



Monday, 20th October 2014

Vehicle Safety Standards Division
Department of Infrastructure & Regional Affairs
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Canberra ACT 2601

Email: MVSAreview@infrastructure.gov.au

Dear Sir/Madam

Options Discussion Paper 2014 Review of the *Motor Vehicle Standards Act 1989*

1. Introduction

1.1 The Motor Trades Association (MTA Queensland) responds to the invitation by the Assistant Minister for Infrastructure and Regional Affairs Jamie Briggs for “interested parties to put forward their views” to the Options Discussion Paper 2014 Review of the *Motor Vehicle Standards Act 1989* (the Review). The MTA Queensland’s comments are on behalf of its constituent Divisions and are confined to issues which relate to the interests and fall within the competence of the Queensland automotive value chain.

1.2 This submission provides a general statement of views formed by the MTA Queensland in regard to the issues raised by the Review and related matters which are collateral to these issues.

2. Context

2.1 The Review provides an opportunity to evaluate broadly, aspects of the *Motor Vehicle Standards Act 1989* (MVSA) policy framework for the first use¹ and second use² supply of private passenger sector vehicles to Australia’s market. This includes the evaluation of critical elements that are not currently managed by the policy framework. For example, standards for automotive pneumatic tyres or matters where the framework needs to be restructured such as the regulation of second use motor vehicle market standards.

2.2 The automotive value chain is undergoing major restructuring with the cessation of vehicle manufacturing in Australia. The policy framework hitherto and for the preceding fourteen years, has demonstrated a general competence to protect the safety of the motoring public and to set standards for the health of communities. The framework, for example, allowed proper market responses to changes in the international parity pricing of petroleum (oil stocks) and to the advent of environmental concerns about the consequences of vehicle emissions.

¹ ‘First Use’ motor vehicle is defined as a motor vehicle that is registered for use in Australia for the first time after manufacture.

² ‘Second Use’ motor vehicle is defined as a motor vehicle that is transferred to a subsequent owners after ‘first use’.

2.3 The Australian motor vehicle market is modest by world standards, with first use vehicle sales of approximately 1.15 million vehicles in the last calendar year growing generally with population trends. The complication of 'right hand drive' makes it difficult for the Australian market to command any major economies of scale on behalf of consumers. In these circumstances anecdotally, the market has delivered reasonable outcomes for Australia's motoring public.

2.4 The market does not exhibit any apparent signs of market failure. There are some signs of market rigidity due to the distortions caused by the policy framework's compliance costs regulating administration demands. These could reasonably be viewed as a component of the inevitable costs of protecting the motoring and general public. This is not to say that rigidities should not be examined to ensure optimum outcomes for all stakeholders continue to be achieved.

2.5 As indicated in 2.2, the policy framework generally has worked well to maintain the quality standards of first use motor vehicles supplied to the market. The structure of franchised dealerships for distributing motor vehicles appears to have effectively serviced the needs of first use motoring consumers.

2.6 Anecdotally, the high number of models available in the market would indicate consumers have reasonable 'choice'. The advent of electronic automotive sales and the internet have reinforced, in comparison to the major global markets, the high levels of contestability inherent in Australia's automotive market. In general, the first use market is reasonably symmetrical with electronic information available nationally. Consumers can source vehicles nation-wide by 'online' purchasing of vehicles reinforcing market price contestability.

2.7 This is not to say, as mentioned in 2.1, that the policy framework cannot be improved and outcomes for stakeholders enhanced. Challenges do exist including the issues of 'optimum economic efficiency' and maintaining the balance between regulation and community protections.

2.8 The MTA Queensland submits that the issues of:

- parallel imports;
- extending the framework's community protection mantle to include imports of passenger motor vehicle pneumatic tyres; and
- the effective regulation of the importation of 'second use' motor vehicles

are seminal matters that need to be addressed under the aegis of the Review.

3 The Case for Intervention

3.1 The MTA Queensland supports the view that the government has a duty of care in respect of the technical performance and specification safety of personal use motor vehicles to protect the safety of the motoring public and health of the general public. This requires the government to intervene in the automotive value chain at the point of import of first use vehicles necessitating a fiduciary responsibility to ensure the cost of the policy framework is not excessive, either to the general public or the consumer. It ensures that market distortions resulting from the government's intervention are minimised.

