

**Dealer Group against Used Car Imports  
(DGAUCI)**

**The Public Interest Necessity of Maintaining  
Current Restrictions on the Importation of  
Used Cars into Australia**

**October 2014**

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## Executive Summary

The new retail car market in Australia is highly competitive with 67 brands and more than 350 different models for Australian consumers to choose from. In this regard, Australia has one of the most open markets for new passenger vehicles in the world. By way of contrast, the United States has significantly less brands and models for consumers to choose from, despite having a substantially larger population. In recent years, the affordability of Australian new cars (measured by higher real wages and reduction in new car prices) has been increasing for consumers while at the same time the age of the Australian car fleet has been decreasing. Recently, in an article entitled "Car prices hit new record lows", [carsguide.com.au](http://carsguide.com.au) reported that "new car affordability has hit a 38-year high due to wages growth and record-low interest rates" and "cheaper production costs and intense competition". The article also cited recent CommSec figures as estimating that "it now takes someone earning the national average wage 25.9 weeks to buy a large family car compared to 31.3 weeks three years ago and 37 weeks a decade ago". For consumers, this means that new passenger vehicles are more affordable.

Vehicle safety has also increased correspondingly due to the competitive nature of the Australian car industry and rapid increases in technology. It is now common practice for motor vehicle manufacturers and distributors to compete on vehicle specifications in the Australian market. This has resulted in an overall increase in the quality and safety of Australian cars. A new vehicle sold today is likely to have substantially increased levels of specifications, including safety elements, compared to a vehicle sold 2 to 3 years ago. Relevantly, the Australasian New Car Assessment Program (ANCAP), in its June 2013 response to the Department of Infrastructure and Transport Consultation Paper on the *Motor Vehicle Standards Act 1989*, stated:

*"Technology plays an important role in vehicle safety, particularly today. Newer vehicles, in the main, are safer than older vehicles. New vehicles also include advanced life saving technology and the development of this technology is moving very quickly. In addition, the more new cars in the market the greater likelihood that the average age of the vehicle fleet will be lowered and more people will have access to the safest cars. At the very least current restrictions should remain on the importation of used vehicles.... given the diversity and range of the new car market in Australia, when it comes to imported used vehicles, consumer choice should be a lower priority than safety and the environment".*

Australia has a well established framework of industry practices and regulations that works in the interest of protecting the safety of Australian consumers from the time that a new vehicle is imported into Australia through to servicing, repair and possible recall of such motor vehicles. This framework has been developed to meet a range of public policy objectives in Australia, particularly in relation to consumer safety where Australia sets its own standards of acceptable safety rather than rely on international standards that may or may not be acceptable to ordinary Australians. For example, Australia is one of a few nations that require bicycle riders to wear helmets. The real danger in terms of public policy were Australia to move away from Australian Design Rules towards compliance with United Nations standards would be that Australia would lose control of its vehicle standards and would not have a mechanism to deal with safety issues that are specific to Australia.

A key policy driver for relaxing restrictions on used car imports is a desire to reduce new and used car prices such that Australian prices are comparable to overseas markets. The proposed changes also reflect a general move towards more efficient regulation. In making price comparisons care needs to be taken to ensure that price comparisons are made on an equivalent basis, for example, a BMW 328i, a Mercedes Benz C200 and a Nissan 370z Coupe sold in Australia have substantially higher levels of specifications compared to equivalent vehicles sold in the UK. In addition, vehicles provided for the Australian market have specific design features and variations that are appropriate for Australian roads and Australia's harsh climatic conditions. In particular, these features and variations include, but are not limited to, suspension, tyres, wheels, radio frequencies, navigation systems, radar cruise control, potential accident avoidance system frequencies, air conditioning systems, cooling fans, tow bars and engines that allow for our varying fuel qualities. The DGAUCI considers that while there will be some reduction in new and used car prices in the event that import restrictions on used cars are relaxed, such benefits will be substantially offset by:

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- Increases in the age profile of Australian motor vehicles leading to inferior specifications on cars which will lead to negative safety and environmental outcomes.
- Increases in the age profile of the Australian passenger fleet leading to higher operating costs as older cars require high levels of maintenance, higher insurance of imported motor vehicles and lack of available parts.
- Decreases in the number of cars built for Australian conditions leading to negative safety and environmental outcomes.
- Decrease in the values of motor vehicles already owned by ordinary Australians.
- In addition to safety concerns, information asymmetries resulting from lack of consumer information on the difference between vehicles made for the Australian market and those made for overseas markets.
- Regulatory failure – while the market presently self regulates much of what is done, the relaxation of the restrictions on the importation of used cars will undermine existing legislation relating to product recalls, liability of importers, and the availability of motor vehicle finance and insurance. While some of these matters may be able to be mitigated with a significant and burdensome increase in regulatory costs, some risks are unlikely to be able to be mitigated.

The retail motor vehicle market in Australia has proved to be highly resilient and has continued to grow throughout the global financial crisis. While the relaxation of the current restrictions on the importation of used cars into Australia would reduce new car sales, the industry is likely to accommodate such a structural change over time. Of greatest concern to the retail car industry is not the introduction of such a regulatory change but the serious adverse impacts on consumer safety and environmental outcomes that would follow.

It also needs to be acknowledged that the present regulatory restrictions and concessional arrangements on the importation of used vehicles are not adequate to protect consumer safety in that there are a number of imported family passenger vehicles, which are readily available from used car dealers, which lack head protecting side curtain airbags and electronic stability control which are both life-saving technologies. Any policy shift to relax or remove restrictions on the importation of used cars will only further threaten and undermine consumer safety.

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### 1. Introduction

- 1.1 The current restrictions on the importation of used motor vehicles exist as a result of successive reforms over the past three decades that have provided Australia with some of the most comprehensive and successful safety and environmental standards in the world. These standards ensure that all Australians are adequately protected on Australian roads.
- 1.2 The restrictions also provide vital consumer protection, not only by ensuring that motor vehicles are covered by warranties and safety recalls, but by allowing consumers to accurately verify the provenance of their vehicle. The restrictions also sustain employment in the automotive industry, providing much needed stability in an industry which will witness a significant shift in employment due to the cessation of automotive manufacturing in Australia.
- 1.3 A removal of the restrictions will also encourage a revival of opportunistic motor vehicle dealers, whose behaviour is not managed or constrained by the standards and requirements of motor vehicle distributors, leaving them open to engage in unconscionable practices, such as odometer fraud. This conduct has a significant impact upon the safety of motor vehicles and consequentially impacts heavily upon consumers.
- 1.4 Certain interested parties have espoused that consumers will benefit from the removal of the restrictions due to a reduction in the price for motor vehicles. We will dispute the validity of this view in detail later in the submission, however, we briefly note that this view is particularly myopic in that it disregards the plethora of adverse impacts on consumers, which include:
- limited protection against unconscionable conduct under the Australian Consumer Law as issues such as odometer fraud which is difficult to prosecute;
  - no warranty or information from the manufacturer relating to safety recalls for imported used cars;
  - higher cost to repair imported used motor vehicles due to the cost of importing specialised parts for classes of motor vehicles that are not sold or supported by the manufacturer in Australia;
  - little or no access to accurate information regarding the origin ownership, or service repair history of the vehicle; and
  - rapid depreciation not only of imported used motor vehicles but all other motor vehicles in Australia.
- 1.5 The views expressed in this submission represent the views of motor vehicle dealers, which have contributed a total investment of \$74 billion in the automotive industry and which employ over 66,000 people. The industry sells in excess of one million cars each year and adds nearly \$6.4 billion to the Australian economy. The DGAUCI represents the following dealer councils across Australia:
- BMW Dealer Council
  - Hyundai National Dealer Council
  - Mazda Dealer Council (NSW)
  - Mercedes-Benz National Dealer Council
  - Nissan National Dealer Council

## 2. Background – Policy and Legislation

- 2.1 The legislative framework regarding the importation of used motor vehicles has a lengthy history. Prior to 1989, the legislative framework controlling the importation of used motor vehicles differed in each state and territory.
- 2.2 In 1989, amid concerns raised by industry representative bodies in relation to inconsistent safety and emission standards of new, used and imported used motor vehicles between the states and territories, the Commonwealth Government introduced the *Motor Vehicle Standards Act 1989* (Cth) (the **MSV Act**) which required compliance with a set of national safety standards, the Australian Design Rules (ADRs).<sup>1</sup> All motor vehicles, whether manufactured in Australia or imported from overseas were required to comply with the ADRs. There also existed a Low Volume Scheme (LVS) which provided concessional treatment in complying with the ADRs and was introduced to accommodate the specialist and enthusiast vehicle market.<sup>2</sup>
- 2.3 Although the introduction of the MVS Act served as a protection mechanism for domestic automotive manufacturing industry, the main objective of the uniform ADRs was to ensure all Australian citizens benefited from a high level of vehicle safety.<sup>3</sup> This objective remains unchanged, as evidenced by the National Road Safety Strategy for 2011-2020, agreed to by Federal, State and Territory governments which aims to reduce the annual numbers of both deaths and serious injuries on Australian roads by at least 30 per cent.
- 2.4 In 1991, the Commonwealth Government introduced a tariff of \$12,000 per imported used vehicle, with an exemption from the tariff for vehicles imported under the LVS. The introduction of the \$12,000 tariff was in response to industry concerns that high volume importation of used motor vehicles from Japan would exert significant competitive pressure on the local automotive industry.<sup>4</sup>
- 2.5 However, the introduction of the tariff did not impede the importation of used motor vehicles from overseas, particularly imports of used vehicles from Japan. This was primarily due to the fact that used vehicle imports from Japan met ADR requirements with minimal modifications and the vehicles were imported under the LVS and therefore exempt from the \$12,000 tariff, which was contrary to the intention of the LVS regulations. The wide-spread exploitation of the LVS led to a significant increase in LVS imports, with 1,000 vehicles imported under the LVS in 1993 compared with 16,825 in 2000.<sup>5</sup>
- 2.6 During 1997-99, an interdepartmental review of the MSV Act was conducted to review the effectiveness of the MVS Act, particularly in relation to the effectiveness of the LVS. The review recommended that amendments be made to the MVS Act to tighten the eligibility criteria of the LVS to curtail the importation of vehicles that did not form part of the specialist and enthusiast vehicle market.<sup>6</sup>
- 2.7 In 2001, the MVS Act was amended based on the recommendations made from the interdepartmental review. The amendments included a tightening of the LVS through the introduction of the Automotive Workshops Scheme and the Specialist and Enthusiast Vehicles Scheme.<sup>7</sup> The amendments to the MVS Act ultimately resulted in a reduction in imported used vehicles.
- 2.8 In 2005 the *Motor Vehicle Standards Regulations 1989* (Cth) was further amended and restrictions were placed on the import of used vehicles that were manufactured after 1 January 1989.<sup>8</sup> This was due to continued growth in the number of older imported used

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<sup>1</sup> Explanatory Memorandum, *Motor Vehicles Standards Bill 1989* (Cth).

