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Submission

Options Discussion Paper 2014 Review

Motor Vehicles Standards Act 1989

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16 October 2014

2014 REVIEW OF THE *MOTOR VEHICLE STANDARDS ACT 1989*
The Department of Infrastructure and Regional Development

By email: MVSAreview@infrastructure.gov.au

To whom it may concern,

Queensland Motorised Sports Council submission on the Options Discussion Paper for the 2014 Review of the Motor Vehicle Standards Act 1989

Introduction

The Queensland Motorised Sports Council (QMSC) welcomes the opportunity to comment on the Options Discussion Paper for the Motor Vehicle Standards Act 1989 and to contribute to the development of future policy for the benefit of the Australian community.

QMSC represents the interests of people involved in motorised recreational activities, including car and motorcycle enthusiasts, off-road competition cars, motorcycles and models and recreational aviation and boating. For the purposes of this submission, we are particularly addressing issues relating to the road-registered vehicle owners we represent.

Broadly, QMSC support the recommendations of the Productivity Commission Inquiry Report (Australia's Automotive Manufacturing Industry) pertaining to this Options Discussion Paper. These are to:

1. progressively relax the restrictions on importation of second-hand vehicles, and
2. to accelerate the harmonisation of our standards with the UNECE standards¹.

QMSC does not believe either of these changes would result in a significant negative impact on the Government's desired policy outcomes of road safety, minimised environmental impact and theft, and consumer choice.

We consider that local 'high-volume' vehicles will still be the logical choice for the majority of Australian motorists. Such concessions are likely to mainly benefit enthusiasts who are prepared to undertake the extra effort and cost to obtain something special that is not available locally.

Submission Discussion

Topic 1 - Liberalisation of Imports

The Productivity Commission Recommendation to relax the restrictions on the importation of second-hand passenger and light commercial vehicles included four provisos -

- that it should not commence before 2018, and ensure that reasonable advance notice is given to affected individuals and businesses, such as vehicle leasing companies;
- that it be preceded by a regulatory compliance framework that includes measures to provide appropriate levels of community safety, environmental performance and consumer protection;
- that it be initially limited to vehicles manufactured no earlier than five years prior to the date of application for importation;
- and be limited to second-hand vehicles imported from countries that have vehicle design standards which are consistent with those recognised by Australia.

¹ Productivity Commission Inquiry Report (Australia's Automotive Manufacturing Industry) page 32-33

QMSC are in agreement with these safeguards, although would like to see all ages of vehicles (from new to the current 1989 threshold) included under the second point as soon as practicable, to allow the full range of vehicles of interest to enthusiasts.

An appropriate quota could be a suitable transitional safeguard in this area. Such a quota system has been implemented in New Zealand for LHD vehicles². However, QMSC stresses this would only need to be a transitional arrangement while market feedback is gained. As proposed below, QMSC believes the Government's concerns of the 'floodgates being opened' by a liberalised import policy will not be realised.

QMSC is of the opinion the majority of Australian motorists will overwhelmingly continue to choose 'high-volume' vehicles as they do now. By comparison, the 'low-volume' import area is at a disadvantage. Reasons for this include:

- i. higher initial purchase costs (of a comparable vehicle) due to the necessary addition of transport costs, which are inefficient for a low-volume;
- ii. a much higher time investment by the potential purchaser to undertake the research and import arrangement, even if this is streamlined through a knowledgeable third-party. In a time-poor consumer market, this is a significant disadvantage;
- iii. higher risk, which can only be minimised if the expensive option of travelling to the overseas purchase location is made. It can also be mitigated by use of a third-party importer, but will be highest for a novice wanting to experience the challenge personally;
- iv. a degree of compliancing which will always be required to meet the state Vehicle Standards and hence gain registration;
- v. the advantages of a local 'high-volume' model that is tailor-made for Australian conditions;
- vi. reduced options for maintenance of the vehicle 'in service', with the possibility of some parts having to be imported, with longer waiting times. This will potentially cause the imported vehicle to not be suitable for everyday use;
- vii. and a limited market for resale, by comparison with a 'high-volume' local vehicle, with (vi) above being a major reason for reduced confidence.

