
FCAI Submission to the Senate Inquiry into the Road Vehicle Standards Act



Federal Chamber of Automotive Industries
Level 1, 59 Wentworth Avenue
Canberra ACT 2604
Phone: +61 2 6247 3811
Facsimile: +61 2 6248 7673
Contact:
Mr James Hurnall
Technical Director
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EXECUTIVE SUMMARY

The Road Vehicle Standards Act (RVSA) is critical to the business of FCAI member brands and to Australian consumers as it sets the national standards for road vehicles (i.e. the Australian Design Rules [ADRs]) and the administrative arrangements to import vehicles and demonstrate compliance with the ADRs prior to delivery to the market.

The RVSA, by setting new ADRs, delivers the Government's policy priorities in the areas of:

- Road safety where new ADRs for vehicle safety are introduced to meet the vehicle related priorities and actions in the National Road Safety Strategy.
- Reducing pollutant emissions from vehicles through setting new vehicle pollutant emission standards to assist with meeting economy-wide air quality and GHG emission reduction targets.
- Facilitating the introduction of new technology for connected and automated vehicles that will provide public benefits from reduced congestion, improved safety and increased productivity.

Road Vehicle Standards Act Objectives

- The FCAI supports the policy objectives of the RVSA.
- The FCAI supports continued harmonisation of ADRs with international vehicle regulatory standards, i.e. the United Nations Regulations.

Australian new car market

- The Australian new vehicle market is one of the most competitive markets in the world;
- Australian car ownership is one of the highest in the world at 685 light vehicles per 1,000 residents compared to US (814), UK (571), EU (567) and Japan (594).
- Any changes to Australia's vehicle regulations must carefully consider the implications of allowing greater access to used vehicles, as these will substitute for new vehicle sales, rather than supplement new vehicle sales, which will increase the age of Australia's car parc and be contrary to the Government's safety, consumer rights, technology and environmental objectives.
- Due to the high level of ownership, any changes to Australia's vehicle regulations must carefully consider the implications of allowing greater access to used vehicles, as these will substitute for new vehicle sales, rather than supplement new vehicle sales.

Specialist and Enthusiast Vehicle Scheme (SEVS), Registered Automotive Workshop Scheme (RAWS) and Authorised Vehicle Verifiers (AVVs)

- The FCAI supports a revised SEVS that will achieve its original intention, i.e. allowing importation under *concessional* arrangements of specialist and enthusiast's vehicles (e.g. specialist disabled access vehicles and high-performance models) that are not imported by the OEM.
- There are a range of proposals in the revised SEVS that are not supported by the FCAI including:
- Allowing a model to be eligible 3 months after its release in another major market.
- Allowing the model to remain on the SEVS Register even if a full volume type approval is issued.
- The definition of variant is important and needs to be immediately addressed to ensure the definition is not wide enough to create commercial scale parallel importing, as this would be contrary to the Government's safety, consumer rights, technology and environmental objectives.
- The FCAI does not support the proposed formula for determining a "performance vehicle."
- The FCAI supports the policy intentions with the changes to the RAWS especially the introduction of independent AVV to access each vehicle delivered by a RAWS to establish the

identity of the vehicle, ensure the vehicle is free from structural damage and meets its type approval.

- The FCAI does not support removal of the limit (or cap) on the number of vehicles that each RAW can supply as this would be contrary to the Government's safety, consumer rights, technology and environmental objectives. Otherwise the SEVS is likely to become a de-facto commercial scale used car import scheme. This is clearly not the policy intention of the legislation.
- The FCAI does not support the proposal to allow both RAWs and AVVs to be located outside Australia as this is not in the best interests of Australian consumers.
- All proposed changes within SEVs (variant definition), removal of vehicle limits for RAWs and allowance of AVV inspections overseas creates the opportunity for unrestricted commercial scale imports of used vehicles.

Conclusions

- The FCAI supports the majority of the proposed RVSA and sees the majority of the Government's policy objectives as beneficial to the new vehicle industry and also to consumers.
- The proposed changes to the concessional schemes (including the potentially broad variant definition within SEVs, removal of the limit for RAWs and allowing AVVs to inspect vehicles off-shore) creates the opportunity for unrestricted commercial imports of used vehicles.
- If the issues outlined in this submission are not addressed, the policy objectives outlined in the new RVSA will be undermined.

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1. INTRODUCTION

The Federal Chamber of Automotive Industries (FCAI) is the peak industry organisation representing the importers of passenger vehicles, light commercial vehicles and motorcycles in Australia. The FCAI welcomes the opportunity to provide this submission to the Senate Inquiry into the Road Vehicle Standards Act (RVSA) and associated Bills.

