
FCAI Submission to the Productivity Commission Annual Review of Regulatory Burden on Business

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INTRODUCTION

The Federal Chamber of Automotive Industries (FCAI) is the peak industry organisation representing manufacturers and importers of passenger vehicles, light commercial vehicles and motorcycles in Australia. The FCAI welcomes the opportunity to provide this submission to the Productivity Commission's *Annual Review of Regulatory Burdens on Business*.

This submission outlines the FCAI's position in relation to regulation on transport;

- The automotive sector is a globally integrated industry and regulations in Australia must be nationally consistent and harmonised with international regulations.
- Regulations must be based on sound science and economics and governments must balance the social and economic benefits from regulation with the resulting improvement in safety and environmental performance.
- The Australian Government's *Motor Vehicle Standards Act* and support for the two international agreements for the development and implementation of vehicle regulations achieves these two basic principles.
- The need for a streamlined approach for updating current vehicle standard regulations to accept the updated version of the relevant UN-ECE Regulation as an alternative standard.
- The burden on business, and additional cost to consumers, from state regulations that are inconsistent with national regulations.

TERMS OF REFERENCE

The terms of reference for the review is contained in the Productivity Commission's December 2008 Issues Paper. Briefly, the paper outlines;

- The Productivity Commission has been asked to conduct ongoing annual reviews of the burdens on business arising from Government regulation.
- The Productivity Commission is to consult with business, government agencies and community groups.
- The Productivity Commission is to review all Australian Government regulation cyclically every five years.
- In undertaking the annual reviews, the Productivity Commission should identify specific areas of government regulation that;
 - Are unnecessarily burdensome, complex or redundant; or
 - Duplicate regulations or the role of regulatory bodies, including in other jurisdictions.
- The 2009 review is to cover the social and economic infrastructure services including transport regulation.

The FCAI submission relates to the review of transport regulation.

OVERVIEW OF THE AUTOMOTIVE INDUSTRY

The automotive sector is a globally integrated industry with many product lines sharing platforms and major components to achieve productivity gains from economies of scale. While more than one million new vehicles were sold in Australia in 2008, this still represents less than one and a half percent (1.5%) of the global market. With growth expected to continue in the emerging economic markets of India, China, Russia and Brazil, Australia's share of the world market will decline. With the expected fall in Australian new vehicle sales of up to twelve percent (12%) in 2009, Australia's share of the world market could decline even further.

Australia is one of the most open and competitive automotive markets in the world with more than 50 brands, 350 models and 20 source countries. Less than seventeen percent (17%) of new passenger vehicles sold in 2008 were manufactured locally with the remaining eighty three percent (83%) of new vehicles imported from various countries and regions of the world including Asia, Europe and Africa. All new motorcycles and scooters are imported.

Australia is also an exporter of motor vehicles with half of all Australian produced vehicles exported.

The motor vehicle is increasingly a global product and one of the most comprehensively regulated products. In considering regulations, the government's role is to balance social and economic benefits with safety and environmental performance.

The FCAI considers that governments should base regulations on sound science and economics and that regulation is justified only when there is demonstrated need for government intervention because the market or vehicle manufacturers are not responding to a demonstrated need or new technology. Additionally, vehicle regulations in Australia should be both nationally consistent and harmonised with international regulatory standards.

As economies of scale are critical in the automotive industry all manufacturers have tended to limit the number of locations any one model is produced and that model is then cross-shipped to markets where there is demand. This approach benefits the manufacturer, initially through reduced costs and ultimately the consumer by improving affordability and increasing product choice.

The introduction of individual or unique standards and regulatory requirements, at a national or state level, can seriously affect this approach through increasing development, compliance and production cost, which must be passed along to the consumer, without necessarily improving safety or environmental performance.

CURRENT REGULATORY SYSTEM

The automotive industry is a global industry and nationally consistent regulations that are harmonised with international regulations are required to minimise any administrative regulatory burden and provide avenues for supply of a broad range of automotive products to Australian consumers.

The FCAI considers that the federal *Motor Vehicle Standards Act* fulfils this function as one of its objectives is;

“to achieve uniform vehicle standards to apply to new vehicles when they begin to be used in transport in Australia.”

The *Motor Vehicle Standards Act* allows the federal Minister for Transport to make national vehicle standards for road vehicles, (i.e. Australian Design Rules [ADRs]).

Over the last ten or so years the Australian Government has been progressively harmonising the ADRs with the UN-ECE Regulations and are at a point where the majority are harmonised. The FCAI supports the Australian Government approach to harmonising with the UN-ECE Regulations and that the Australian Government is a signatory to the two international agreements for the development and implementation of international vehicle technical regulation, i.e. the UN-ECE Regulations and Global Technical Regulations.