<sup>2</sup> *Motor Vehicle Standards Amendment Bill 2001* – Bill Digest No. 25 2001-02.

<sup>3</sup> Explanatory Memorandum, *Motor Vehicles Standards Bill 1989* (Cth).

<sup>4</sup> Industry Commission Report "*The Automotive Industry*" 1997, p216.

<sup>5</sup> *Motor Vehicle Standards Amendment Bill 2001* – Bill Digest No. 25 2001-02.

<sup>6</sup> *Motor Vehicle Standards Amendment Bill 2001* – Bill Digest No. 25 2001-02.

<sup>7</sup> *Motor Vehicle Standards Amendment Act 2001* (Cth).

<sup>8</sup> *Motor Vehicle Standards Amendment Regulations 2005 (No 1)* (Cth).

vehicles being supplied to the market in Australia, despite the prior amendments to the MVS Act in 2001. The government was concerned that:

*"the vehicles did not meet current emissions performance and safety requirements and hence eroded consumer confidence in Australia's comprehensive vehicle standards."*<sup>9</sup>

2.9 It has taken constant revision and fine tuning to the MVS Act from 1989 to 2005 to establish an effective and comprehensive legislative framework that provided comfort to consumers that only vehicles that met certain environmental and safety standards were permitted on Australian roads. However, there is a significant risk of loss to consumer confidence if the safety and environmental standards in motor vehicles are compromised and the progress of the past 15 years is eroded by permitting the relaxation of current restrictions on the importation of used vehicles.

2.10 In May 2013, the Department of Infrastructure and Transport undertook a public consultation process of the MVS Act to consider whether the MVS Act remains effective and efficient. While the review received almost 200 public submissions from interested parties, the overwhelming majority of the submissions that were received were identical in content and were a product of an extensive lobbying campaign from a motor vehicle enthusiasts group which represented a very small number of the total road users in Australia. The collective submissions from the lobbying campaign demonstrate a lack of in-depth cost benefit analysis and balanced, objective reasoning for lifting the restrictions on imported used motor vehicles. There were several submissions from key industry bodies that had concluded that:

- the MVS Act is effective in operation, except for a few inconsistencies that would be addressed by minor amendment;<sup>10</sup>
- adopting international vehicle standards is not the full solution to safe and environmentally responsible vehicles on Australian roads;<sup>11</sup>
- there is increased risk to the consumer as imported used vehicles do not have the backing of the manufacturer to provide full warranty, parts and servicing requirements;<sup>12</sup>
- imported vehicles are often older models and therefore have a lower safety specification than the current model available to consumers;<sup>13</sup> and
- there was potential to undermine the government's safety and environmental policy objectives as some schemes require a lesser burden of demonstrating compliance with the ADRs.<sup>14</sup>

2.11 Following from the submissions, the Department of Infrastructure and Transport published a Public Consultation Report in August 2013. The Public Consultation Report did not contain any recommendations but considered the main themes from the public submissions. The Public Consultation Report did raise the issues of the importation of used vehicles, noting the concerns raised in the submissions of the key industry bodies referred to above. It was also proposed that imported used vehicles should be required to meet identical standards to those

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<sup>9</sup> Explanatory Statement, *Motor Vehicle Standards Amendment Regulations 2005* (No 1) (SLI No 78 of 2005).

<sup>10</sup> Australian Motor Industry Federation submission to the Public Consultation on the *Motor Vehicle Standards Act 1989* (Cth).

<sup>11</sup> Australian Automotive Aftermarket Association Ltd submission to the Public Consultation on the *Motor Vehicle Standards Act 1989* (Cth) 18 June 2013.

<sup>12</sup> Federal Chamber of Automotive Industries submission to the Public Consultation on the *Motor Vehicle Standards Act 1989* (Cth) 28 June 2013.

<sup>13</sup> Federal Chamber of Automotive Industries submission to the Public Consultation on the *Motor Vehicle Standards Act 1989* (Cth) 28 June 2013.

<sup>14</sup> Department of Infrastructure and Transport "*Public Consultation Report: Motor Vehicle Standards Act 1989*" August 2013, p13.

required of importation of new vehicles (including the provision of the same level of evidence).<sup>15</sup>

2.12 During this time, the Productivity Commission had also commenced a review of automotive manufacturing in Australia in order to assess the financial viability and capacity for the production of vehicles in Australia. The scope of the review was focused primarily upon domestic manufacturing of motor vehicles, in particular the production scale and labour costs in Australia, assessment of the global automotive market, decline in the export market for motor vehicles and the utility of capital grants from government subsidies. This review did not consider the large-scale importation of used motor vehicles. The Productivity Commission released its Preliminary Findings Report on 20 December 2013.

2.13 On 16 January 2014, the Department of Infrastructure and Regional Development (DIRD) released the Terms of Reference for the review of MVS Act, following from the publication of the Public Consultation Report in August 2013. The scope of the review is to consider:

- the effectiveness of the MVS Act;
- whether the objectives of the MVS Act are being achieved; and
- whether the current framework is appropriate.

The review is also exploring opportunities to reduce regulatory burden without compromising safety, environmental and security outcomes. The aim of the review is to reduce regulatory costs to business and improve the safety of road vehicles.

2.14 On 31 January 2014, the Productivity Commission released a Position Paper which provided a range of options for government assistance to the automotive manufacturing industry. The Position Paper made a number of findings with regards to the structural change in the Australian automotive manufacturing industry, with the Productivity Commissioner requesting further information and accepting additional submissions in relation to a number of issues.

2.15 Of particular note, draft finding 3.2 of the Position Paper focused on the potential case for removing the \$12,000 tariff from the importation of used vehicles, citing the rationale for restrictions on the large-scale importation of used vehicles as weak.<sup>16</sup> The Commissioner sought additional information in the form of new submissions on the benefits and costs of removing restrictions on the large-scale importation of second-hand vehicles.

2.16 In particular, the Productivity Commissioner requested the following information:

- the potential benefits of removing these restrictions;
- the potential costs of removing these restrictions and who would bear these costs;
- how compliance with Australian safety and environmental standards be most efficiently ensured; and
- if the benefits are expected to exceed the costs, how should restrictions be removed and over what timeframe.<sup>17</sup>

2.17 The Productivity Commission received 48 submissions in relation to the Position Paper, however only 18 submissions addressed the additional information requested in draft finding

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<sup>15</sup> Department of Infrastructure and Transport "Public Consultation Report: Motor Vehicle Standards Act 1989" August 2013, p13.

<sup>16</sup> Productivity Commission "Australia's Automotive Manufacturing Industry: Productivity Commission Position Paper" 31 January 2014, p29.

<sup>17</sup> Productivity Commission "Australia's Automotive Manufacturing Industry: Productivity Commission Position Paper" 31 January 2014, p103.

- 3.2. The level of response to the additional information requested was not an adequate representation on which the Productivity Commissioner should base its final recommendation.
- 2.18 Furthermore, the draft finding is outside the scope of the Productivity Commissioner's review. The scope of the review was primarily focused on automotive manufacturing in Australia, particularly in the context of recent announcements by GM Holden, Ford Motor Company Australia and Toyota Motor Corporation Australia that they would cease manufacturing motor vehicles in Australia over the next three years.
- 2.19 There appears to be no logical connection between the draft finding 3.2 and the content of the Position Paper, particularly given that the issue of large-scale importation of used vehicles did not feature in the Preliminary Report. The chapter in the Position Paper where draft finding 3.2 is placed addresses the continuation of current government assistance schemes in light of the cessation of automotive manufacturing in Australia and "other policy relevant arrangements". It does not follow that a finding in relation to the importation of second-hand vehicles can be made based on the review which was focused on the automotive manufacturing industry in Australia.
- 2.20 On 26 August 2014, the Productivity Commission released its final Inquiry Report. Relevantly to draft finding 3.2, Recommendation 5.4 of the Inquiry Report recommended that the Australian Government should progressively relax the regulatory restrictions on the importation of second-hand vehicles. This included a recommendation that the Australian Government should remove the \$12,000 tariff on imported second-hand vehicles.<sup>18</sup>
- 2.21 Recommendation 5.5 of the Inquiry Report also recommended that the Australian Government should accelerate the harmonisation of the Australian Design Rules with the United Nations standards and move towards mutual recognition of other appropriate vehicle standards.<sup>19</sup>
- 2.22 Relevantly to the price of luxury vehicles, Recommendation 5.6 of the Inquiry Report also recommended that the Australian Government consider the removal of the 33 per cent luxury car tax levied on the luxury cars valued over a specified threshold.<sup>20</sup> In general, the DGAUCI supports this recommendation because it will reduce the price of new luxury vehicles.
- 2.23 On 4 September 2014, the Department of Infrastructure and Regional Development released an Options Discussion Paper for its review of the MVS Act. Among other things, the Discussion Paper presented a range of perceived opportunities and options for amending the current regulatory framework to reduce the regulatory burden on the automotive sector whilst maintaining and improving the vehicle fleet's safety and environmental performance.<sup>21</sup>
- 2.24 Relevantly to this submission, Option 7 of the Discussion Paper identified a number of key issues concerning the potential impact of the Productivity Commissioner's recommendation that the Australian Government should progressively relax the regulatory restrictions on the importation of second-hand vehicles, including the implications of this change on the ongoing role of the \$12,000 tariff on imported second-hand vehicles.<sup>22</sup>
- 2.25 Importantly, the issues raised in Option 7 significantly expand on the range of issues considered in the Productivity Commission's Position Paper and Inquiry Report. This development is critical as the limited scope of analysis underlying the Productivity Commissioner's findings and recommendations was clearly inadequate, particularly in the

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<sup>18</sup> Productivity Commission "Australia's Automotive Manufacturing Industry: Productivity Commission Inquiry Report" 26 August 2014, p163.

<sup>19</sup> Productivity Commission "Australia's Automotive Manufacturing Industry: Productivity Commission Inquiry Report" 26 August 2014, p163.

<sup>20</sup> Productivity Commission "Australia's Automotive Manufacturing Industry: Productivity Commission Inquiry Report" 26 August 2014, p168.

<sup>21</sup> Department of Infrastructure and Regional Development "Options Discussion Paper: 2014 Review of the Motor Vehicle Standards Act 1989" September 2014, p4.

<sup>22</sup> Department of Infrastructure and Regional Development "Options Discussion Paper: 2014 Review of the Motor Vehicle Standards Act 1989" September 2014, p41.

context of the significant nature of the proposed changes. Our detailed views in this respect are set out below in section 4.