The RVSA (like the current Motor Vehicle Standards Act [MVSA]) is critical to the business of FCAI member brands and to Australian consumers as it sets the national standards for road vehicles (i.e. Australian Design Rules [ADRs]) and the administrative arrangements to import vehicles and demonstrate compliance with the ADRs prior to delivery to the market.

The RVSA, by setting new ADRs, delivers the Government's policy priorities in the areas of:

- Road safety where new ADRs for vehicle safety are introduced to meet the vehicle related priorities and actions in the National Road Safety Strategy.
- Reducing pollutant emissions from vehicles through setting new vehicle pollutant emission standards to assist with meeting economy-wide air quality and GHG emission reduction targets.
- Facilitating the introduction of new technology for connected and automated vehicles that will provide public benefits from reduced congestion, improved safety and increased productivity.

2. THE AUSTRALIAN CAR MARKET

The Australian new vehicle market is one of the most competitive markets in the world:¹

- Taking into account the different specifications, Australian-market vehicles are price competitive, against comparable motor vehicles sold in either the United Kingdom or New Zealand.²
- In 2015, the Australian automotive retail sector employed 66,400 people, in more than 3,500 dealership locations across the country, representing 67 brands.
- While New South Wales, Victoria and Queensland make up 75 percent of the dealership locations, even the Northern Territory has a strong representation with 26 brands making up nearly 50 different locations.
- Direct industry employment supports a supply chain of 94,700 employees.
- Total employment supported by the industry was 236,500 in 2015, which is two percent of total employment within the country.
- The automotive retail sector provided a direct contribution to Australian GDP of \$7.8 billion in 2015.
- The total economic contribution in 2015 was \$17.5 billion, which makes up two percent of the total Australian economy.
- Taxes generated by the industry, including its downstream impacts, exceeded \$5.55 billion in 2015.
- In 2015, total unit sales were 1.155 million, with 1.138 million in light vehicle sales. By 2023, light vehicle sales are forecast to rise to 1.192 million.
- Australian car ownership is one of the highest in the world at 685 light vehicles per 1,000 residents compared to US (814), UK (571), EU (567) and Japan (594).
- With such a saturation of light vehicle ownership, the Australian new vehicle market only grows at a small rate of 1.8% per year. Similarly, the overall Australian vehicle fleet grows at approximately 2% per year.³

Due to the high level of ownership, any changes to Australia's vehicle regulations must carefully consider the implications of allowing greater access to used vehicles, as these will substitute for new vehicle sales, rather than supplement new vehicle sales.

The car market in New Zealand demonstrates the risk of substituting second hand for new sales. In 2017, there was just over 22 new cars sold per 1,000 population in New Zealand, while the corresponding figure in Australia was more than double, with more than 48 new vehicles sold per 1,000 people.⁴

This has resulted in the average age of the NZ fleet increasing from just over 12 years in 2002 to more than 14 years in 2015, which is significantly older than the Australian fleet of just under 10 years.⁵ In 2015, the average age of vehicles imported as new into NZ was over 13 years, while vehicles that were imported as used vehicles had an average age of more than 16 years old.⁶

¹ IHS Markit, The Australian new vehicle industry, 2016

² FCAI, Vehicle Price and Specification Comparison, www.fcai.com.au/specification [accessed 16 April 2018]

³ Australian Bureau of Statistics, 93090.0 - Motor Vehicle Census, Australia, 31 Jan 2017

⁴ Data from; NZ 2017 sales from NZ MIA; NZ population from NZ Stats (www.stats.govt.nz); Australian new vehicle sales from December 2017 Vfacts; Australian Population from ABS 3101.0 – Australian Demographic Statistics

⁵ Australian Bureau of Statistics, 93090.0 - Motor Vehicle Census, Australia, 31 Jan 2017

⁶ New Zealand Government, Ministry of Transport, Annual Fleet Statistics 2016.

3. PURPOSE OF THE ROAD VEHICLE STANDARDS ACT

The FCAI supports the policy objectives of the RVSA⁷ including:

- Flexible and responsive legislation for the future of road vehicles.
- Clear legislation for safe, secure and environmentally friendly vehicles.
- More choice of road vehicles for Australians.
- Continued harmonisation with international standards.
- Improved compliance and enforcement powers.