The fact vehicles are currently imported under 'low-volume' schemes is clearly evidence of the local enthusiast market, who are prepared to accept the additional costs, time and effort to obtain a special vehicle for recreational use.

The challenges of ownership of these vehicles mean it is a 'labour of love', not a rational economic choice. The significant values involved in both acquisition and maintenance of these vehicles reflect that they are an investment in the owner's view, rather than just a means of transport.

As noted in your Options Discussion Paper, the proportion of vehicles imported annually under the various concessional schemes is only around 2% of the total import figures. Less than 1% are from the pre-1989 'enthusiast' concession, although it is likely many of the newer imports are also being purchased by enthusiasts.

It was also noted that these vehicles take up a disproportionate amount of administration time, which is considered worthwhile due to the Government's assessment of them as 'high-risk'. But is this a correct assessment, or is it a waste of resources?

The assessment of these vehicles as 'high-risk' is being made on a purely technical basis; which QMSC does not believe is appropriate.

The Government's desired policy outcomes of road safety, minimised environmental impact and theft, and consumer choice will be achieved if the overall motor vehicle fleet demonstrates these characteristics.

The biggest factor with these 'high-risk' categories is their very low proportion of the overall fleet. Their impact is even lower when you consider that most enthusiast vehicles are limited to recreational use, and not used for daily transport. It follows that their potential annual distance contribution to the national fleet statistics is minimal.

² See <http://www.nzta.govt.nz/resources/factsheets/12/docs/12-import-lhdv.pdf>

The question then is, if this 2% were banned from importation, would any of the policy outcomes be improved. Are they over-represented in serious accidents? Are they causing peak hour urban pollution levels to increase materially? QMSC has no evidence to suggest either.

The Government's objective in having strict vehicle importing restrictions appears to be more concerned with ensuring 'water-tight' compliance in line with their 'high-risk' assessment, rather than a logical cost-benefit analysis that would determine they are of little consequence to the overall policy objectives.

The current policy has resulted in a high administration cost for the Government and compliance costs for enthusiasts without any identifiable improvement in safety or environmental outcomes.

Further backing this view is the assessment of the enthusiast market by the insurance industry. This particularly refers to the 'niche' insurers that cater for enthusiast vehicles. Such companies (e.g. Shannon's, Lumley Special Vehicles, and Ryno Insurance) correctly assess these vehicles as low risk, recognising their low usage, owner care and high maintenance standard. Many also mandate overnight locked storage and aftermarket theft prevention systems, further enabling affordable premiums.

Sub-Topic - Modified Vehicle import restrictions

QMSC would also like to raise the Government's restrictions on importing modified vehicles. This area was tightened in 2010, and has a significant impact on enthusiasts. While it may be intended to ensure compliance with desired policy outcomes, the reality is a comparable vehicle, imported in unmodified form, may receive exactly the same modifications once they are registered here.

A far better outcome would be to allow unrestricted importation of modified vehicles, and instead refer the applicant to their state registration authority to ensure the vehicle would meet the Vehicle Standards necessary for registration. Modifications are made to a vehicle to improve it, and many provide significant safety improvements, particularly with older vehicles.

To disallow importation of these improved vehicles is actually in conflict with the policy objective of safer vehicles for Australian roads. This restriction has also targeted hot rods, kit cars (ICV's) and heavily customised vehicles built after 1989, all of which are of interest to enthusiasts. These vehicles can all be built locally and registered, but can no longer be imported, which is an unnecessary barrier given the low numbers involved and negligible impact on the overall vehicle fleet.