- 2.26 This submission addresses significant impacts and risks which were inadequately considered as part of the Productivity Commissioner's review, many of which have now been identified by DIRD as key issues for consideration in Option 7. In addition, this submission also provides a detailed analysis of the automotive market in Australia under the current legislative framework, including a comparison between the Australian and New Zealand automotive markets.

### 3. Why Present Policy Settings are Relevant and Appropriate

*Cessation of automotive manufacturing in Australia and implications.*

- 3.1 The automotive industry in Australia is undergoing the most significant transition in its history. With the withdrawal of automotive manufacturing in Australia by Holden, Ford and Toyota by 2017, the automotive manufacturing industry in Australia will shift from an automotive manufacturer to a 100 per cent importer of motor vehicles.

- 3.2 According to a report funded by the Federal Chamber of Automotive Industries,<sup>23</sup> it is estimated that the cessation of automotive manufacturing will result in:

- a total loss to the economy of \$21.5 billion;<sup>24</sup>
- the loss of 50,000 jobs that are directly related to automotive manufacturing;<sup>25</sup>
- an overall decrease of 0.8 per cent national employment by 2018;<sup>26</sup>
- a significant reduction of employment in the two major automotive manufacturing centres in Melbourne and Adelaide with an estimated reduction of 1.7 and 1.2 per cent of employment by 2018 in Melbourne and Adelaide, respectively.<sup>27</sup>

- 3.3 It is within this context that the Productivity Commission was requested to conduct a review of the Australian automotive manufacturing industry and the role of government assistance provided to the industry. The Productivity Commission was required to:

- examine national and international market and regulatory factors affecting the industry;
- identify and evaluate possible alternative public support mechanisms;
- identify any significant transition issues or adjustment costs that may arise from alternative support mechanisms or policy changes and how they might be best managed;

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<sup>23</sup> Federal Chamber of Automotive Industries submission "Productivity Commission's Review of the Australian Automotive Manufacturing Industry" 27 November 2013 and annexure to the submission "The strategic role of the Australian Automotive Manufacturing Industry" by the Allen Consulting Group 26 September 2013.

<sup>24</sup> "The strategic role of the Australian Automotive Manufacturing Industry" by the Allen Consulting Group 26 September 2013, p xi, which accompanied the Federal Chamber of Automotive Industries submission "Productivity Commission's Review of the Australian Automotive Manufacturing Industry" 27 November 2013.

<sup>25</sup> "The strategic role of the Australian Automotive Manufacturing Industry" by the Allen Consulting Group 26 September 2013, p vii, which accompanied the Federal Chamber of Automotive Industries submission "Productivity Commission's Review of the Australian Automotive Manufacturing Industry" 27 November 2013.

<sup>26</sup> "The strategic role of the Australian Automotive Manufacturing Industry" by the Allen Consulting Group 26 September 2013, p56, which accompanied the Federal Chamber of Automotive Industries submission "Productivity Commission's Review of the Australian Automotive Manufacturing Industry" 27 November 2013.

<sup>27</sup> "The strategic role of the Australian Automotive Manufacturing Industry" by the Allen Consulting Group 26 September 2013, p56, which accompanied the Federal Chamber of Automotive Industries submission "Productivity Commission's Review of the Australian Automotive Manufacturing Industry" 27 November 2013.

- assess the significance of the capabilities within the industry, its direct employment and economic benefits, and its secondary impacts on other sectors of the economy; and
- quantify the costs and benefits of existing and alternative assistance mechanisms.<sup>28</sup>

3.4 In short, the primary focus for the Productivity Commissioner was the longevity of automotive manufacturing industry in Australia, the global competitiveness of our automotive manufacturing industry and the role and effectiveness of government assistance to automotive manufacturing. As addressed in a number of submissions to the Productivity Commissioner, it was beyond the scope of the review to incorporate findings regarding separate issues facing the automotive industry, such as the importation of used motor vehicles.

### *Effectiveness of the current regulatory regime*

3.5 The overriding objectives of the MVS Act are clear, with an emphasis on environment safety and anti-theft features of motor vehicles. However these objectives must be balanced to ensure that the regulatory burden is not overly onerous and does not impede competition in the automotive market.<sup>29</sup>

3.6 Since the introduction of the MVS Act in 1989, it has taken a number of reviews and successive amendments to the MVS Act and MVS Regulations up until 2005 to ensure that it functions as intended. As addressed below, the safety and environmental objectives are clearly being met. The lack of further amendments to the MVS Act since 2005 in relation to the importation of used motor vehicles is a testament to the effectiveness of the current regulatory regime.

3.7 We accept that no legislative framework is perfect and that all legislative frameworks require regular review to improve the framework to ensure it remain relevant. However, there is a risk that the progress made over the past 25 years will be quickly undone due to hasty policy decisions which are based on inadequate consideration and poor analysis of the issues facing the automotive industry and without proper consultation with key parties in the automotive sector. A prime example of this is the Productivity Commissioner's draft finding 3.2, which we address in section 4 below.

3.8 In the following sections, we have outlined the effectiveness of the current regulatory regime and highlighted the plethora of issues that will arise as a result of amending the current framework to allow for the importation of used motor vehicles. In support of our position, the DGAUCI commissioned Deloitte to provide a report concerning the "Industry impact analysis of potential changes to the current restrictions on the importation of used motor vehicles into Australia", (Deloitte Report).

3.9 According to the Deloitte Report:

*"The MVSA is the broad legislative framework which governs standards of motor vehicles sold in Australia. The objects of this legislation include achieving uniform vehicle standards for new vehicles in Australia and regulating the 'first supply to the market of used imported vehicles'. One of the key drivers in the initial development of the MVSA was evidence that demonstrated imported used cars offered lower levels of safety than cars that had been built to comply with the ADRs. The MVSA also has the benefit of removing the need for multiple vehicle inspection, certification schemes and approval regimes across different jurisdictions in Australia."*

One of the major concerns that the Government had at the time of the drafting of the MVSA was that importation of used motor vehicles would have negative safety implications

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<sup>28</sup> Productivity Commissioner's Public Inquiry into Australia's Automotive Manufacturing Industry  
<http://www.pc.gov.au/projects/inquiry/automotive>

<sup>29</sup> Department of Infrastructure and Transport "Consultation Paper on the Motor Vehicle Standards Act 1989" May 2013, p8-9.

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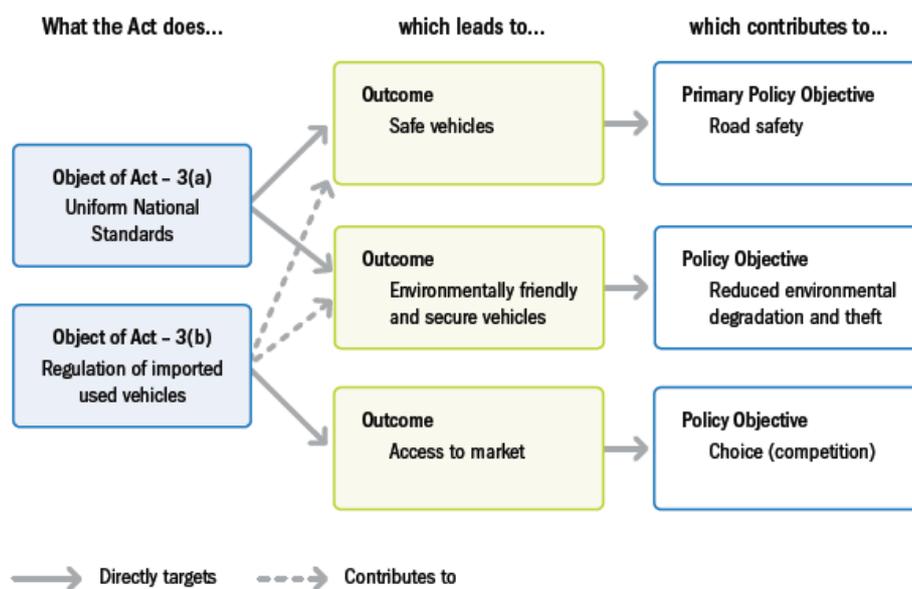
for the Australian car fleet. To this end the Government noted that the MVSA would enable the Federal Government to establish and apply nationally uniform standards for motor vehicle safety and environmental equality as expected by the community.

### 3.10 According to Deloitte:

*"The policy rationale behind the initial restriction of large scale imports of used cars into Australia has primarily been based on safety concerns. At the time of drafting the MVSA, the Government was concerned with used car imports not complying with ADRs and as a result not meeting the standards that Australians had come to expect of motor vehicle safety. Maintaining safe driving conditions is a primary concern of government and the main focus of the MVSA (see [Diagram 1]). Unsafe vehicles have both personal injury and broader economic implications. During the development of the MVSA, it was also noted by Government that 'each year in Australia some 2,800 people are killed on our roads and 30,000 seriously injured. In addition to the trauma and suffering which results from these crashes, the aftermath of this carnage costs the Australian community some \$5,700m annually.'"*

### 3.11 DIRD illustrated the relationship between the objects of the MVSA and the policy objectives of vehicle safety and environmental protection in the following diagram:<sup>30</sup>

**Diagram 1** The Act's objects, outcomes and policy objectives



<sup>30</sup> Department of Infrastructure and Regional Development "Options Discussion Paper: 2014 Review of the Motor Vehicle Standards Act 1989" September 2014, p22.

#### 4. What the Productivity Commission Failed to Consider

4.1 As outlined above, the Productivity Commissioner's review of automotive manufacturing in Australia focused on the manufacturing of motor vehicles in Australia and the cost and benefit of several government assistance initiatives and policies to support the automotive manufacturing industry.

4.2 The Productivity Commissioner made the following draft finding in the Position Paper published in January 2014:

*"DRAFT FINDING 3.2*

*The policy rationale for prohibiting the large-scale importation of second-hand vehicles into Australia is weak. However, appropriate regulatory measures are required to ensure that consumer protection, community safety, and environmental performance standards are maintained before the restrictions are removed. These concerns are best dealt with directly, through regulatory standards applicable to all vehicles sold in Australia.*

*The \$12 000 specific duty on imported second-hand vehicles appears to be largely redundant, providing a prima facie case for its removal."*

4.3 This draft finding was over taken by final Recommendation 5.4 of the Inquiry Report published on 26 August 2014. Briefly stated, the Commissioner recommended that the Australian Government should progressively relax the regulatory restrictions on the importation of second-hand vehicles.