The RVSA, by setting new vehicle standards (i.e. new ADRs), delivers the Government's policy priorities in the areas of:

- Road safety where new ADRs for vehicle safety are introduced to meet the vehicle related priorities and actions in the National Road Safety Strategy.
- Reducing pollutant emissions from vehicles through setting new vehicle pollutant emission standards to assist with meeting economy-wide air quality and GHG emission reduction targets.
- Facilitating the introduction of new technology for connected and automated vehicles that will provide public benefits from reduced congestion, improved safety and increased productivity.

The MVSA did not provide protection for the domestically manufactured cars by setting unique standards (ADRs) or allowing locally produced cars meet a lower safety or environmental standard than other major markets. For the past 15 years the Government has embarked on a program of harmonising ADRs with the international vehicle regulatory standards, United Nations Regulations (UN Regulations).

The Explanatory Memorandum (p.8) outlines that the RVSA will continue the current Government policy to harmonise ADRs with international standards and that the new RVSA caters for future developments in international vehicle regulations. The FCAI supports continued harmonisation with the UN Regulations.

The RVSA (like the current MVSA) does not preclude the importation of new vehicles by more than one entity, provided all legal entities demonstrate compliance to the relevant and current ADRs. For example, both Toyota and Subaru supply the same vehicle make/model under different names (Toyota 86 and Subaru BRZ).

In a submission to the Department of Infrastructure and Regional Development on 17 February 2018 the FCAI outlined in detail our consideration of the broader RVSA proposals. This submission will focus on the main areas of proposed changes to the concessional schemes.

⁷ Explanatory Memorandum to Road Vehicle Standards Bill 2017, Exposure Draft

4. SPECIALIST AND ENTHUSIAST VEHICLE SCHEME (SEVS)

Recognising that there is a small demand for some unique vehicles that are not imported by the mainstream brands, the RVSA (like the current MVSA) provides avenues for importation of vehicles under concessional arrangements under the Specialist and Enthusiast Vehicle Scheme (SEVS). The FCAI understands that the objective of the SEVS is to allow access to specialist and enthusiast vehicles for buyers who understand the risks and benefits of owning a specialist or enthusiast vehicle (e.g. US muscle car).

The concessional arrangements include setting a lower level of demonstrating compliance for an ADR or providing exemptions to some ADRs. To continue to deliver the Government's safety and environmental policy objectives, there needs to be controls (or limits) on the types and number of vehicles introduced under these concessional arrangements so that they don't create uncapped commercial scale parallel importing of used vehicles.

As outlined in our submissions to the MVSA Review and exposure draft of the RVSA, the FCAI supports a revised SEVS that will achieve its original intention, i.e. allowing limited importation under *concessional* arrangements of specialists and enthusiast's vehicles (e.g. specialist disabled access vehicles and high-performance models) that are not imported by the OEM.

However, there are some areas of the proposed changes that need to be improved to meet the Government's safety, consumer rights and environmental policy objectives. The changes also need to further remove the free-riding (in certification and after-market support) of the concessional importation schemes while providing a range of consumer choice along with the necessary level of consumer protection. These areas that require some level of reconsideration include:

- Specialist and Enthusiast Vehicle Scheme (SEVS); criteria and definitions, and in particular the definition of variant.
- Registered Automotive Workshop (RAWS); vehicle limits that each RAW can supply.
- Authorised Vehicle Verifiers (AVV); need to be located within Australia.

The SEVS establishes a pathway for the supply of vehicles that do not, or cannot, meet the ADRs but otherwise offer a benefit to the Australian community. However, the Explanatory Memorandum, does not specify what concessions to the national safety and environmental standards will continue to be allowed.⁸ The following questions need to be answered to fully understand the implications of the proposed changes;

- Will SEVS vehicles continue to be assessed against ADRs at date of manufacture of vehicle rather than date of importation as per a new vehicle?
- Will there be a range of options for demonstrating compliance with the relevant ADRs?
- Will exemptions from complying with the latest safety or environmental ADRs continue to be granted?

4.1 Vehicles to be considered for entry onto SEVS Register

Under the current MVSA, for a vehicle (make/model/variant) to be considered eligible for entry onto the SEVS Register:

- The vehicle (make/model) has been released in a major overseas market for not less than 18 months.

⁸ Administrators Circular 0-1-2 'A Guide to the Certification of New Vehicles – Type Approval' Section 4. Different schemes.

- The vehicle (make/model) does not currently have a “full volume” type approval.⁹

The FCAI considers that these current criteria should remain rather than be changed to the new proposals;

- A vehicle is available to be entered on the SEVS Register “at least 3 months” after release in another major market.
- The vehicle is a make/model or variant of a make/model that does not have a current “full volume” type approval.
- The vehicle (model/variant) remains on the SEVS Register even if a “full volume” type approval is issued.

