20 June 2005

AUSTRALIAN AUTOMOBILE ASSOCIATION

Consumer Product Safety
Productivity Commission
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Belconnen ACT 2616

Dear Sir/Madam,

REVIEW OF THE AUSTRALIAN CONSUMER PRODUCT SAFETY SYSTEM - IMPACT OF REFORM OPTIONS

Thank you for the opportunity to present this submission on behalf of the Australian Automobile Association. We would welcome the opportunity to expand on the discussion following the release of the Inquiry's draft report.

Kind regards,

Lauchlan McIntosh
EXECUTIVE DIRECTOR

(enclosure)

Constituent Members

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Introduction

Australian Automobile Association (AAA) represents the interests of over 6 million motorists through its State and Territory motoring Clubs and Associations. AAA has a vital interest therefore in product safety, including the safety of car accessories such as child restraints and, more broadly, the safety of cars and roads.

We support the Government's intention to place a high priority on developing safer and more efficient consumer products. Indeed, the AAA through its State and Territory motoring associations - together with the road authorities - is constantly testing the safety of news cars through the Australian New Car Assessment Program (ANCAP), the safety of roads through the Australian Road Assessment Program (AusRAP) and the effectiveness of child restraints.

At the outset, we acknowledge that this Productivity Commission study is focused predominantly on the general consumer product safety system which applies to all consumer goods. We are also aware that there is a number of classes of goods such as road transport vehicles - a particular interest of AAA - that are subject to additional regulation. We also appreciate that the consumer product safety system also operates within a broader regime of product liability law, such as the common law of negligence—which extends to another area of AAA's interests, roads.

Thus while our interest may not be the specific focus of the study, we thought it appropriate to make a brief submission on some issues relating to cars and roads – which we see as products - as this may help inform the Commission more broadly in its considerations of the options put forward by the Ministerial Council on Consumer Affairs. These options, which relate to the safety of products, second-hand goods, provision of safety information, requirements of business to report on the safety of their products, funding of product safety research, the recall of unsafe products, are all relevant to the work of AAA.

We would also like to acknowledge at the outset the Commonwealth Government's support of ANCAP and AusRAP. The Commonwealth recently assisted ANCAP in testing side impact head protection of 4WDs and, more recently, has demonstrated its support for AusRAP through the National Road Safety Action Plan for 2005-06.

General road safety

In 2004, 1,594 people were killed and some 22,000 people seriously injured on Australian roads. The BTRE estimates that the total economic cost of this is in excess of $15 billion annually. Despite this loss of life and huge cost, AAA research indicates that motorists are relatively unaware of the scale of the road safety problem.

The research also shows that to some extent road crashes register as a recognised "issue" but, there is limited significant behavioural impact on the majority of drivers. Our qualitative research has shown that there is a degree of complacency and de-sensitisation about road crashes. Nearly six in ten drivers believe road deaths are stable or decreasing and there is a dramatic

underestimation of the national road toll - with the median estimate of about 500 being less than a third of reality.

Governments continue to provide information about road safety for motorists; through driver behaviour advertising; ANCAP and now AusRAP. Nevertheless, given motorists' lack of awareness of all the issues, we would like to see an increased role for governments in the provision of information, particularly with respect to the overall scale of the road safety problem and in terms of the important role that good road infrastructure plays in reducing the occurrence and severity of road crashes.

Vehicle safety

The National Road Safety Strategy aims to reduce the national road fatality rate by 40 per cent by 2010 (compared to 1999 figures). The Strategy estimates that improvements in vehicle safety standards could contribute one quarter of the targeted 40 per cent reduction in the fatality rate.

Consumer crash test programs, similar to ANCAP, are now operating world wide through EuroNCAP, USNCAP, Insurance Institute for Highway Safety (IIHS) programs, Japan NCAP, and Korean NCAP.