4.4 The Commissioner suggested that this could be achieved through the transitional implementation of regulatory arrangements that provide appropriate levels of community safety, environmental performance and consumer protection, commencing from 2018. These arrangements would initially limit the importation of second-hand vehicles by reference to a range of vehicle criteria. The recommendation also advocated for the Australian Government to remove the \$12,000 tariff on imported second-hand vehicles.

4.5 There are two major issues with respect to the Productivity Commissioner's draft finding and subsequent final recommendation.

4.6 First, the draft finding and recommendation are beyond the scope of the review. As highlighted by a number of submissions made in response to this finding in the Position Paper, the purpose and focus of the review was the automotive manufacturing industry in Australia. The review was not required to consider the used motor vehicle market, which is separate to that of automotive manufacturing of new cars in Australia.

4.7 While we are open to full review of the used motor vehicle market and would provide input into any proposed regulatory reforms to the current framework, we maintain that the Productivity Commissioner's review into the automotive manufacturing industry was not the appropriate forum to achieve regulatory reform in the new and used motor vehicle market. We encourage a separate review focusing on the new and used motor vehicle market be conducted that adequately considers the issues raised in this submission.

4.8 Secondly, the materials and research upon which the draft finding and recommendation was based was far from comprehensive and was extremely limited. In addition the Productivity Commissioner failed to take into account, or give adequate consideration to, a number of issues which we have raised in this submission such as impact on consumers, employment, skills training and investment in the automotive industry.

4.9 The Productivity Commissioner relied heavily on the experience in New Zealand which currently permits the large scale importation of used motor vehicles. However there were a

number of significant flaws in the research used for the basis of the draft finding and recommendation.

- 4.10 The overarching premise for permitting the importation of used motor vehicles is the perceived benefit to consumers due to reduced prices for used motor vehicles. This was one important focus of the case study of New Zealand presented in the Productivity Commission's Position Paper and Inquiry Report. The case study asserts that prices for a used motor vehicle in New Zealand for a particular model and make with similar mileage are, on average, 20 per cent less than the equivalent used motor vehicle in Australia.<sup>31</sup> However, as disclosed, this comparison was based on an extremely limited data sample, relying on 5 observations from online car advertisements.<sup>32</sup>
- 4.11 It is of extreme concern that the outcome of a survey that is based on such a paltry sample size has been relied upon to make such a significant finding – that used motor vehicles are 20 per cent cheaper in New Zealand than Australia. The survey only focuses on the purchase price of a motor vehicle so is of limited use as it does not consider the overall cost of a motor vehicle. For example, the survey did not consider the difference in cost for servicing and cost of parts for imported motor vehicles, the difference in cost for obtaining insurance or the rate of depreciation and re-sale/trade-in value of the motor vehicle.
- 4.12 Furthermore, the survey does not account for the differences between the New Zealand and Australian market, such as population size, composition of each market, the demand and competition in each market, saturation of brands and new/used vehicles in the market and the average income available for purchase of a motor vehicle.
- 4.13 The New Zealand case study stated that by 2002, imported used motor vehicles accounted for 68 per cent of all vehicle registrations annually, compared with less than 10 per cent in 1986, which was prior to amendments to regulations allowing for the large scale importation of used motor vehicles. However, no analysis has been conducted to in relation to the growth of imported used motor vehicles from 10 per cent to 68 per cent in 16 years.
- 4.14 While we are able to conclude that one adverse outcome from New Zealand's regulatory reform is the increase in age of the fleet in New Zealand and related loss of standards of safety of motor vehicles, the Position Paper and Inquiry Report contained no analysis of the impact of the imported used motor vehicles on the New Zealand automotive market, such as the loss of jobs and skills training in the automotive sector or any reduction in investment of the automotive sector due to a reduction in the number of new motor vehicle dealers.
- 4.15 The New Zealand case study did not make any meaningful observations in relation to the principal objectives of the MVS Act, those being the environment and safety. The only conclusion made was that the crashworthiness of new and imported used motor vehicles "may be narrowing".<sup>33</sup> No other assessment was made in relation to safety and there was no analysis conducted in relation to CO2 emission efficiency.
- 4.16 In addition, the issue of odometer fraud was raised stating that studies had shown that incidence of odometer fraud reporting ranged between 60 and 70 per cent and 10 to 30 per cent. It appears the significance of odometer fraud has been overlooked with no analysis conducted in relation to the rate of odometer fraud and the cost of odometer fraud and detriments to consumer protection, environment and safety.
- 4.17 The Inquiry Report gave limited consideration to many of these issues, including consumer protection, environmental concerns, safety concerns, dealers and the availability of replacement parts and servicing. In most instances, the Inquiry Report simply restates the

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<sup>31</sup> Productivity Commission "Australia's Automotive Manufacturing Industry - Position Paper" January 2014 p101 and Productivity Commission "Australia's Automotive Manufacturing Industry: Productivity Commission Inquiry Report" 26 August 2014, p158.

<sup>32</sup> Productivity Commission "Australia's Automotive Manufacturing Industry - Position Paper" January 2014 p101.

<sup>33</sup> Productivity Commission "Australia's Automotive Manufacturing Industry - Position Paper" January 2014 p101-102 and Productivity Commission "Australia's Automotive Manufacturing Industry: Productivity Commission Inquiry Report" 26 August 2014, p159.

observations made by a number of industry participants in their Position Paper submissions. Further to this, the Inquiry Report did not significantly expand on these observations, or provide any additional critical analysis on their assertions.

- 4.18 In addition, the Inquiry Report did not give any consideration to the impact that relaxing second-hand vehicle importation restrictions would have on:
- Community goodwill;
  - Distributors and distributor warranties;
  - Insurers;
  - Financiers; and
  - Taxes.
- 4.19 Whilst the transitional approach recommended by the Productivity Commissioner does reflect some consideration of the issues above, overall, the materials and research relied upon by the Productivity Commission in justifying its findings and recommendations are inadequate. The materials and research do not consider the wider implications of permitting the importation of used motor vehicles on the current new and used motor dealer networks.
- 4.20 It is reassuring to note that DIRD has recognised and acknowledged the overarching theme of these concerns, namely that the Productivity Commission has not assessed the full impacts of relaxing the current restrictions on the importation of new and used vehicles in making its final recommendations.<sup>34</sup>

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<sup>34</sup> Department of Infrastructure and Regional Development "Options Discussion Paper: 2014 Review of the Motor Vehicle Standards Act 1989" September 2014, p4.

## 5. The New Zealand model and the likely adverse consequences for Australia

- 5.1 It is clear from the New Zealand experience that removing the restrictions on the importation of used vehicles increased the proportion of used imported vehicles entering New Zealand, resulting in a significant ageing of the car fleet.<sup>35</sup> The NZ experience also demonstrated that the new vehicles entering the fleet in any particular year were more crash worthy than the cohort of second-hand imports brought into New Zealand in the same year, directly highlighting the safety implications of the used imported vehicle program. In particular, research showed a numerically high crash worthiness rating (indicating poor occupant protection performance) of newly registered vehicles in the early 1990s when used imports suddenly began to penetrate the New Zealand market. Not only is there a direct correlation between the age of a used vehicle and the increased risk the vehicle poses to road safety, but there is also direct correlation to emissions production, lack of consumer protection, lack of vehicle reliability and loss of vehicle asset vehicle valuations.

### *Vehicle Safety*

Key findings by the accident research centre at Monash University include the following:

- There is some suggestion that vehicles imported into New Zealand in the years of 2004 to 2008 have reached a plateau in crash worthiness in performance compared to the continued improvement estimated for new vehicles.
- While vehicles up to about 12 years old are imported into New Zealand, the majority of used imports are in the range from 3 to 9 years old when imported are with the medium age being around 6 years. The research pointed out because used vehicles are an average of 6 years when entering the country, the safety benefits of the vehicle technologies take 6 years longer to be seen in the New Zealand fleet than if the vehicles were sold in New Zealand. The analysis showed that the new vehicles entering the fleet in any particular year are more crash worthy than the cohort of second-hand import bought into New Zealand in the same year highlighting the concern about the safety implications of the used imported vehicle program.
- Further, the report by the accident research centre of Monash University in July 2013<sup>36</sup> examined the crash worthiness of vehicles between 1987 and 2011. Crash worthiness is a measure of the relative risk of death or serious injury (hospital admission) to vehicle drivers given involvement in a crash. The report showed patterns of improvements in crash worthiness in Australia with the greatest gains over the years 1970 to 1979, during which time a number of new road rules aimed at occupant protection took effect. The report also found further significant gains in crash worthiness have also been observed over the years 1986 to 2009, with notable safety gains from 1985 to 1995 and since 2000.
- The submission by Australian Finance Conference (AFC), Australian Equipment Lessors Association (AELA) and Australian Fleet Lessors Association (AFLA) to the Productivity Commission position paper in relation to draft finding 3.2 distinctly sets out the potential movement in the age of vehicles on Australian roads based on the experience in New Zealand as stated as follows:

*"In 2000 (i.e post the introduction of a mass second-hand import program in New Zealand), 23.8% of the light fleet (namely passenger and light commercial vehicles which constitute in the order of 90% of the total New Zealand vehicle fleet) was 15 or more years old, and by 2012 this had increased to 39.6%. A significant and concerning increase.*

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<sup>35</sup> Research carried out by the accident research centre at Monash University Report No. 313 August 2012.

<sup>36</sup> Report 3.8 July 2013.

*In summary, the average age of New Zealand's light fleet has increased materially post the introduction of second-hand imports and is now 13.2 years, up from around 11.6 years in 2000.*

*This compares unfavourably with Australia, where according to the January 2013 Australian Bureau of Statistics Motor Vehicle Census the average age of all vehicles registered was 10 years, with its average age falling over the last decade."<sup>37</sup>*

- The above submission by AFC, AELA and AFLA considered the consequences of large scale importation of second-hand vehicles on resale values for used imports. The submission referred to the cost of \$10,000 for a grey import and \$13,000 of a New Zealand car that is a vehicle so new in New Zealand (3 years later the NZ used car would fetch in the vicinity of \$8,000 whilst the grey import will in likelihood only achieve between \$2,000 and \$3,000). The Commission stated that as a consequence owners would often adjust their behaviour by retaining the grey import for longer than would otherwise be desired given the diminished capacity to trade up. This has adverse consequences for vehicle safety, particularly in recent years where there has been an increase in the number of new vehicles fitted with advanced safety assist technology (SAT).

#### *Environmental Considerations*

As vehicle omissions have fallen substantially in recent years due to advancements in vehicle technology, the ageing of Australia's existing car fleet which would occur as a result of the relaxation of the current restrictions on the importation of used vehicles poses significant threats to the protection of the environment. Imported vehicles are unlikely to meet the same stringent omission standards which apply in Australia and even if they do would such vehicles be inspected to ensure that they meet such standards and what regulations would be put in place to require such inspections.

