

Motor Vehicle Standards Act Review

Submission by Terry Wright, 20 October 2014

Over some forty years the writer has had a number of private and professional involvements in the development and application of hundreds of Australian and international standards and associated legislation and specification. In the construction field this involvement has been extensive and professional; in the motor vehicle field it has been private and limited in extent to motor cycle safety and several private car issues

My general observations of the motor vehicle standards and associated legislation field are:

- It can lack transparency - development goes on behind largely closed doors with little final consumer involvement. For example, the motoring organisations may be involved but there is no, or negligible consultation with their membership.
- It can lack competence - local variations to overseas standards can be insufficiently thought through. For example, the writer purchased a new imported vehicle which was unusable at night when heavily laden - the Australian Design Rule which incorporated the UN/EEC lighting regulations had omitted the loading test and the provision for adjustable headlamps. After complaint the manufacturer (Subaru) subsequently fitted adjustable headlamps at no cost.
- It can be misused - state and commonwealth agencies effectively reword regulations or standards by means of illogical interpretations in their application of them, to suit particular objectives that they are not willing, or are unable, to codify. For example, the writer has been denied the opportunity to import a vehicle because Transport for NSW has declined to register it, notwithstanding its conformance with the actual wording of an Australian Design Rule.
- It can misinform - around the current legislation there has been erected a bureaucratic framework of considerable complexity which seems to have had difficulty in explaining how it operates to its customers. There is an unsatisfactory history of misleading publication, which continues this day, both in print and online, of the application of the legislation.
- It can be unfair - private import as can be permitted by the Commonwealth, then states and territories can, and do, refuse to register or reregister imported vehicles.
- It can be costly - such are the complexities of the concessional import scheme that at one point, a few years ago, the department could not cope with applications for vehicle import approvals and it was taking of the order of three months to issue approvals; the consequence was extended storage costs where specialist vehicles had been bought at auction.
- It can be silly - although Customs and Border Protection (CBP) applies differing tariffs to a vast range of complex goods, including various classes of racing cars, yet they demand a version of a

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Vehicle Import Approval even for non –road vehicles that do not require them. Even though CBP has already charged fees for clearance, and it is more than competent to assess if an import is a road vehicle, the consumer still has to pay to get a letter that says import approval is not required.

- It can be sillier - private importers are required in NSW to fit a third child restraint anchorage even though the vehicle is not wide enough to have more than the two fitted by the manufacturer.
- It can be a trade barrier - state led pressure for restrictions on the import of specialist vehicles built to overseas standards and practice and safely used in those countries is used to restrict imports. This is contrary to Australia's international trade obligations.

In addition to these general comments I want to say that I am not at all satisfied that the public consultation on the Motor Vehicle Standards Act is being conducted properly, that is with the genuine intent of establishing a public consensus on how motor vehicle specifications and use should be managed nationally.

My reasons are as follows:

- The department has been working on reviews of the act and regulations for well over a year - since at least mid-2013. Only in early September 2014 did it issue the options paper, allowing only six weeks or so for comments. This is a considerable imbalance - sixty weeks for the department - six for the public generally.
- The Options Discussion Paper is largely abstract; the notions and questions put forward for response are vague and difficult to respond to meaningfully. Some - at the extremes of changing nothing or abandoning any controls - are clearly just padding. Some are based on false or misleading premises e.g. that age and vehicle safety are inevitably related (consider the insurance records of vintage or otherwise historic vehicles). Others, such as personal importation, are muddled up with the very different issues impacting on volume manufacturers.
- There are not, and it is not indicated that there will be, any regulatory models for consideration. There is no assessment of international practice which surely should inform that in Australia. If harmonization of standards is desirable, then why not have harmonization of import procedures. How does New Zealand deal with this issue? Or the United States? Or South Africa? When requested the department has declined to provide any such analysis so it must be assumed it does not have it.

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- There is clearly no public dialogue underway. I have been unable to locate any press comment. The NRMA is leaving its submission to the AAA and is not consulting its several million membership: it has stated words to the effect that it is 'too complicated'. Two significant organizations I belong to – CAMS (50,000 members) and CMCA (66,000 members) were not even aware of the review when I approached them recently.
- It is clearly not contemplated that the public at large should be consulted in this process. No telephone number is provided for access to the review team. It does not answer emails. I tried to register for the Sydney workshop but there were no vacancies. I understand other workshops have and will be held but they are not open to the public.

In conclusion, I am concerned that this review could be thought of as a charade that is designed to give a veneer of respectability to a 'stitch-up' between big industry and the bureaucracy which will serve their interests but not those of the Australian public.

In my view, much more effort needs to be put into this exercise if Australians are not to continue to be denied ready access to their choice of specialist motor vehicles even when these are regarded as safe and/or fit for purpose in other parts of the developed world.