Numerous studies have shown that NCAP programs have resulted in new car occupant protection levels exceeding regulatory standards (known in Australia as Australian Design Rules (ADRs)). For example, at the 2003 Enhanced Safety of Vehicles (ESV) conference in Japan, Klaus Werkmeister and Nils Borchers of BMW said:

> *With established consumer tests like IIHS, Euro NCAP, US NCAP, Japan NCAP and Australian NCAP (which are well received by the public) the general vehicle passive safety performance considerably exceeds current legal requirements. For example, European legal requirements would receive a 1.3 star rating by Euro NCAP standards. However, current state of the art rating is a 4 star rating. Today more and more vehicles are even achieving the highest scores, with 5 stars. This shows one important trend in automotive business: it's not just legislation but mainly a private/public partnership, which paves the way to successful results.*

Research on behalf of the European Commission has found that each star awarded to a car by EuroNCAP can be associated with a reduction of almost 10% in fatal accident risk to occupants.

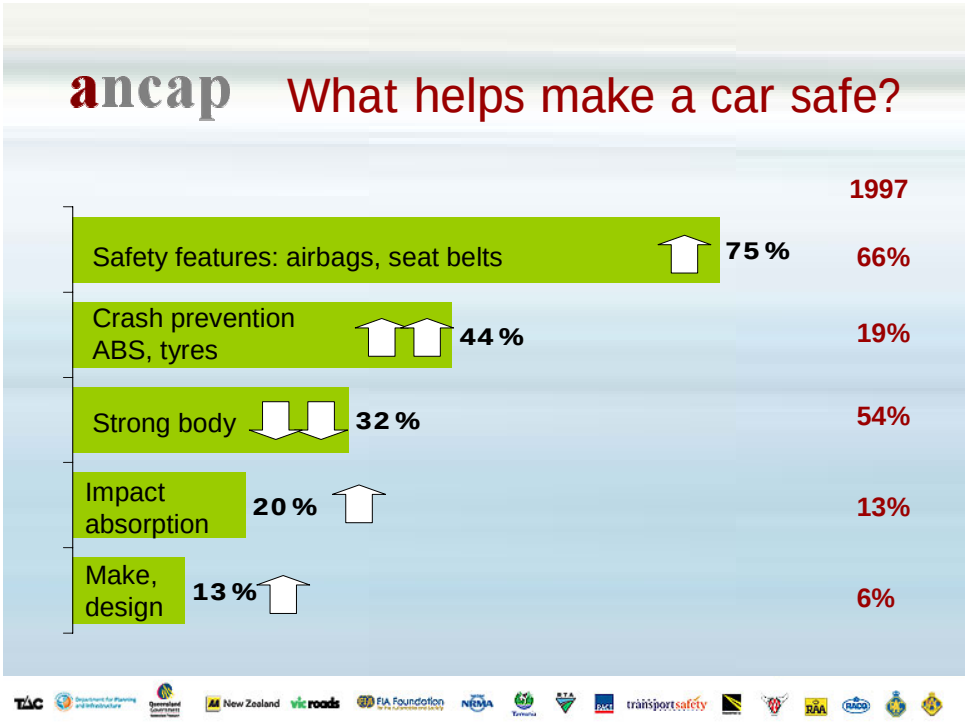
In addition to rating the safety of new cars, the Australian motoring clubs are also involved in rating the safety of used cars through the Used Car Safety Ratings (UCSR) program. These ratings are produced to help consumers identify the most protective models when buying a second-hand vehicle. Armed with this information, consumers can influence importers and dealers to buy and promote safer vehicles. Cars are rated according to two key criteria:

1. how much the vehicle is likely to protect the driver in a crash; and
2. how badly the vehicle is likely to hurt another driver in a crash.

Research conducted by ANOP Research Services (ANOP) on behalf of AAA indicates that consumers are better informed about vehicle safety issues than they were in the past. Much of this can be attributed to the provision of information by ANCAP and the UCSR. For example, our research shows that the community now has a reasonably accurate view of the safety advances in cars - something which manufacturers have recognised.