In its submission to the Department of Infrastructure and Transport consultation paper in 2013 on the Motor Vehicle Standards Act 1989, ANCAP stated:

*"At some point a decision on which objective takes priority needs to be made. Given the diversity and range of the new car market in Australia, when it comes to imported used vehicles, consumer choice should be a lower priority than safety and the environment".*

#### *Loss of Consumer Protection*

Based on the New Zealand experience it is clear that the removal of restrictions on the importation of used vehicles into Australia would convey a range of adverse consumer outcomes. In particular, consumers would be unable to verify the ownership history of vehicles and would therefore be unaware of whether the vehicle had been rebuilt, stolen or had its odometer tampered with. Currently, Australian Compliance requires that a vehicle must have a sticker affixed to it which indicates the vehicle's build date. This method of validating a vehicle's actual build date is clearly open to fraud, leaving consumers exposed to further uncertainty as to a vehicle's history. These matters are compounded by the fact that there is no international system for tracking the ownership of vehicles and even with the introduction of new regulations and inspection requirements it would be difficult to address all of the these matters.

It was also understood from the New Zealand Experience that imported second-hand vehicles can lack servicing and repair histories in accordance with manufacturer specifications. It is understood that there is a relatively higher incidences of a lack of service books and history compared with other second-hand vehicles.<sup>38</sup> As a consequence, if such vehicles have not

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<sup>37</sup> AFC, AELA and AFLA response to Productivity Commission Position Paper, 14 February 2014, p4.

<sup>38</sup> AFC, AELA and AFLA response to Productivity Commission Position Paper, 14 February 2014.

## Dealer Group against Used Car Imports (DGAUCI)

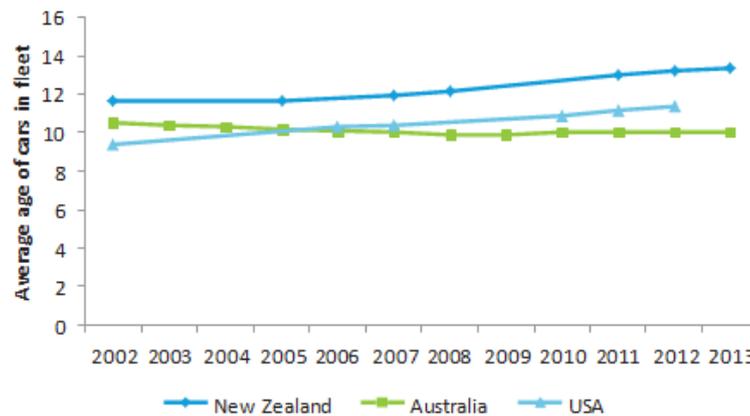
been properly maintained and serviced, servicing costs are likely to rise because of work not previously carried out and reliability and safety may suffer. In addition, the suitability or availability of parts may become an issue as repairers do not generally stock parts for models that are not ordinarily imported into Australia.

### Conclusion

According to the Deloitte Report, the New Zealand experience with large scale imports of used vehicles has had the following adverse impacts:

*"There have been many benefits from New Zealand's policy regarding imports of used cars; however, this may have been at the cost of both the age and the safety of the New Zealand car fleet. Data from 2013 shows that the age of the New Zealand fleet has been steadily increasing over time – especially in comparison to the age of the Australian fleet. Chart 5.2 shows the age of the car fleet at several points in time and indicates a clear upwards trend of vehicle age in New Zealand as compared to a downwards trending fleet age in Australia.*

Chart 5.2: International age comparison of car fleets



*One of the major concerns associated with an ageing vehicle fleet is safety. Though it is possible that the initial introduction of the New Zealand policy to remove large scale used car import restrictions resulted in a short term increase in safety of the New Zealand fleet, the long run effects appear to have had the opposite effect. Studies undertaken by the Monash University Accident Research Centre (MUARC) into the crashworthiness of vehicles have found that vehicle age in New Zealand has a statistically significant effect upon safety. In addition to this, MUARC constructed models of crashworthiness for the overall New Zealand fleet as compared to used car imports; it was found that there is a distinct difference in the safety of these vehicles with imported used vehicles having a higher risk of crash including a higher risk of injury and death."*

## **6. Risk/Impact and Cost/Benefit analysis of relaxing restrictions on the importation of used cars**

### **6.1 Assessing the problem**

As set out in section 3 and 4 of this submission, it has not been demonstrated that there is any market failure in relation to the current regulatory framework for the importation of used vehicles.

The Productivity Commission's draft finding stated that the current policy rationale in the MVS Act is weak, however it failed to advance an alternative policy rationale. In fact, the Productivity Commission went on to find that appropriate measures to regulate consumer protection, safety and environmental issues are still required.

Furthermore, the Productivity Commission has failed to demonstrate that the decline of the Australian automotive manufacturing industry is in anyway assisted by any relaxation in the requirements on the importation of overseas vehicles.

Finally, the research on which the Productivity Commission relied when making its draft finding and final recommendations was based on a random and small sample and conveys a wholly inadequate basis for introducing any change to the current policy and regulatory framework.

The MVS Act's overriding objectives are to increase the safety of vehicles and the reduction of environmental pollution. Both overriding objectives have been met and the MVS Act has operated successfully since 2005 without amendment. Accordingly, there is no market failure reported either by the Productivity Commission or pursuant to the issues paper released last year by DIRD in relation to the MVS Act.

### **6.2 Objectives of government action**

According to Diagram 1 of the 2014 DIRD Options Discussion Paper (reproduced above), the overriding public policy objectives which are supported by the MVSA still concern the promotion of increased safety standards and reduced adverse environmental effects.

With these objectives in mind, Option 7 of the Options Discussion Paper raises a number of key issues in relation to the impacts and risks associated with implementing the Productivity Commissioner's recommendations.

To assist in determining the full extent of these impacts and risks, interested parties were invited to provide a response to the identified issues generally, or to a number of questions posed by the Department, including:

*"Question 7.17 – What risks would a regulatory framework need to address if barriers were reduced on vehicle imports?"*

*"Question 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?"*

In response to these issues and questions, we have provided our detailed analysis of the risks and impacts associated with pursuing the course of action contemplated by the Productivity Commission and Option 7 below and in the Deloitte Report.

### **6.3 DIRD Discussion Paper – Potential Options**

The DIRD Discussion Paper considers the following broad options, having regard to the MVS Act objects, outcomes and policy objectives:

- Do nothing or repeal the Act;
- Modernise and strengthen the legislation;
- Harmonise with international standards and streamline certification;
- Reduce the barriers to the information of second-hand quality vehicles and personally imported new vehicles (generally described as Option 7); and
- Consolidate import concession scheme arrangements.

The DGAUCI notes that not all the options are mutually exclusive and has therefore provided brief comments below in relation to each of these broad options. As mentioned above, the main focus of the DGAUCI submission will be on Option 7, which is subject to a detailed cost/benefit analysis in section 6.4 below.

### **Do nothing or repeal the MVS Act – Options 1 and 2**

The DGAUCI agrees that the do nothing option will miss a valuable opportunity to improve and modernise the current legislative framework to reduce regulatory compliance costs and to strengthen the Governments ability to deliver on the policy objectives set out in section 6.2 above. It appears that the existing Registered Automotive Workshop Scheme (RAWS) has not been successful in limiting the import growth of used vehicles which has grown strongly to more than 50,000 imports in 2011-12.

The DGAUCI is strenuously opposed to repeal of the MVS Act as not only vacating vehicle standards policy contrary to consumer and environmental interests but also risk different standards and approaches being applied across State and Territory jurisdictions with increased regulatory burden and costs.

### **Modernise and strengthen the legislation – Options 3 and 4**

The DGAUCI is supportive of initiatives to update the Act to remove administrative complications, improve definitional clarity, improve linkages with other relevant legislation and remove any duplication in information collection. This needs to be done in consultation with industry and other relevant stakeholders and be subject to cost/benefit analysis. In developing its approach, the DIRD should also examine whether the efficacy of the current legislative framework is being subverted, as there is evidence of strong growth in imported used vehicles in recent years.

### **Harmonise with international standards and streamline certification – Option 5**

The DGAUCI supports the gradual aligning of ADRs with UN automotive standards regulations where appropriate and acceptable to Australian standards of safety. Australia has a history of determining its own safety standards to meet community expectations in a number of key areas such as pharmaceuticals and consumer products e.g. toys and bike helmets.

The DGAUCI does not comment on the preferred option for achieving greater harmonisation with international standards, however, the DGAUCI strongly recommends that the DIRD consult closely with major motor vehicle importers and manufacturers in this regard.

### **Consolidate concession scheme arrangements – Option 6**

In principle, the DGAUCI is supportive of consideration being given to the reduction in the number of individual schemes through which a second-hand vehicle can be imported provided that the objects of the MVS Act are maintained and subject to cost/benefit analysis. As stated earlier in this submission the strong growth in imported used vehicles in recent years requires examination and consideration as to whether the existing concessional schemes are being subverted.

## **Reduce the barriers to the importation of second-hand vehicles and personally imported new vehicles – Option 7**

The DGAUCI is strenuously opposed to a reduction in the barriers to the importation of second-hand vehicles as set out fully in section 6.4 of this submission as it would substantially undermine the MVS Act objects of consumer safety and protection of the environment. As the DIRD discussion paper acknowledges any differences in lowering imported car prices and likely to be modest at the lower (cheaper) end of the car fleet.

Section 6.4 clearly illustrates that such benefits would be substantially outweighed by the risks and costs of making such a policy change. In addition given that the regulatory regime is also based on industry practices and self regulation it is extremely doubtful that such risks could be effectively managed by enacting new regulations.

### **6.4 Risk/Impact and Cost/Benefit analysis for Option 7**

#### **6.4.1 Impact on consumer safety – High Risk/High Cost/Low Benefit**

There is a clear case that road safety will be undermined by the relaxation of the current restrictions on the importation of used cars. It is indisputable that new cars are safer than used cars, and with higher risk drivers (P-Plate and older drivers) often driving older cars, what standards will grey imports meet?