The FCAI recognises that there are still a few outstanding differences between the ADRs and the UN-ECE Regulations and acknowledges that the industry has an important role in assisting the government to update and maintain the ADRs to provide the maximum benefit to new motor vehicle buyers.

As more than 80% of new vehicles (including all motorcycles and scooters) sold in Australia are imported, the harmonisation of ADRs with UN-ECE Regulations assist with providing a greater range of product choice for Australian new vehicle buyers and provides the platform for allowing vehicle brands to both manufacture locally and also import vehicles with world standard safety equipment.

REGULATORY BURDENS

There are two regulatory processes that place unnecessary burden on the Australian businesses in the vehicle industry and impose additional costs to consumers;

- The federal government process for updating ADRs to accept the updated version of an UN-ECE Regulation as an alternative standard.
- Additional and unique state regulation.

Updating of ADRs

Many FCAI member companies have experienced difficulties and delays in certification approvals of new vehicles when Australian Design Rules (ADRs) have not been amended to accept the latest version of a UN-ECE Regulation as an alternative standard. This situation is compounded when members use approvals from overseas authorities and are not able to obtain the approval for the superseded UN-ECE Regulation (i.e. the version contained in the ADR).

While FCAI members appreciate the need for a process to amend the ADRs, or any legislation, the current system can involve lengthy delays that impose cost to vehicle manufacturers and in some cases delay the introduction of new models or models with updated features into Australia. Attached is a list of minor ADR amendments (accepting updated UN-ECE Regulations) that have been accepted as being equivalent or exceeding the current technical regulation. As can be seen

from this table some of these amendments have been waiting for a significant period of time to be progressed.

A shortened regulatory review and updating process to reduce the time required to accept updated versions of UN-ECE Regulations as an alternative standard in the relevant ADR is necessary. The FCAI considers that the Department of Infrastructure, Transport, Regional Development and Local Government, should be permitted to use a streamlined regulatory review process to provide the Minister with a recommendation to adopt the updated UN-ECE Regulation as an alternative standard.

The FCAI considers that a streamlined approach would only be used for updated standards and supports the need for the full regulatory review process for the adoption of a completely new standard such as being undertaken currently to consider introduction of an ADR for vehicle stability control.

Additional and Unique State Regulations

The other significant regulatory burden that is placed on the vehicle industry is when state governments introduce regulation that is additional to national regulation. This regulation is often unique to that state.

There are currently two (2) examples of individual state regulation being considered;

- Victoria is considering the introduction of a regulation to require new vehicles to be fitted with electronic stability control (ESC) from 1 Jan 2011 and head protecting side airbags from 1 Jan 2012 as a requirement for registration.
- The New South Wales (NSW) Parliament is currently considering a bill that will mandate ethanol blend fuel (E10) in unleaded petrol (ULP) from 1 July 2011.

The Victorian current action is an example of a state government developing and introducing vehicle regulations that will impact on the vehicle industry through introducing a certification and approval process in addition to the existing national system. This imposes an additional burden on business;

- Additional administrative cost on vehicle companies through additional certification and compliance costs.
- To other business such as car dealers, fleet operators and companies with vehicle fleets through limiting the vehicles that can be sold in that state.

The second example, where NSW intend to introduce a fuel standard mandating ten percent ethanol in unleaded petrol (i.e. E10), has the potential to adversely impact on both new car buyers and existing car owners in addition to manufacturers. While all new Australian produced cars are able to operate on E10, a 2006 Federal Government study found that approximately 45% of Australia's existing passenger cars could not operate satisfactorily on ethanol blends. Therefore, this unique standard has the potential to impact;

- Car companies through increased costs to test their vehicles and/or change components in the fuel system to operate satisfactorily long term on E10. This is unlikely to occur for those brands who sell only a small number of vehicles in NSW.

- Other businesses including car dealers and fleet companies through limiting the range of vehicles will be available for sale in that state.
- Car companies and dealers through increased warranty costs as not all cars are currently warranted by manufacturers to operate satisfactorily on ethanol blended fuel.

Both of these examples demonstrate the potential to increase the burden on business, and ultimately a cost to consumers, from national regulations that are not updated with the latest versions of the relevant UN-ECE Regulations and nationally inconsistent regulations.

CONCLUSION

The FCAI considers that regulations must be based on sound science and economics and should only be introduced when there is a demonstrated need for government intervention. The government's role in developing and implementing regulations is to balance the social and economic benefits from regulation with resulting safety and environmental performance.

As the automotive sector is a globally integrated industry and the motor vehicle is a global product and one of the most comprehensively regulated products any vehicle regulations in Australia should be both nationally consistent and harmonised with international regulatory standards.

The FCAI considers that the federal *Motor Vehicle Standards Act* fulfills this function along with the current Australian government policy and practice of harmonising Australian Design Rules with the United Nations Economic Commission for Europe (UN-ECE) Regulations and Global Technical Regulations.