Topic 1 summary

In summary of Topic 1, QMSC believes the Productivity Commission's Recommendation is a step in the right direction, enabling greater access to vehicles of interest by enthusiasts in Australia. QMSC do not believe it will result in any significant increases in imported 'low-volume' vehicles, as they are at a disadvantage to the local 'high-volume' market. Finally, given the small numbers and low usage patterns, QMSC believes a reduced cost-benefit compliance framework for low-volume imports will achieve the Government's Policy Objectives while minimising administrative and consumer costs.

Topic 2 - Adoption of UNECE Standards

The Productivity Commission Recommendation to accelerate the harmonisation of Australian Design Rules with the United Nations Economic Commission for Europe (UNECE) Regulations and the mutual recognition of other appropriate vehicle standards is supported.

QMSC have this view because it is clear that the UNECE Regulations have similar objectives to the policy objectives we have in Australia; that is road safety, minimised environmental impact and theft, and consumer choice. Given that we already have a large degree of adoption or similarity in our standards (as per Attachment 3 of the Options Discussion Paper), it is clear the objectives are closely aligned.

Case Study 1 - LHD vehicles in Australia

One of the most significant previous policy relaxations that benefited imported car enthusiasts in Australia was the 1999 decision to allow full registration of Left Hand Drive imported vehicles of over 30 years of age.

Prior to this, all vehicles were required to be converted to Right Hand Drive, a significant and costly barrier. This was a major step of faith in an area that was previously considered too high-risk, but was supported by overseas studies that proved that countries allowing a co-existence of both configurations had no safety problems stemming from this policy.

Fifteen years on, we have now established that the Government was correct in allowing this concession, as it has caused no significant negative safety outcomes. Indeed, it has allowed an increase in participation rates in the hobby, as vehicles which previously had to be converted to RHD can now be registered with a lower compliance cost. RHD conversions at the time were starting at around \$5000, compared to the LHD compliance (Lo1/Lo2) of around \$1000.

Since then, retaining an imported classic vehicle in its intended form has been by far the most popular choice. But it was not purely on conversion cost grounds. From an investment point of view, it has also enabled the cars to retain their value better, and enables their resale back to the market of origin. From a maintenance point of view, the full range of overseas-sourced parts can be used, rather than needing replacement RHD components that were locally sourced.

In some cases, for example RHD dashboards, these were custom fabrications which cannot be replaced without very large cost. A further complication we are now seeing is that many of the RHD converters are no longer in business, making these RHD converted vehicles difficult to repair. Even similar model vehicles complied by the same converter can be very different, and technical conversion documentation is often non-existent.

There were also numerous examples of poor quality workmanship, which in some cases prevented registration and resulted in court cases. RHD versions of popular 1970's models are becoming hard to find, mainly due to the technical reasons outlined above which has seen them leave the registered vehicle population. These RHD converted vehicles appear to have had a high attrition rate due to maintenance difficulties.

All of these factors combined to make the option of keeping LHD vehicles in their intended configuration the most popular choice once the concession was granted in 1999.

In terms of their road interface, QMSC agrees that LHD vehicle operation is a challenge, but is not insurmountable. In practice it requires a greater degree of care and diligence, and avoidance of risky manoeuvres. These are certainly compatible with road safety outcomes.

QMSC is not aware of any over-representation in accident statistics caused by impaired operation of the vehicle due to the LHD configuration. To provide further input to the decision process in this area, QMSC can arrange contact with enthusiasts with significant experience operating LHD classic vehicles on local roads.

It is also worth noting that local American car clubs still receive enquires from potential hobby participants seeking RHD converted American classic cars. For these people, the challenge of operating a LHD vehicle is considered too great, and they would rather obtain a RHD example.

RHD converted American classic cars are still common for the pre-1969 vehicles imported from Canada in kit form and sold through local dealerships, and also for the post-1980 vehicles, which are now only recently reaching 30 years of age and hence being able to be imported and registered in LHD form. However, as noted, it is becoming difficult to find survivors of RHD conversions undertaken on vehicles of the 1970's era.