3.2 The intervention to regulate first use motor vehicle specifications is a health and safety regime, not a consumer protection regime required because of market failure. As mentioned in 2.2 and 2.5, anecdotal information indicated the market is operating efficiently. Outcomes for stakeholders are reasonably equitable comparing favourably with countries that have larger markets and reap economies of scale that are not usually available to Australia's market.

4. Comprehensive Policy Framework

4.1 The MTA Queensland submits that there is an absolute requirement for a comprehensive policy framework that prescribes the technical specification of first use motor vehicles to protect the health and safety of Australian motorists and communities in addition to comprehensive safety specification. The operating expenditure appropriated for this purpose is in the national interest. The cost of operating this framework, while justified, should be monitored to ensure that:

- The community receives health protection and safety benefits commensurate with the expenditure;
- The framework is administered effectively and economically; and
- Market distortions directly attributable to policy framework are minimised.

4.2 In spite of Australia's modest scale automotive market, anecdotally it appears to be performing well, displaying a high degree of competitiveness, adequate consumer choice and relatively comprehensive market information symmetry. Any minor distortions and any loss of consumer benefit should be a matter to be evaluated in terms of the statutory Competition Policy.

4.3 The MTA Queensland submits that the competence of the policy framework should be enhanced to include a comprehensive competence to set statutory technical specifications and standards across the complete range of motor vehicles and equipment where public and motoring safety is involved. Desirably, this would include performance standard motor vehicle tyres, motor cycles and quad bikes.

4.4 We suggest that technical issues should be referred to a 'Technical Committee' and the MTA Queensland would be pleased to contribute expert resources for this purpose.

5. UN Automotive Standards Regime & Harmonisation

5.1 Australia should graduate to the United Nations (UN) automotive standards regime accompanied by a simultaneous harmonisation of first and second use protocols across all domestic jurisdictions of the Australian Commonwealth. There may be a need to include some flexibility to accommodate unique features of Australia's automotive value chain, but these would be exceptional cases. The implementation of a standard internationally accepted protocol should confer a range of benefits on Australia's automotive market including:

- Economies of scale;
- Increased contestability; and
- Enhanced delivery of technology to this market.

5.2 The UN's automotive standards have evolved to a point where they have the competence to protect the interest of the motoring public and communities and effectively discharge the Government's duty of care. These protocols could adequately form the basis of a revised policy framework for the regulation of first use motor vehicle entry into Australia and at the same time deliver benefits for the consumer as outlined above.

6 'Second Use' Motor Vehicle Standards

6.1 A matter that is not adequately provided for in the current policy framework is 'second use' motor vehicle standards. It appears incongruous that Australia invests in and recognises a duty of care and pays a high cost to ensure regulatory compliance to protect the motoring public in respect of first use motor vehicles. This hard won benefit is derogated in as little as three years through an absence of proper statutory standards for second use motor vehicles. The expenditure, community and 'consumer' benefit generated by the first use framework is not optimised, but is allowed to depreciate rapidly when a vehicle is accorded 'second use' status. The interests of both the motoring and general public are compromised by the lower standards of road worthiness applicable to second use vehicles.

6.2 The consequence of this is that the age of Australia's private motor vehicle fleet is of greater concern than it should be. The lack of an adequate protocol that sets standards for second use motor vehicles appears to neglect community interest and depreciates the value of the investment the community and the government has made in the effective operation of the framework for first use motor vehicles.

6.3 The issue of second hand vehicle standards has been the province of the States and Territories of the Commonwealth. The MTA Queensland submits that:

- To protect the communities interests in the considerable investment and expenditure to regulate first use motor vehicles, the protocols for second use motor vehicles should be enhanced in respect of safety to equate to the standards that apply to first use motor vehicles;
- The protocols should require both second use motor vehicles, five years after first use or once out of manufacturer's warranty to be subjected to regular inspections to ensure full compliance with the standards established to protect the motoring public and the general community;
- This would ensure that the community derives the optimum benefit from the compliance cost of the first use protocols;
- The consequences of the aged private motoring fleet would be a less concerning issue; and
- The consumer would benefit from the enhanced second use motor vehicle's health and safety standards.

7 Importation of Motor Vehicles

7.1 The framework for the importation of motor vehicles is an issue. Australia has been a managed automotive market:

- Imports have been controlled by statutory compliance regimes that applied to first use vehicles;

- For first use motor vehicles, market behaviour is based around a matrix of franchised dealerships and a franchise agreement between manufacturer and dealer that establishes an exclusive prime marketing area;
- Used car imports were mainly confined to special circumstances entry such as first entry privileges; vehicles of returning residents; collector's items or special purpose vehicles;
- The used car market behaviour in Queensland is regulated by a licensing regime and by a statutory transfer contract which is intended to protect the interests of the parties, most particularly providing consumer protection when the sales involves a licensed motor vehicle dealers compared with the sale involving a private to private transaction.