Safety is an extremely important issue to be considered in the context of the proposed amendments to the MVS Act. There are at least 1,400 fatalities and 32,500 serious injuries each year in Australia at an estimated cost to the Australian economy of \$27 billion annually.<sup>39</sup>

The fatality rate in Australia has reduced significantly over the past 30 years, with the annual national road fatality rate declining from 22.3 to 6.1 deaths per 100,000 people between 1980 and 2010. This is despite the fact that there has been population growth of 50 per cent and a 100 per cent increase in the number of registered vehicles on Australian roads.<sup>40</sup>

The significant reduction in road fatalities over the past 30 years comes as a result of the comprehensive legislative framework that Australia has developed, which includes the MVS Act. It is important to remember that the primary aim of the MVS Act was to adopt a set of national ADRs to ensure all Australian citizens benefited from a high level of vehicle safety.<sup>41</sup> This approach remains unchanged, as evidenced by the objectives of the National Road Safety Strategy for 2011-2020, agreed to by Federal, State and Territory governments which aims to reduce the annual numbers of both fatalities and serious injuries on Australian roads by at least 30 per cent over the next 10 years through a variety of mechanisms, one major component being vehicle safety.<sup>42</sup>

There is overwhelming evidence that the risk of death or serious injury in crash is lower for later model vehicles.<sup>43</sup> For example, the risk of death or serious injury in a vehicle made in 2007 is about half of that of a vehicle made in 1987.<sup>44</sup> The average age of vehicles in Australia is approximately 10 years, allowing the importation of used vehicles will lead to increases in the average age of vehicles on Australian roads which will increase the risk of death or serious injury.

Allowing the mass importation of used vehicles into Australia is likely to compromise the National Road Safety Strategy which has as its objective a reduction in the

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<sup>39</sup> Australian Transport Council, "National Road Safety Strategy 2011-2020" 20 May 2011, p4 and 7.

<sup>40</sup> Australian Transport Council, "National Road Safety Strategy 2011-2020" 20 May 2011, p7.

<sup>41</sup> Explanatory Memorandum, *Motor Vehicles Standards Bill 1989* (Cth).

<sup>42</sup> Australian Transport Council, "National Road Safety Strategy 2011-2020" 20 May 2011, p3.

<sup>43</sup> Australian Transport Council, "National Road Safety Strategy 2011-2020" 20 May 2011, p74.

<sup>44</sup> Australian Transport Council, "National Road Safety Strategy 2011-2020" 20 May 2011, p74.

average fleet age in Australia and an enhanced safety commitment from the commercial sector. In particular, the National Road Safety Strategy has a focus on commercial vehicle sector which has not benefitted from the same level of safety improvement as exists in the passenger car segment.

Aspects of these concerns are recognised in the Department's observations in its Options Discussion Paper that:

*"It will be important that gains across vehicle safety, environmental performance and anti-theft improvements are not lost through a rise in the average fleet age that could be attributed to a significant increase in the number of used imports."*

and

*"While the gains in vehicle safety and environmental protection have been achieved in the context of a static fleet age, new vehicle safety features can take several years to penetrate and improve the vehicle fleet as a whole. In fact, encouraging a future decline in the average age of the vehicle fleet would be a desirable outcome of any legislative changes from a safety and emissions perspective."<sup>45</sup>*

It seems clear from the above that the risk of serious injury as a result of the decrease in vehicle safety standards associated with an ageing vehicle fleet, far outweighs any perceived benefit of the availability of cheaper used cars.

#### **6.4.2 Impact on consumer risk profile**

Where a consumer purchases a new car in the Australian market which is fit for sale, the consumer carries minimal risk in relation to defects. The brand must comply with the Australian Consumer Law and its own express warranty. The brand provides a service and dealer network to provide consumers with assurances in relation to the purchase of a new car. The new car will have an expected residual value based on the history of the market.

With an imported used car the consumer carries all the risk. It is very unlikely that the importer will be able to provide the same level of service, warranty and dealer network support. The importer may not be a reputable company unlike new car dealerships which are all sophisticated small businesses. The relaxation of the current restrictions on the importation of used cars will also undermine the retained market value in new cars.

#### **6.4.3 Consumer decision making**

The Deloitte Report found that cars sold in Australia often have a higher specification as compared to international markets such as the UK and Japan. According to the Deloitte Report:

*"This difference in specification can cause confusion for consumers when comparing car prices in Australia to overseas markets. This confusion can be captured and described by the concepts of information asymmetry, heuristic decision making, and salience.*

*If import restrictions on used cars were to be removed, information asymmetries may arise in the short run as it is unlikely that there will be sufficient information for consumers to be aware of differences in the same model of a car when it is sourced from different markets around the world.*

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<sup>45</sup> Department of Infrastructure and Regional Development "Options Discussion Paper: 2014 Review of the Motor Vehicle Standards Act 1989" September 2014, p43.

*Such information asymmetries may lead to consumers overestimating the value of cars they are purchasing and making a sub-optimal purchasing decision. In the long run, it is likely that information issues would be resolved through experience and through information available on car purchasing.*

*Regardless of whether information asymmetries are resolved in the long run, consumers face a behavioural issue relating to salience and heuristic decision making. As articulated previously, consumers when faced with complex choices (such as purchasing a car) tend to make a decision based on what is meaningful to them, and employ mental shortcuts to arrive at a decision.*

*An example illustrates this concept effectively. In the UK, the BMW 3 series is sold as a prestige fleet model car, whereas the same model is sold as a luxury private car in Australia. Correspondingly, the BMW 320i is at a much higher specification in Australia than in the UK but also has a much higher price tag. For a consumer considering the purchase of such a luxury car in Australia, two of the main considerations that are salient (or relevant) to the consumer are brand, model and price. As brand and model are more salient to a customer they are likely to make the following heuristics based decisions:*

- BMW is a luxury brand in Australia, so a BMW from the UK is also a luxury car*
- The model of the used import is the same as the model as the Australian version, hence they have the same level of features.*

*Such a decision process will likely lead a consumer thinking that a used import of a BMW 320i from the UK is the luxury car good that they are interested in and then make a decision to purchase the car entirely on price. This would lead the consumer to buying the UK used import even if it may not be the car they wanted to purchase."*

As mentioned above in the Executive Summary, vehicles provided for the Australian market have a range of specific design features and variations that are appropriate for Australian roads and Australia's harsh climatic conditions. To elaborate on a few of the examples given above:

- Air-conditioning systems for Australian vehicles are designed to run on "R134a" gas. In contrast, AC systems in Europe and other markets run on "R1234yf" gas. This conveys that a vehicle which is brought in from another market may not be able to be re-gassed in Australia. In addition, there would be significant expense involved in converting the vehicle, if this is at all achievable.
- Cooling fans for certain Australian Mercedes-Benz models are designed to cater for increased towing capability in hotter regions. Identical models brought in from other markets do not include this design feature. Consumers who use these imported models for this purpose, and in similar circumstances involving excessive heat, therefore run the risk of damaging the vehicle engine and transmission. They also run the risk of breaching the terms and conditions of the vehicles "Global Warranty", rendering it void.
- Certain vehicles may be brought in with factory fitted towbars which will not be compliant with current ADR rules and market conditions.

Aside from potentially misleading consumers who are making comparative decisions in relation to the purchase of a vehicle, these specification differences also directly contribute to adverse consumer safety outcomes and difficulties in determining the equivalency of vehicle prices across markets.

#### 6.4.4 Impact on price of new vehicles – High Risk/High Cost/Low Benefit

New Car affordability is at the best level since 1976 according to the CommSec Car Affordability index. Over the last 10 years average weekly wage has increased by 55% while car prices have fallen.

A key policy driver for the relaxation of the current restrictions on the importation of used cars is the perception that car prices in Australia are significantly higher than equivalent vehicles sold overseas.

The Deloitte Report considered a comparison of international car prices carried out by the Federal Chamber of Automotive Industries for similarly equipped right hand drive vehicles sold in the UK, New Zealand and Australia. According to the Deloitte Report:

*"The FCAI analysis indicated that for many models of car Australian prices were at least comparable and in many cases cheaper than overseas market. An important caveat on the analysis is that prices reported were manufacturers' list prices and excluded stamp duty and registration costs."*

##### Price comparison

	Australia	New Zealand	UK
Toyota Corolla Ascent Sport Hatch	AUD \$23,540	NZ\$37,490	AUD\$24,250
Mazda 3 Neo Hatch	AUD\$23,792	NZ\$32,795	AUD\$31,405
BMW 3 series 328i	AUD\$69,400	NZ\$88,900	AUD\$68,808
Mercedes-Benz ML350 BlueTec Diesel	AUD\$102,236		AUD\$100,410

Source: FCAI (2014), Vehicle price and specification comparison, Available online at <http://www.fcai.com.au/specification/vehicle-price-and-specification-comparison>

According to the Deloitte Report:

*"If Australia was to remove import restrictions allowing the large scale importation of used cars there would likely be a number of implications for the local economy. Economic theory would suggest that an increase in supply of goods in a particular market will result in both increases in quantities of the goods sold and a decrease in the level of prices. Considering the Australian retail car market, theoretically the removal of current large-scale used car import restrictions would result in a decrease in the price of used cars and may also result in a decrease in prices of new luxury cars. However given the high level of car ownership in Australia, the removal of the current restrictions is unlikely to result in a material change in the overall number of cars sold."*

*Key changes in the market that will occur as a result of removing current import restrictions will relate to substitution effects. It is likely that in response to price changes consumers may substitute planned purchases of local used cars with imported used cars and, to a limited extent, local new cars.*

*If the Australian Government was to remove current restrictions on large scale importation of used cars, it is likely that there will be an effect on prices; given the complexities, estimation of the magnitude of such a change is difficult. However, as the following analysis requires an indication of how price might change, we have considered an indicative range of price changes based on case studies of markets similar to Australia (see above Table). It is likely that prices for cars in the prestige and luxury end of the market will*

*experience the greatest drop in price, we consider that this will be most applicable for luxury cars priced at over \$150,000.*

*An important consideration when looking at price impacts is that if Australians start importing used cars from countries such as Japan and the UK, demand pressures may cause the price of used imports to rise. Although New Zealand enjoyed relatively free access to the Japanese supply of used cars in the 1980s and 1990s, in recent years there have been an increasing numbers of competitors for this supply resulting in price increases. Given that Australia has over five times the population of New Zealand, if Australia were to start competing for this supply as well it is conceivable that, for many parts of the market, consumers would not have access to significantly lower prices.*

*As used cars are a substitute good for new cars, changes in the prices of used cars are likely to affect the prices of new cars. However, as used cars are not a perfect substitute for new cars, this change in price is likely to have a lower magnitude than the change in price of used cars.*

*Considering the above, indicative price changes for the retail car market may include:*

- No significant change for new cars in the volume segment of the market*
- Minor price decreases for used cars in the volume segment of the market*
- No significant change for new cars in the prestige segment of the market*
- Minor price decreases for used cars in the prestige segment of the market*
- Low to medium price decreases for some new cars in the luxury segment of the market*
- Medium price decreases for used cars in the luxury segment of the market."*

#### **6.4.5 Consumers – Summary**

The general summary of the likely impact on consumers is well set out in the Deloitte Report as follows:

*"Implications for consumers of the removal of restrictions on the large scale importation of used cars are complex. It is reasonable to expect that such a policy will have some benefits to customers; however, there are also other considerations that need to be taken into account including increased operating costs, and consumer protection issues.*

*Benefits likely to be derived for consumers relate to decreases in car prices and an increased choice of cars (there are often different models available in other countries). The size of benefits accruing to consumers is likely to be determined by the magnitude of price changes and the availability of genuinely different car models.*

*Though there are many upfront financial benefits of used import vehicles, it is likely that used import cars will have higher operating costs than similar cars in the Australian market. These costs are likely to stem from three major areas: parts and servicing and insurance.*

*In the short run, it is likely that there will be limited local availability of some parts for used import cars and as such servicing costs will be higher as these parts will need to be supplied from the source market. According to Australian motor vehicle dealers, given a lack of scale, it is probable that costs of importing parts will be very high. Experience from New Zealand has suggested that this is so much of a problem that often, in order to obtain unavailable parts, mechanics will resort to taking apart other used import cars for parts. In the long run, it is possible that a parts market will emerge to service used imports in Australia, however, this has not been the case in New Zealand (possible due to its small market size).*

*Insurance costs are another factor which may significantly increase the operating costs of used import cars. Currently, insurance arrangements in Australia for Specialist and Enthusiast Vehicles (SEVs) are handled by specialty insurance firms which charge very high premiums to insure used imports. Another possible problem related to insurance is that, as has been the case in New Zealand, some insurers will not offer insurance for imported used vehicles."*

#### **6.4.6 Impact on price of used vehicles – High Risk/High Cost/Low Benefit**

The findings of the Deloitte Report are set out below:

*"Although it is not expected that there will be a material change in the overall number of cars sold, it is likely that consumers will substitute planned purchases of local used cars with imported used cars for local used cars and, to a limited extent, local new cars. In explaining these changes it is useful to differentiate between two types of demand in the Australian retail car market:*

- *Replacement of the existing fleet*
- *Expansion of the existing fleet.*

*Replacement of the existing fleet occurs as consumers trade in and upgrade their existing cars. This occurs usually as either a result of a desire for a lifestyle improvement or a need to replace an ageing car. It is expected that the rate of replacement will remain the same, however, substitution will occur between imported used cars and local used cars and local new cars.*

*Expansion of the existing fleet occurs as wealth increases over time, more people are able to purchase cars and some people are able to purchase multiple cars. As described in Chapter 3, in recent years increasing affordability of cars has strongly contributed to the expansion of the Australian car fleet to the point that for every 10 Australian residents there are nearly 8 cars. Given that a certain portion of the Australian population is not able or not willing to drive it is likely that this level of car ownership is close to a level of 'full car ownership'. In light of this, it is not expected that a price decrease brought about by used vehicle imports will drive a material increase in demand for cars in the Australian market.*

*As discussed above, it is expected that if restrictions on the large scale importation of used cars were to be removed that there would be a degree of substitution between purchases of:*

- *Imported used cars and Australian used cars*
- *Imported used cars and Australian new cars.*

*Assuming the approximate levels of price changes described above, it is likely that there will be the following substitution effects in the Australian car market.*

- *A low level of substitution between Australian new cars and used imports, mostly in the luxury car segment of the market*
- *A medium to high level of substitution between Australian used cars and used imports.*

*These substitution effects will have a range of outcomes for the Australian car market:*

- ***Volume of cars in the fleet*** – *as discussed previously, this is not expected to change as a result of the suggested policy change.*
- ***The ratio of new to used cars transacted each year*** – *the ratio of new to used cars is expected to decrease, indicating that there will be an increase in the age of the fleet. This effect is likely to be small as substitution effects between local new cars and imported used cars are expected to be small.*
- ***The age profile of the fleet*** – *changes in the overall age of the Australian car fleet are highly dependent upon the age of cars being imported from source markets. It is possible that the average age of the Australian fleet will decrease if imported used cars are younger than similar Australian used cars being sold in the market, however, if used cars being imported are older than similar Australian cars being sold in the market this could result in an ageing of the Australian fleet. The ratio of new to used cars transacted each year will also influence the overall age of the Australian fleet as any substitution between new and used cars will result in an ageing of the fleet. On balance, it is likely that there will be some degree of ageing of the Australian fleet, however, the extent of this is highly dependent upon the age of used imports.*
- ***Dilution of cars built for Australian market*** – *cars built specifically for the Australian market have been designed to handle the Australian climate, roads and fuel. If there is a high degree of substitution between cars built for the Australian market (Australian used and Australian new) and imported used cars, there may be a decline in the safety, security, reliability and environmental standards of the Australian fleet. Assuming a medium level of substitution between imported used cars and cars made for the Australian market, it is likely that there will be a significant dilution effect having a range of implications for the Australian market."*

#### **6.4.7 Impact on Dealers – Disruption**

The Deloitte Report found that any change to the existing arrangements relating to import restrictions of used cars is likely to disrupt the retail car dealership in Australia. According to Deloitte:

*"Any change to existing arrangements regarding import restrictions of used cars is likely to disrupt the retail car dealerships in Australia. One of the strongest disruptions would be in the area of quantity and price. It is expected that in the short term, dealerships will suffer losses to profitability as prices may decrease and sales of the local new and used cars decrease. This loss in profitability is likely to be exacerbated by thin profit margins and the reliance of dealerships on the sale of a new or used car to generate a stream of future revenue. In the medium to long run, it is expected that dealerships*

*will be able to adapt and may even diversify their existing business model to include used car imports, however, this will require dealerships to cope with disruption to their business model. Other implications for dealerships include the:*

- *Devaluation of stock – Any decrease in market prices of new and used cars will result in a devaluation of existing dealerships' car stock. Depending on the level of stock holding this could be a significant cost for some dealerships.*
- *Recall management issues – Current recall management systems do not have processes in place for dealing with recall of used imported vehicles. This may result in significant brand costs for dealerships (and manufacturers) as when recalls occur, owners of recalled used import vehicles will not likely be informed of a recall and as a result are likely to have a negative perception of a particular car brand. Currently, recall management systems are managed effectively through industry self-regulation and failsafe government regulation.*

*The above effects are likely to be more pronounced in the luxury car segment as it is estimated that substitution between purchases of new cars and used imports will occur."*

### **6.4.8 Impact on parts and service of used car imports – High Risk/High Cost/Low Benefit**

The removal of restrictions on imported used vehicles will result in an increase in the number of models and makes that are not currently available through the existing dealership network in Australia.

Where a particular model is not available from a distributor in Australia (assuming there is a distributor), it is likely that the distributor will be unable to provide spare parts or servicing for that vehicle in Australia. This will lead to higher cost of repairs for imported vehicles as spare parts must also be imported where they are unavailable in Australia.

Unsupported models and makes of motor vehicles can also lead to inadequate servicing due to lack of diagnostic tools suitable for the servicing of the motor vehicle.<sup>46</sup> Inadequate servicing has a serious impact upon the safety of the vehicle.

Whilst there is an argument that the Australian market might respond similarly to the NZ market, namely by establishing a number of specialist importers of vehicle parts and servicing equipment, this may take a considerable amount of time and also raises a number of additional concerns in relation to the regulatory burden associated with monitoring these emerging businesses.

### **6.4.9 Impact on community**

Motor vehicle dealers create goodwill in their communities, through employment, training, apprenticeships and their support for charitable and community causes. This is reflected in the sponsorship of local schools and sporting clubs and is on display on any given Saturday morning when many thousands of young Australian boys and girls are participating in community and sporting activities with the financial support of their local new car dealer. It is also reflected in the provision of motor vehicles to hospitals, charities, police and other community organisations at no cost.

In particular, as mentioned above, motor vehicle dealers play a significant role in supporting the training of apprentices and the skilling up of the next generation of

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<sup>46</sup> Victorian Automobile Chamber of Commerce submission to the Productivity Commission "Australia's Automotive Manufacturing Industry – Position Paper January 2014" 13 February 2014 p4.

vehicle mechanics and technicians. These factors are crucial in maintaining the current quality standards of Australia's second-hand vehicle fleet.

An extensive new car dealer network provides consumers a convenient opportunity to purchase vehicles and service vehicles. The new car dealer also facilitates the purchase of a new car when it accepts used cars in part exchange for a new vehicle.

New car dealers operate on very thin profit margins and the industry currently faces numerous challenges to its current business model. The prospect of mass importation of used cars is a further threat to the new car dealership and any business failures would severely impact local communities and consumers.

New car dealers would be at liberty to import used vehicles like anyone else and in fact given their current skills, experience and facilities they are in many ways best placed to take advantage of any deregulation in the importation of used cars. However, new car dealers have a genuine belief that the proposed relaxation of the current restrictions on the importation of used cars is bad for the automotive industry generally.

#### **6.4.10 Impact on Distributors in Australia – High Risk/High Cost/Low Benefit**

Australia has a highly competitive automotive market. Consumers have approximately 66 brands available to a market that accounts for sales of approximately 1 million motor vehicles annually.<sup>47</sup> This compares with the United States of America which has approximately 51 brands available and sales of approximately 13 million motor vehicles annually.<sup>48</sup>

The result of a highly competitive market is intense competition amongst existing brands. If a significant new competitor, being imported used vehicles, is introduced it may result in a number of motor vehicle brands withdrawing from the Australian marketplace. In recent years we have already seen a number of brands withdraw from the Australian marketplace such as Opel and SAAB due to the intense competition.

Luxury car distributors, such as Mercedes-Benz and BMW, sell approximately 40,000 vehicles per annum. Even more prestigious brands such as Aston Martin and Ferrari sell only a few hundred vehicles per annum. Any significant change may result in these brands making a decision to stop selling new cars in the Australian marketplace. This will lessen competition and lessen choice for the consumer.

#### **6.4.11 Impact on distributor warranties – High Risk/High Cost/Low Benefit**

Consumers who currently purchase motor vehicles in Australia have the benefit of a manufacturer warranty and a statutory warranty. The statutory warranty deems not only the manufacturer but the importer (in this case motor vehicle distributors) liable for failing to meet the requirements of the Australian Consumer Laws.

These are benefits that will not be available to consumers who import new and used vehicles directly from overseas as there is no statutory warranty protection for those consumers under the Australian Law. Additionally, local distributors will not be legally responsible for the vehicle and will not be in a position to provide support for models and makes of vehicles that are not available in Australia. It is also likely that it will be impossible for distributors and consumers to track the owner of every vehicle produced internationally.

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<sup>47</sup> Australian Automotive Dealer Association submission "*Productivity Commission Position Paper January 2014*" 13 February 2014, p5-6.