While the wholesale adoption of UNECE Regulations would open the market to unrestricted LHD or RHD imports, QMSC believes that for the same reasons outlined before, 'high-volume' RHD local models will still be preferable to the majority of Australian motorists, compared to 'low-volume' imports, in either RHD or LHD form. This is unless you are an enthusiast, and are prepared to go through the extra effort and cost.

QMSC would definitely like to see a relaxation in the LHD restriction from its current 30 year limitation, to recognise the safe outcomes achieved over the last 15 years for 'classic' vehicles. This has been achieved through the sensible and mature operation of these vehicles by enthusiasts, who would be the main beneficiaries of any relaxation.

QMSC believes vehicles in the bracket newer than 30 years of age could be imported, given suitable compliance (as per the current concessional arrangements for vehicles over 30 years of age) and registered in LHD form, without any negative public safety outcomes. Enthusiasts clearly prefer an original LHD form for the purposes of investment enhancement and easier parts supply.

The majority of these vehicles of interest also come from established markets with sufficient vehicle standards, and the overall numbers likely to be imported are low. Thus, QMSC does not see any reason why any imported LHD vehicle couldn't be registered for use in Australia following basic compliance requirements to drive on the left hand side of the road.

It is worth noting that some of these 'pre-classic' vehicles have never had an applicable RHD conversion available. An enthusiast wishing to obtain and register one of these has no choice at present other than to wait for the 30 years to elapse.

Additionally, some enthusiasts have been importing vehicles under the pre-1989 scheme that haven't attained 30 years of age, to wait until that criteria is reached to allow LHD registration. Clearly they would benefit from a relaxation.

But turning to post-1988 vehicles, there are also vehicles of interest to enthusiasts in this bracket. The numbers in this area are generally lower however, with most interest being in the pre-1980 classic era before the large scale use of plastics became common in car manufacture. Indeed, there hasn't been a lot of interest in importing and LHD registration of early 1980's American cars recently, although this would be partly due to the reasonable numbers of RHD converted examples already here.

Case Study 2 - Ground Clearance requirements

Turning our attention from the particular issue of LHD vehicles, QMSC would also like to raise an example of what we believe is over-regulation in the area of vehicle standards that could be improved through adoption of the UNECE Regulations. QMSC would like to draw attention to the 100mm ground clearance rules that exist in Australia.

No such restriction exists in the UNECE Regulations. Dimensional issues are left up to individual jurisdictions. The UK, as an example, has no stipulated ground clearance height for passenger vehicles. In the US, there are a variety of approaches by individual state jurisdictions on this subject - many have no requirement. Others use a logical requirement - that the vehicle in motion has no part of the body touching the ground. One example of a rare dimensional requirement was in the state of Utah with 3 inches (76mm) quoted.

Many enthusiast vehicles are imported from these countries, which understandably can cause compliance issues.

QMSC has been made aware by authorities that in the case of new high-volume vehicles, manufacturers must modify their vehicles to attain the 100mm level. QMSC was advised that the Lexus LFA sports car was a recent example, which had to be raised from 97mm to 100mm to comply. New Zealand also imposes a 100mm ground clearance rule, but it allows certification of vehicles at a lower height under their Low Volume Vehicle compliance scheme³. No such option exists in Australia in our National Code of Practice for Light Vehicle Modification (VSB14), section LS (Suspension and Steering)⁴. QMSC believes this should be offered as a minimum.

However, the wider issue of whether this dimension should be regulated is worth considering. Clearly, some other large jurisdictions have determined that there is no need for regulation in this area. Why is this? QMSC believes it is because of the logical processes involved in a vehicle owner assessing whether their vehicle is 'fit for purpose'.

In some cases, an owner requires a high ground clearance (well over 100mm) to clear steep driveway peaks and other obstructions in their regular travel paths. In the case of many low enthusiast sports cars (e.g. Ferrari), the owner balances the benefits of the car versus the detriments of limited clearance. Neither of these involves a strict dimension, but rather an assessment of the planned use of the vehicle. Long wheelbase vehicles (which many older enthusiast vehicles are) are also assessed using similar processes.