7.2 The regulation or liberalisation of the parallel importation of motor vehicles therefore becomes a complex policy issue.

7.3 This is further complicated by Australia's obligations as a contracting party to the World Trade Organisation (WTO) which requires second hand motor vehicle imports and domestic second hand vehicle inventories to be treated equally as far as market regulation is concerned.

7.4 The MTA Queensland submits that both parallel and second use imports of motor vehicles should comply with the same standards that apply to first use imports. In addition we are in agreement with the recommendation of the Productivity Commission that generally second use motor vehicles aged over five years from their first registration should only be permitted as imports into Australia in very exceptional circumstances approved by the Minister.

7.5 Similarly, motor vehicles in the domestic market that have reached the 5th anniversary of their registration and are no longer within the manufacturer's warranty period should only be allowed for resale after a rigorous inspection similar to that applying to the imported equivalents and only after they are certified as road worthy.

7.6 The import certification in the case of the imported and domestic vehicles should be issued by a competent authority with substantial and corporate residence in Australia approved for this purpose by the Commonwealth Government.

7.7 In the State of Queensland as mentioned above, second hand motor vehicles dealers are required to be licensed. It appears appropriate that 'commercial' imports of second use motor vehicles into Australia be undertaken by licensed second use motor vehicle dealers who retain a competent authority to certify vehicles as complying with the regulatory standard.

7.8 Direct imports for personal use (non commercial imports) of either first use or second use motor vehicles should be permitted. These should be subjected to the same certifications and inspections for statutory compliance applied to commercial importations.

8 Luxury Car Tax

8.1 The MTA Queensland recognises that fiscal reforms do not form a part of this Review. It does provide the opportunity to observe that the imposition of a Luxury Car Tax (LCT) does not make any worthwhile contribution to the framework or the administration of the legislation regulating the importation of motor vehicles. Further, it does not contribute in any obvious way to enhance the

protection and community health and safety in respect of private motoring. In fact it can be argued that the LCT may at times in certain circumstances act against the public interest.

9 Administrative Reform

9.1 The Review provides an opportunity for reform of the administration of the legislative framework. The MTA Queensland submits that the critical issue in operating any revised arrangements will be the ability to uniquely identify vehicles that comply with the first and second use entry provisions of the framework. The existing system uses a unique compliance plating system (Australian Plated Vehicle Scheme) to identify motor vehicles that are built to the Australian specifications and are therefore permitted entry into the Australian market.

9.2 The MTA Queensland suggests that as a part of the current Review, assessment is made of the technologies available for world's best practice motor vehicle identification, both physical and electronic. The most advanced system needs to be adopted as the basis for the future administration of the automotive policy framework. The identification system should include features such as:

- unique identity and model coding;
- the identity marking should be indelible and identity theft protected against all forms of adulteration; and
- if possible cross coded to other critical components such as engine and gearbox with an ability to be updated by an authorised agency - if these are changed at any future time.

This identification system must be a whole of motor vehicle life system and ideally be electronic and physical.

10 Register

10.1 Vehicles that are certified as compliant with Australia's motor vehicle importation standards and enter the market should be placed on a register that is available to the public. The register must identify motor vehicles that have ended their lives and are 'statutory write offs' and are no longer current on the register.

11. Telemetrics

11.1 This Review provides the opportunity to attend to the emerging issues surrounding motor vehicle technology such as 'telemetrics'. Recent vehicle technology cycles include facilities to digitally transmit, store and download individual motor vehicle operating Key Performance Indicators. The critical question of the ownership of this information and rights to access this data could be clarified when enacting any reforms to the policy framework. This information may also include access to Global Positioning System tracking and service history data and involves the protection of consumer and community safety issues as well as privacy issues.

12 Conclusion

12.1 The policy framework generally has worked well to maintain the quality standards of first use passenger motor vehicles supplied to the market. This submission provides a general statement of views formed by the MTA Queensland in regard to the issues raised by the Review and related matters.

12.2 We would be please to provide further comment on any matters in our submission that may require further clarification or amplification.

Thank you for your consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K. Dewar', written in a cursive style.

Kellie Dewar
General Manager
MTA Queensland