The current regulatory processes for updating national regulations to accept the latest versions of the relevant UN-ECE Regulations as alternative standards and nationally inconsistent regulations have the potential to increase the burden on business, and ultimately a cost to consumers.

ATTACHMENT 1 – SUMMARY OF MINOR ADR AMENDMENTS

Item	ADR	Issue	Objectives	Summary of Actions	Current Situation	Planned finalisation date advised by DoI
1	31	Amend ADR 31/01 alternative standards to exclude ECE R13-H Annex 8 and ECE R13/09 Annex 18. Annex 8 and Annex 18 have been added to ECE 13-H and ECE 13/09 respectively since ADR 31/01 was Gazetted. (Annex 8 was added in ECE-13H Supp2, Annex 18 was added in ECE-13.09 Supp 6).	Remove the requirement to certify compliance with ECE R13-H Annex 8 or ECE R13/09 Annex 18 by seeking the following amendments to ADR 31/01: 1. Amend Clause 6.1 to exclude Annex 8 2. Amend Clause 6.2 to exclude Annex 18.	28/7/05: FCAI raised with DOTARS. Dec 07: Amendment agreed at TLG.	26/11/08: TLG advised that minor amendment package has not progressed.	September 2009
2	58	ADR 58/00 amendment to accept ECE R52 as an alternative standard for light omnibuses.	Unconditional acceptance of ECE R52 as alternative standard	Aug 02: FCAI proposed change to DOTARS. 2006: Included in review of bus ADRs – review not finalised. Dec 07: Amendment agreed at TLG.	26/11/08: TLG advised that minor amendment package has not progressed.	April 2009
3	Gen	The "Off-Road Passenger Vehicle (MC)" definition in the ADR's does not align with Internationally recognised definitions.	Align the "Off-Road Passenger Vehicle (MC)" definition in the ADR's and Customs Act with current ECE Reg. definitions.	29/8/05: FCAI proposed change to DOTARS. Dec 07: Amendment agreed at TLG.	26/11/08: TLG advised that minor amendment package has not progressed.	May 2009
4	13	Amend ADR 13/00 to allow ECE R48/03 as Alternative Standard.	To allow the use of emergency flashing brake lights	10/10/07: Amendment agreed at TLG.	26/11/08: TLG advised that minor amendment package has not progressed.	May 2009
5	35/02	Amend ADR 35/02 Clause 8 (alternative standards) to accept UNECE R 13-H as alternative standard for NA (N1) category.	Give option to approve N1 vehicles to either UNECE R13 or ECE-13-H.	Dec 07: Amendment agreed at TLG.	3/3/09: ADR amendments registered on FRLI	Finalised
6	42/04	Environmentally friendly gearboxes	Reword ADR 42/04 Clause 7.2 to accommodate new technologies	22/05/08: Amendment agreed at TLG.	26/11/08: TLG advised that minor amendment package has not progressed.	March 2009
7	42/04	Remote closing of windows does not comply with ADR 42/04 Cl 19.32.1	Amend ADR 42/04 Cl 19.32.1.1 to include remote closing of windows.	22/05/08: Amendment agreed at TLG.	26/11/08: TLG advised that minor amendment package has not progressed.	June 2009

Item	ADR	Issue	Objectives	Summary of Actions	Current Situation	Planned finalisation date advised by DoI
8	19/02	Hazard lights on some European motorcycles are not capable of being actuated when the ignition key is in the off position.	The text of ECE 53 attached to the ADR 19/02 should be amended to reflect the current requirements of hazard lamp operation.	22/05/08: Amendment agreed at TLG.	26/11/08: TLG advised that minor amendment package has not progressed. 27/2/09: DoI advised that amendment package for ADR 19 has been approved by OBPR.	April 2009
9	19/02	LD category vehicle did not comply with CI 6.3.3.3 of Appendix A of ADR 19/01. CI 8 of ADR 19 has additional requirements for LD category vehicles. CI 8.3 indicates that one or two indicators must be fitted to an LD category vehicle with the only other requirement being the tell tale may be yellow.	Amend ADR 19/02 to clarify requirements for lights on LD category	22/05/08: Amendment agreed at TLG.	26/11/08: ALG advised that minor amendment package has not progressed. 27/2/09: DoI advised that amendment package for ADR 19 has been approved by OBPR.	April 2009
10	42/04	An unintended consequence of repealing ADR 7 has been to make it more difficult to obtain approval for assemblies complying with FMVSS 106.	Amend ADR 42/04 to accept brake hoses and assemblies complying with FMVSS 106.	26/11/08: TLG agreed to amend.		April 2009
11	3/03 4/04 5/05	ADRs 4/04 & 5/05 do not have any requirements for seat belts in side facing seats	Allow side facing seats.	26/11/08: TLG agreed to amendment.	26/02/09: Updated ADR 4/04 & 5/5 registered on FRLI.	Finalised