In response to an unprompted question about what makes a car safe in a crash, there is significantly greater awareness and understanding than found in an identical question in 1997 (see Figure 1). The “wrong” answer - the concept that a car is safer simply because it is stronger and sturdier - has dropped significantly. The community can now readily expound on what makes a car crashworthy. Motorists’ understanding of airbags, seat belts, brakes and other accident prevention features, impact absorption mechanisms and other design features have all increased—some massively.

Figure 1: What helps make a car safe?



Improvements in vehicle safety should continue as we move further into a global market requiring consistent benchmarks worldwide, and as the NCAP programs continue to drive these benchmarks towards world best practice.

However, ANCAP is not able to test every new car made available on the market and we are concerned that manufacturers are only compelled to conform to outdated crash test ADRs and are not obliged to publish these results. The process of updating performance based ADRs is excruciatingly slow. Clearly, market driven programs, like ANCAP, have the greatest potential to effect timely improvements in vehicle safety, and we suggest that the Commonwealth consider increasing its involvement in this area. One area in which the Commonwealth could act with relatively little cost is to require the labelling of new cars with relevant ANCAP safety ratings, as is currently done for fuel efficiency ratings.

Another area in which the Commonwealth could consider providing consumers with improved information relates to “de-specification”. There is evidence to suggest that new cars sold in Australia often do not have the same safety features fitted as in equivalent models overseas. This is an issue we raised in our submission to the Productivity Commission inquiry into Post-2005 Assistance Arrangements for the Automotive Manufacturing Sector (May 2002). Table 1 (below) provides examples of the sort of vehicle “de-specification” occurring.

The extent of vehicle “de-specification” in Australia is not limited to the cars or safety features shown in this cursory examination. The problem is widespread, and given the proven benefits of features such as airbags, this situation is far from satisfactory. Furthermore, if this case exists for the easily observed safety features, it raises the question of the extent of the problem with less easily observed features such as structural design, which also have a significant effect on vehicle crash worthiness.

Table 1: Safety features as standard on base models cars (July, 2004)

Vehicle	Location	ABS	Front Airbags		Side Airbags	
			Driver	Passenger	Torso	Curtain
Honda Accord	Australia	Yes	Yes	Yes	Yes	No
"Euro"	UK	Yes	Yes	Yes	Yes	Yes
Ford Focus	Australia	No	Yes	No	No	No
	UK	Yes	Yes	Yes	Yes	No
Holden / Vauxhall	Australia	Yes	Yes	Yes	Yes	No
Vectra	UK	Yes	Yes	Yes	Yes	Yes
Mazda 6	Australia	Yes	Yes	Yes	Yes	Yes
	UK	Yes	Yes	Yes	Yes	Yes
Toyota Corolla	Australia	No	Yes	No	No	No
	UK	Yes	Yes	Yes	Yes	Yes
Toyota Camry	Australia	No	Yes	Yes	No	No
	UK	Model not available				
Toyota Avensis	Australia	Model not available				
	UK	Yes	Yes	Yes	Yes	Yes
Toyota Echo /	Australia	No	Yes	No	No	No
Yaris	UK	Yes	Yes	No	No	No
Volkswagen Golf	Australia	Yes	Yes	Yes	No	No
	UK	Yes	Yes	Yes	Yes	Yes

Source: Manufacturers websites, July 2004

As ANCAP has demonstrated, the provision of objective consumer information has the potential to improve vehicle safety. The provision of information on so called “de-specification” might assist in ensuring that Australian new cars are equipped with at least the same level of safety features as overseas equivalents.

Recalls

AAA is involved in the process for recalling defective motor vehicles through the Committee Advising on Recalls and Safety (CARS). AAA constituent clubs also provide advice to DOTARS on defects reported by members, club vehicle inspectors, and road patrols.

Vehicle defects can have detrimental impacts on safety, performance and usability of cars. Hence, the provision of timely information on, and fixing of, defects is crucial for motorists. Generally, we believe the current system works well.