Consequently, QMSC does not believe there is a need for Government to mandate a strict dimension for ground clearance, as it can be logically determined by the user. Quite clearly, if the vehicle regularly fouls the road or speed bumps, then it is not 'fit for purpose' and a logical owner would either raise the vehicle, alter their driveway to a gentle slope, avoid speed bumps (as many enthusiasts do) or use another vehicle for the purpose.

³ <http://www.lvvtta.org.nz/faq.html> 'Can my car be certified with suspension measuring under 100mm ground clearance?'

⁴ http://www.infrastructure.gov.au/roads/vehicle_regulation/bulletin/vsb_ncop.aspx

What makes the current situation worse is that state jurisdictions are using the nominal 100mm dimension to raise revenue, when there is no justifiable evidence that a vehicle lower than 100mm is a safety threat.

This is made worse when no option exists to certify a vehicle lower than this limit. Recent tightening of anti-hoon laws in many states have now made this issue of even more concern to enthusiasts, as an 'illegal modification' such as this, would be considered as grounds to issue a 'notice to impound', the first stage of the process towards compulsory confiscation of the vehicle.

QMSC is also in the process of researching some of the older sports cars (particularly of British origin) that are registered in Queensland. Some of these are under the 100mm limit, yet are in factory specified form. Recent advice from local authorities is that they have no 'master list' of such vehicles, which is another reason why the current view of this being 'illegal' is a problem for enthusiasts.

By comparison with other very large jurisdictions who see no reason for a strict 100mm law, QMSC believes this is an example of unnecessary regulation that achieves nothing other than imposing costs on the community. This, and the LHD case-study presented above, are two areas where adoption of UNECE Regulations would benefit enthusiasts while still maintaining the Government's Policy Objectives.

Responses to Questions

The last section of QMSC's submission details responses to the questions QMSC feels are relevant to our areas of representation.

Q. 7-3 Does a case still exist for Australian Government intervention in vehicle standards?

The Government only has a case if it can prove that intervention produces a significant improvement in a Policy Outcome. This appears doubtful given the largely comparable nature of international standards, and the very small numbers of imported vehicles in older age brackets built to lower standards of their era.

Q. 7-4 Could the Australian Vehicle Standards Rules be used as an alternative to the national standards? If so, what would be the necessary approach to minimise the regulatory burden, industry compliance costs and inconsistent application across states and territories?

As the AVSR's are largely patterned on the ADR's QMSC does not believe they are a suitable alternative, compared to the adoption of international standards.

Q. 7-5 Are there non-regulatory ways of achieving the same policy objectives of road safety, environment, security, and adequate consumer choice?

The policy objectives will be naturally achieved in a free market without regulation. For example, the need to secure vehicles by use of door locks was driven by consumer demand well before any regulation mandated it. Competition in the market is such that any manufacturer that fails to respond to consumer demand or to even keep up with competitors will see their market share reduce. This is particularly the case now in a global market with social media enabling a company's reputation to be decimated very easily.

Q. 7-11 What regulatory mechanisms should be in place to ensure that motor vehicles are effectively recalled when safety concerns arise?

As noted above, company reputation is a major driver of modern business, and will ensure that necessary recalls are undertaken. If not, the potential damage to a company's reputation through product failure and loss of goodwill could be great. Recalls are increasing being managed on a global basis (e.g. <http://globalrecalls.oecd.org/>) and thus specific Australian regulation is of less consequence.