<sup>48</sup> Australian Automotive Dealer Association submission "*Productivity Commission Position Paper January 2014*" 13 February 2014, p5-6.

Even if an individual purchases an imported used vehicle from an importer, unless the importer is a reputable and substantial company it is likely that consumers will face great difficulty in enforcing statutory guarantees. In particular, it is likely that emerging vehicle importation businesses will not have the required capital backing to meet consumers warranty claims, leaving consumers without protection. In recent years, this problem has forced some newly established dealers into voluntary administration as they were unable to provide the necessary assurances regarding their capacity to meet consumer warranty claims.

In these circumstances, it is unlikely that a consumer would be able to successfully pursue a claim against an international supplier or a small emerging importation business. This will undoubtedly have an effect on the number of complaints made to the relevant Fair Trading Offices. In this regard, it should be noted that NSW Fair Trading already lists used car complaints in its top 10 complaints. Additionally, this increase in disputation will cause increased compliance costs.

These concerns are recognised in DIRD's observation in its Options Discussion Paper that there is:

*"a risk that increasing the number of personally imported new vehicles and the importation of second-hand vehicles would weaken the successful enforcement of customer protection. Where a customer was able to purchase from an accredited importer, this risk may be mitigated, but where consumers purchase vehicles directly from an overseas vendor, it would be very difficult to enforce consumer protection legislation."*<sup>49</sup>

Not only will the lack of support by distributors for servicing, parts, warranty and lack of product recalls will lead to high dissatisfaction of consumers and, reputational damage to the distributor. It will significantly reduce the value and resale or trade-in price of imported used motor vehicles. Any significant reduction in the value of the resale or trade-in price will result in consumers retaining their imported used vehicles for a longer period which will invariably impact the age of the Australian fleet, the environment, safety and the number of new motor vehicles sold.

#### **6.4.12 Impact on the Environment – High Risk/High Cost/Low Benefit**

The environmental objectives will be undermined by the relaxation of the current restrictions on the importation of used vehicles. New cars meet higher emission standards than used cars. New cars continue to reduce emissions by more than 2% per year. What standards will grey vehicles meet?

It is an uncontested fact that the importation of used vehicles will result in an ageing fleet. There are serious environmental impacts that will emerge as the Australian vehicle fleet ages, such as increased carbon dioxide (CO<sub>2</sub>) emissions.

Environmental concerns in relation to Australia's aging fleet were a major reason for the amendment to the *Motor Vehicle Standards Regulations 1989* (Cth) in 2005 that prohibited the importation of used motor vehicles that were manufactured after 1 January 1989.<sup>50</sup>

The efficiency and CO<sub>2</sub> emissions of a motor vehicle are directly related to the age of the motor vehicle. For example, an average new motor vehicle manufactured in Australia in 2012 produces 199 CO<sub>2</sub> grams per km whereas an average new motor vehicle manufactured in Australia in 2002 produces 252.2 CO<sub>2</sub> grams per km.<sup>51</sup> That

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<sup>49</sup> Department of Infrastructure and Regional Development "Options Discussion Paper: 2014 Review of the Motor Vehicle Standards Act 1989" September 2014, p46.

<sup>50</sup> *Motor Vehicle Standards Amendment Regulations 2005 (No 1)* (Cth).

<sup>51</sup> AFC, AELA and AFLA submission to the Productivity Commission "Response to Australia's Automotive Manufacturing Industry Productivity Commission Position Paper" 14 February 2014, p7.

means motor vehicles manufactured in 2012 are, on average, 20% more efficient than a decade ago.

Not only will the ageing fleet generate more CO<sub>2</sub> emissions, it is likely that there will be more imported used motor vehicles on Australian roads due to the availability of potentially cheaper imported motor vehicles. This will mean that Australia will have a growing number of inefficient CO<sub>2</sub> emitting motor vehicles, which will be counterproductive to any environmental policy by the Commonwealth government to reduce CO<sub>2</sub> emissions in Australia.

The MVS Act has been effective in dealing with CO<sub>2</sub> emission efficiency through a series of reforms from 1989 to 2005. It would be imprudent to jeopardise the progress made over the past 25 years to develop high environmental and safety standards for motor vehicles in Australia.

#### **6.4.13 Impact on Insurers and Consumers– High Risk/High Cost/Low Benefit**

Currently, mainstream insurance companies do not offer insurance on vehicles with no history in Australia as the risk of the used import having been "rebirthed" or "written off" in another country is high. Used vehicles which have been tampered with or heavily damaged in the past clearly present a higher risk of serious injury to consumers who drive them. For these reasons, the main stream insurance companies do not provide insurance coverage.

This means that consumers can only obtain insurance from non mainstream sources. Such insurance is more expensive and less reliable than insurance obtained from mainstream insurance companies. The higher cost of insurance increases the likelihood of consumers not taking out insurance on these imported used vehicles. This has serious consequences where an uninsured imported used vehicle is involved in a serious accident where another individual is seriously injured, particularly in relation to who will have to cover the costs of nursing the not at fault party back to health, including covering the cost of repairs to the not at fault parties' vehicle.

#### **6.4.14 Impact on Financiers – High Risk/High Cost/Low Benefit**

Australian motor vehicle financiers already have had experience of the impact of increased used vehicle imports in Australia. According to the AFC, AELA and AFLA<sup>52</sup> under changed regulatory controls in 1995 the low volume scheme (LVS) resulted in used vehicle imports increasing by 65% per annum and 1999 grew by 90%. The submission states:

*"These increases were from a low base, but in 2000 the existing approvals allowed for around 50,000 LVS imports. Even those at relatively low levels, these imports created disruption to the operations of our members and particularly in specific to market segments where used vehicle values dropped significantly.*

*The May 2000 change in policy restored stability in this regard and our members were able to set the future value of vehicles with the knowledge that the importation of second-hand vehicles would not impact the future resale value".*

The submission by AFC, AELA and AFLA estimated that AELA and AFLA members combined were responsible for the financing of some 60 billion by way of personal loans consumer mortgage, finance and operating leases, higher purchase and chattel mortgage. According to the submission:

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<sup>52</sup> Submission dated 14 February 2014 to Productivity Commission Position Paper re draft finding 3.2.

*"A material change to this regime and dynamics as proposed in drafting finding 3.2 by the Commission has the potential to structurally alter the Australian vehicle market, creating relative uncertainty and diminishing the value of current investments made by our members.*

*The scale of this investment by our members, and the downstream economic benefits that are attributable to and flow from such investment are not insignificant to local and state economies and accordingly any change that has the potential to cause disruption must be carefully understood from a cost/benefit perspective prior to any change."*

#### **6.4.15 Impact on Taxes – High Risk/High Cost/Low Benefit**

The Commonwealth Grants Commission has reported that the States raised over \$8.1 billion in motor taxes in 2011/2012 which includes costs such as purchase, stamp duty and transfer duty. A reduction in the number of new car sales will have a knock on effect on the taxes collected such as the luxury car tax and stamp duty. In 2005-2006, the stamp duty revenue obtained from motor vehicle sales amounted to approximately \$600,000,000 and total taxes obtained from motor vehicle sales amounted to approximately \$1,400,000,000.

According to the AFC/AELA/AFLA submission considerable concern was expressed as to the likely significant adverse impact on State tax revenue and the Commonwealth budget as set out below:

*"In the time available, we have not been able to undertake detailed modelling in this regard, however a 20% reduction (ie. the differential in used vehicle prices example between Australia and New Zealand as quoted in the PP in the taxable base could put at risk up to a **billion dollars** of State motor tax revenue annually, or other things remaining equal.*

*It is also likely the Commonwealth budget would be impacted by lower income tax, GST and FBT revenues should vehicle values across used and possibly new vehicles be impacted, and to the extent that buyers substitute used for new vehicles. Further analysis is required to better understand this relationship and the likely quantum."*

#### **6.4.16 More Red Tape – Need to Establish an Effective New Regulatory Framework – High Risk/High Cost/Low Benefit**

In accordance with the Productivity Commission's views concerning the need to maintain current protections, and in light of the likely adverse impacts on vehicle safety, the environment and consumer protection, to name but a few concerns expressed in this submission, it would be necessary to implement a new national regulatory framework to regulate the importation of second-hand vehicles.

This regulatory framework would need to include appropriate standards and administrative arrangements, which would invariably need to incorporate the testing of each imported vehicle to ensure compliance.

Notwithstanding the establishment of a new regulatory framework to deal with used car imports there remains a real risk that not every gap will be filled. This is especially the case in Australia as our present regulatory framework also relies on existing International and National industry practices which are not likely to change to reflect any change in Government policy. It is therefore likely that Australian consumers will be exposed to unavoidable risks. For example, Australian motor vehicle distributors will not have access to the VIN numbers of imported vehicles and will not be able to notify owners in the case of a product recall which is geographically limited to the market where such vehicles were predominantly supplied. This will also be the case where the distributor in Australia does not have the relevant ownership details.

There is also a real concern that the implementation of a new regulatory framework may inadequately address key elements of the existing framework. In this regard, the efficacy afforded by the existing framework may be irreparably damaged and it would be difficult, if not impossible, to address this damage through re-regulation.

It is extremely doubtful whether the benefits to consumers of some reduction in pricing in new and used motor vehicles will be offset by increased regulatory costs to the Australian taxpayer and the loss of consumer protection, vehicle safety and environmental performance standards.

## **7. Conclusion**

- 7.1 It is clear from the detailed Risk/Impact and Cost/Benefit analysis set out in section 6.4 of this submission that the Productivity Commission is wrong in its view, and that the progressive relaxation of restrictions on the importation of second-hand passenger and light commercial vehicles will not have net benefits for the community as a whole. The adverse impacts on industry, consumers and government are also clearly demonstrated in the Deloitte Report.

It should be noted that the Productivity Commission qualified its view with the proviso that appropriate regulatory standards and compliance framework were put in place. It is also clear from this submission and the Deloitte Report that the *Motor Vehicle Standards Act* and the established framework of industry practices and regulations works in the interest of protecting environmental standards and the safety of Australian consumers from the time that a new vehicle is imported into Australia, through to reviewing, repair and possible recall of such motor vehicles. Any relaxation of such a regulatory framework would undermine such public policy objectives.

While some safety concerns could be partly addressed through re-regulation, implementation and enforcement is likely to be difficult and costly. Given the nature of used imported vehicles, which are uniquely individual rather than genuine, compared to a new imported vehicle, "type testing" or "batch sample" testing could not ensure adequate safety or environmental standards are met. In addition re-regulation is unlikely to address all safety concerns, particularly relating to product safety and recalls where the existing regulatory framework is based on industry practices and self regulation.

In summary, there is a clear and demonstrated public interest necessity of maintaining the current restrictions on the importation of used cars into Australia.