Safety of roads

The National Road Safety Strategy estimates that improvements in road infrastructure could contribute to half of the targeted 40 per cent reduction in the fatality rate.

The Australian Road Assessment Program (AusRAP) is an approach to road safety being led by the nation's State based motoring clubs and AAA. The program is closely aligned with the European equivalent, EuroRAP, which has been operating for a number of years.

Currently, reasonably objective and accepted measures exist of what constitutes a safe road user (essentially someone who is responsible and obeys the law) and a safe vehicle (one which rates well under ANCAP). AusRAP represents the completion of a "safe system" approach to road safety by providing an objective measure of the safety performance of roads. In doing so, AusRAP aims to increase awareness among road users of the risks they face when driving on various roads and the role that infrastructure improvements (such as the installation of guard rails) can play in reducing risk.

AusRAP has two standard protocols—risk mapping of casualty crashes and a star rating system using a Road Protection Score. Risk mapping is based on real crash and traffic flow data. Risk maps illustrate a road's safety performance by measuring and mapping casualty crash rates along a route.

The second protocol, the Road Protection Score, involves a "drive through" inspection in specially equipped vehicles to capture video images of the roads. From this information, inspectors will assess each road and assign star ratings based on major safety features and hazards.

We are pleased to note that the Commonwealth has demonstrated its support for AusRAP through the National Road Safety Action Plan for 2005-06.

Non Feasance

Following the abolition of non-feasance in the High Court decision in *Brodie*, we understand that the courts have ruled that road authorities are not liable in respect of a mere failure to act, but that they are now required to exercise reasonable care in their function as a road authority and to address risks to road users of which they are aware or ought to be aware. We also understand

that a road authority may be required to establish that it had a reasonable system in place for dealing with known risks (see Amos v Brisbane City Council). Since we are not experts in this area of the law, we consider that it would be appropriate for the PC to address the issue of non-feasance in its draft report and to report on the road safety implications of legal developments which have followed the Brodie decision.

Child restraints

Research by RACV indicates that child restraint systems provide better protection for children than adult seat belts provide for adults. Children travelling in correctly installed restraints are 70% less likely to be killed or seriously injured in the event of a crash.

Although Australia has a high restraint usage rate, with over 95% of Australian children being placed in a child restraint, studies show that many child restraints are incorrectly fitted, which reduces the effectiveness of the restraint system. Studies of child restraint use show that more than 70 per cent of children were not correctly restrained and that almost one in three installations had significant safety related problems.

The motoring clubs play an important role in addressing this problem by providing safety information and assistance on child restraints. In addition to providing restraint fitting stations, NRMA and RACV (with the NSW RTA) rated the relative safety of various restraints in 2000, and published results in a buyer's guide. The ratings were designed to identify which restraints simply met Australian Standards, which exceeded the Standards and which were easiest to fit. NRMA and RACV are planning to conduct this testing again in the future. Given the ongoing problem of incorrect and inappropriate child restraint fitting, there certainly is a role for government to participate in such a program.

AAA is also represented on the Standards Australia and Australian Design Rules committees dealing with child restraints. Even though the areas that require improvement have been identified by these committees, progress on updating standards and rules has been slow, especially with respect to testing various upper tether restraint configurations and assessing rigid lower anchorage systems recently introduced in Europe and the USA. The government should work to expedite necessary research to ensure that Australia maintains world leading restraint standards.

Conclusion

AAA has a vital interest in product safety, including the safety of car accessories such as child restraints and, more broadly, the safety of cars and roads.

We support the Government's intention to place a high priority on developing safer and more efficient consumer products. Indeed, the AAA through its State and Territory motoring associations - together with the road authorities - is constantly testing the safety of news cars through the Australian New Car

Assessment Program (ANCAP), the safety of roads through the Australian Road Assessment Program (AusRAP) and the effectiveness of child restraints.

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