- Q. 7-13 Are there any specific local requirements for light vehicles that would prevent full harmonisation with UN regulations for light vehicles?
- If the UN regulations are achieving the desired Policy Objectives, then there is no need for additional local requirements. As recommended by the Productivity Commission, any deviation from these would need to be justified on a cost/benefit basis, where the benefit is measureable and significant.*
- Q. 7-15 Would there be any increased cost to consumers for a vehicle that complies with UN Regulations not required for Australian conditions (such as cold start) as opposed to the current hybrid compliance arrangement?
- It stands to reason that if UN Regulations are being used increasingly in varied parts of the world, that any specific regulations that are tailored to Europe's climate should be considered optional. The answer here is to ensure the UN regulators make the necessary concessions in light of their use in different climates.*
- Q. 7-17 What risks would a regulatory framework need to address if barriers were reduced on vehicle imports?
- As noted previously, QMSC does not believe there is a need for significant regulation in this area. The 'natural' barriers of purchase risk, shipping costs, difficulties in maintenance and a smaller resale market will result in most consumers shying away from this process. Regulation should be limited to specification of acceptable compliance markets.*
- Q. 7-18 What impact would second-hand vehicle imports and personal imports of new vehicles have on the automotive sector in the short, medium and long term?
- QMSC believes the impact would be negligible, for the reasons outlined in our discussion. Imports are at a significant disadvantage in both cost and effort required, and will not be a viable option for the majority of motorists. They may seem to be an attractive proposition on emotive grounds, which is why the Government should provide sufficient information on the disadvantages of this route. This would largely leave the import market to enthusiasts, a situation which currently exists.*
- Q. 7-19 Could constraints around a vehicle's age and country of origin effectively manage the safety, environmental and theft risk to the community?
- Specification of the country of origin or standards the vehicle is built to would be considered a sufficient safeguard to preventing negative policy outcomes. Any vehicles over 15 years of age are effectively only of interest to enthusiasts, in relatively small numbers. Thus, despite their lower standards, they have only a negligible effect on the policy objectives.*
- Q. 7-20 How can standards be used to affect the average age of the vehicle fleet and the distribution of the age profile?
- Standards can only reduce the average age of the vehicle fleet by interference - that is to mandate vehicle retirement thus improving fleet renewal rates. By reducing regulation and hence consumer cost, the reduced investment in the vehicle would hopefully encourage a more frequent turnover. However, the lower average age of key overseas markets is largely due to the higher volumes involved, which reduces consumer cost.*
- Q. 7-21 Could consumer protection for personally imported new vehicles be left to consumer laws, and why/why not?
- Consumer protection should be left to the market, coupled with information from the Government on the risks involved with low-volume imports. It should be up to an informed consumer to determine if they are prepared to take the risks. A full appreciation of the risks will have the benefit of encouraging the alternative of domestic 'high-volume' vehicles.*

- Q. 7-22 What impact would an increase in second hand imports and personally imported new cars have on the insurance industry?
- The insurance industry assesses risk as a key determinant of the services it provides, and this issue would be handled in the same way. Difficulties with accident repair, and lower standards would attract a higher premium. For an enthusiast, this is offset through agreeing to fit aftermarket security systems, locked overnight garaging and restricted use provisions. An import being used under the same circumstances as a domestic vehicle will always be at a disadvantage, another benefit of choosing the local alternative for daily use.*
- Q. 7-23 How could the Government facilitate vehicle safety recalls for vehicles not imported by manufacturers?
- This would be handled by the market on a global basis, and hence not require the Government to regulate. They could assist in communication, if this is not deemed adequate.*
- Q. 7-25 In the event that barriers to the importation of quality second-hand vehicles are reduced, would there still be a need for the Register of Specialist and Enthusiast Vehicles?
- There would be no need for a register, unless this was deemed an additional safeguard along with the country of origin requirements. Such a register should be compiled in consultation with enthusiast bodies, the end customers.*
- Q. 8-2 Are the costs of compliance reasonable when considered alongside the safety and environmental outcomes being delivered?
- It would be difficult to justify the cost of \$280M in terms of improved outcomes in the policy objectives. If the vehicles are being imported from jurisdictions that share our objectives, then our desire to tamper is more about compliance rather than actually making an improvement.*

Conclusion

QMSC thanks the Government for the opportunity to provide feedback on the Options Discussion Paper. Should additional information be required or for further discussion regarding the issues raised in this submission, please contact us.

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