, there is a question of who owns and who can access that data, the OEM manufacturer and/or the consumer. The AIMVIA, on principle, recommends a stance maximising both commercial competition and the consumer’s rights to choose service providers. If all licensed importers are considered the “manufacturer” for the purposes of fulfilling consumer guarantees, the importer needs to be able to have access to the data required meet such obligations. Thus restriction of vehicle data or access to by OEM manufacturers could indirectly prevent competition not only in the importation of vehicles, but in related industries such as vehicle compliance and vehicle repair.

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<sup>2</sup> <http://competitionpolicyreview.gov.au/draft-report/>

We recommend the government consider a policy ensuring ownership of vehicle data is part of vehicle ownership; as such, consumers can determine who can have access to their vehicle's data.

### **The Role of Government versus Accredited Agencies**

The AIMVIA recommends a policy of utilising government accredited agencies to give final certification approval on each imported vehicle and for those agencies to have access to government systems in real time.

This system will reduce the regulatory burden on Government and increase commercial opportunity.

A system of oversight including reservation of the right to audit accredited agencies is recommended.

### **Luxury Tax**

We acknowledge our understanding that the Luxury Tax is not part of this review and simply submit our agreement with the findings of the Productivity Committee that this Tax should be abolished.

### **The New Zealand Compliance Process**

Vehicle inspection organisations have more than 20 years of history providing regulatory inspections in the New Zealand motor industry. One of our major specialisations as an inspectorate is entry certification of second hand vehicles entering the NZ vehicle fleet. Used vehicles entering NZ must comply with NZ regulations. Inspection organisations, through a network of compliance agents, operate "one stop shops" for Entry Certification.

The New Zealand model of over 25 years of importing second hand vehicles, primarily from Japan, shows how a mix of policy outcomes, focus, industry leadership, and new market/business opportunities can provide a robust delivery model that protects the consumer, satisfies the regulator, and allows for a dynamic new and used car industry.

There is an existing mature pre-shipment inspection industry in Japan that facilitates many thousands of inspections in Japan before vehicles are exported to ensure type compliance, on road safety, odometer verification and biosecurity clearance. This combined with a robust set of inspection outcomes onshore can ensure the high standard of used vehicles entering the Australian vehicle fleet. The New Zealand Entry Certification model is an example of international best practices in the certification of used vehicles.

The IMVIA, New Zealand's Imported Motor Vehicle Industry Association, has created a video outlining the compliance process in New Zealand.<sup>3</sup>

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<sup>3</sup> <https://www.youtube.com/watch?v=ze4MOQHsNCM>