



Motor Trades Association of Australia



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To: As Addressed	From: M. Delaney
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Product Safety Review
 Competition & Consumer Policy Division
 Department of the Treasury
 Langton Crescent
 CANBERRA ACT 2600

Dear Sir or Madam

The Motor Trades Association of Australia (MTAA) extends its thanks to the Ministerial Council on Consumer Affairs (the Council) for the opportunity to comment on the review of the Australian consumer product safety system.

The Motor Trades Association of Australia (MTAA) is the national peak body for the whole of the retail, service and repair sectors of the Australian automotive industry. The Association is a federation of the motor trades associations and the automobile chambers of commerce in each state and territory as well as the Service Station Association Ltd (SSA Ltd) and the Australian Automobile Dealers Association (AADA).

MTAA's interest in this Review arises naturally from its representation of retail motor traders through their membership of the various state and territory motor trades associations and automobile chambers of commerce. These various state and territory bodies represent directly all of the different classes of trades concerned with the ownership and operation of motor vehicles. As such, MTAA and associated entities have an obvious vested interest in matters of product safety and welcome the opportunity to engage the Council on this matter.

This submission relates for the most part to the proposed introduction of a General Safety Provision (GSP) requiring that businesses place only "safe" products on the market.

I would note at the outset of this submission that MTAA and its Members recognise the fundamental importance of safety requirements in relation to all products and in particular the sale of new and used motor vehicles. Obviously the nature and potential risks of motoring require a substantial degree of consumer confidence in the safety of their purchase. MTAA would however like at this point in the review process to draw to the Council's attention some specific issues in relation to the application of such a provision to the motor trades that would be of concern to retail motor traders.

MTAA has some concerns in relation to the introduction and employment of the proposed GSP. As the Council has noted in its Discussion Paper, a GSP may involve ancillary obligations on wholesalers, distributors and retailers to ensure that products marketed through

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their businesses are fit for "safe" usage. MTAA is concerned that this requirement has the potential to impose unnecessary and unwarranted compliance costs on retailers and to additionally expose retailers to greater legal liability for the sale of what might be considered by some as "unsafe" products.

In particular the Discussion Paper makes reference to a potential requirement for retailers to refuse to promote non-compliant products. MTAA acknowledges that this may be a sound approach to the retailing of a wide variety of relatively uncomplicated products. However, the modern motor vehicle is an increasingly complicated piece of machinery and it would be quite beyond the large majority of motor vehicle retailers to assess with any satisfactory degree of certainty the safety of a new motor vehicle. I would point out that the manufacture and importation of motor vehicles is subject already to quite rigorous safety requirements.

If a GSP were strictly enforced, new motor vehicle dealers could be required to invest large sums of money into staffing and vehicle-specific training and the lag-time between purchase and delivery would be substantially increased to the detriment of dealers and consumers. Further, there would be an obvious and arguably unnecessary overlap in the duties of a manufacturer and a dealer.

On the other hand, if such a provision required only a basic inspection of the vehicle and that the dealer be relatively confident as to the safety of the vehicle, MTAA would argue that this would be in no way substantially different to present practices and as such invites the question as to how such a provision would benefit purchasers of motor vehicles or dealers.

In relation to second hand vehicles, the issue of assessing the relative safety of a motor vehicle becomes even more complicated. A second hand vehicle dealer is not in a position upon purchasing a used vehicle to ascertain the safety of the vehicle beyond a reasonable examination of the engine and "fit-out". Beyond confirming the ownership of the vehicle and its immediate road-worthiness, there is little a used vehicle dealer is capable of determining without going to considerable expense. Indeed, even the use of written-off vehicle registers to ascertain the accident history of a vehicle is far from reliable.

A thorough inspection of all of the safety features of a used vehicle would also involve dealers in greater expense and thus come at a cost to consumers. Take for example the sale to a dealer of a prestige vehicle containing front and side air bags. It remains the case that in many instances dealers are unable to assess whether an air bag is correctly fitted without first setting it off. This would of course require the replacing of the air bag which would come at a cost of thousands of dollars to the dealer. The dealer in turn would be forced to pass on the costs of such a test to the consumer, thereby lowering the initial sale price considerably.

MTAA would question therefore the extent to which a second hand vehicle dealer would be required to warrant that a vehicle is "safe" for its intended use and to what lengths a dealer would have to go to discharge his or her duty to that effect.

MTAA acknowledges that the Council has raised the issue of relative responsibility for safety generally in its Discussion Paper and has recognised the need to avoid placing onerous obligations on businesses further down the supply chain by ensuring that any obligations take account of the business' "reasonable capacity to assess a product, relative to the design responsibility of manufacturers." Nonetheless, I raise these issues with the Council by way of foreshadowing the potential consequences of a GSP too broadly applied.

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MTAA would also draw the Council's attention to the existing occupational health and safety requirements such as those that presently exist in New South Wales and already require that retailers supplying new or used plant eliminate or control the risks arising from the condition of the plant. While the application of such laws is naturally limited to the subject matter, the imposition of a further level of general product safety requirements may serve not only to further complicate the numerous responsibilities of motor vehicle and other machinery dealers but also require dealers invest in new risk management tools to assess and control their greater potential liability.

Once again I would thank the Council for the opportunity to comment upon these important issues and would reiterate that MTAA is not in principle opposed to a GSP. Nonetheless, MTAA is concerned that the obligations on retailers to ensure product safety might potentially become overly onerous to the detriment of both consumers and dealers.

Should you have any questions in relation to the matters raised above, please do not hesitate to contact me.

Yours sincerely



MICHAEL DELANEY
Executive Director

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