To achieve the Government’s policy objectives the following are required:

- A strong and objective definition of variant (see Section 4.1.2).
- A vehicle is available to be entered onto the SEVS Register 18 months after release in another major market provided the make/model does not have a full volume type approval.
- The vehicle will be removed from the SEVS Register no more than 6 months after a “full volume” type approval is issued.
- There must be a limit (cap) on the number of vehicles each RAW can process, i.e. import, certify and deliver to the market (see Section 5.1).

4.1.1 Time Since Release in Major Overseas Market

The FCAI notes that the current criteria that a vehicle has been released in a major overseas market for not less than 18 months is formed by an understanding of the international motor vehicle market. The FCAI supports the retention of this approach.

The length of time between launch of a new model and its release in Australia varies for FCAI member brands. For most brands, the focus for new model launches are the major (and larger) markets of Europe, the USA and China. Japanese brands will usually also include Japan as a priority market.

Brands will therefore prioritise research and development for these markets. Development for smaller markets (such as Australia) will occur once the models for the major markets are finalised. Similarly, it is only after the launch production has been completed and production volumes are stable that the factory is able to add further complexity by producing models (and variants) for smaller markets. This is especially important when the change for the Australian variant is as significant as adding RHD vehicles to a predominately LHD production line.

Once the vehicle is manufactured, depending on the source factory it can take another 8 to 12 weeks for the vehicle to reach Australia. This leads to launch timeframes from as little as 6 months and up to 3 years in some cases.

⁹ Full volume type approval is described in Administers Circular 0-1-2 ‘A Guide to the Certification of New Vehicles – Type Approval’, Section 7. Certification Procedures for New Vehicles, (a) Full Volume. Issue 5, December 2008, Reformatted August 2015.

4.1.2 Definition of Variant

Vehicles are eligible for entry on the SEVS Register if they are a variant of a model that has not been supplied to the Australian market under a full volume type approval.¹⁰ Therefore, the definition of variant is critical such that specification differences do not constitute a variant.

The definition of variant must ensure that only those vehicles that are truly differentiated from the mainstream full volume make/model are eligible. Otherwise the policy objective of not allowing commercial-scale importation of used vehicles will be undermined.

The proposed Rule for variant of a model is too broad and creates the opportunity for importation of large numbers of “variants” of models with full volume type approvals which would increase the age of Australia’s car parc and be contrary to the Government’s safety, consumer rights, technology and environmental policy objectives.

The FCAI has previously provided the following definition for consideration:

A variant to be considered eligible under SEVS needs to have:

- *A body style that is not provided by other variants of that model supplied under full volume IPA; or*
- *A drive train and engine combination that is not provided in other variants of that model supplied under full volume IPA (and included in the RVD¹¹).*

(Note: The ADRs define drive train as - the vehicle components which transmit engine power to the driven wheels.)

An alternative definition that could be considered is the EU definition (Annex II of EU Directive 46/2007) of variant

Variant means vehicles within a model that do not differ in the following essential respects:

- *Body style (e.g. sedan, hatchback, coupe, convertible, station wagon, multi-purpose vehicle)*
- *Power plant including:*
 - *Number and arrangement of cylinders*
 - *Power difference of more than 30% (the highest is more than 1.3 times the lowest),*
 - *Capacity difference of more than 20% (the highest is more than 1.2 times the lowest),*
- *Powered axles (number, position, interconnection)*
- *Steered axles (number and position)*

¹⁰ Australian Government, Information Sheet 1, Road Vehicle Standards Bill 2017: Specialist and Enthusiast Vehicles (SEV), December 2017

¹¹ Road Vehicle Descriptor (RVD) is a form produced by the Department of Infrastructure, Regional Development and Cities which details the vehicle information once a type approval has been issued.

4.2 SEVS Eligibility Criteria

The Eligibility Criteria for SEVS is outlined in the Government's Information Sheet 1, Road Vehicle Standards Bill 2017: Specialist and Enthusiast Vehicles (SEV), December 2017¹² and in the draft Road Vehicle Standards Rules.¹³

The FCAI considers the main areas to be addressed in development of the eligibility criteria include:

- Threshold for performance vehicles to meet the government's policy objective of high-performance vehicles with specifications significantly superior to mainstream vehicles in Australia.
- Inclusion of small vehicles criteria (equivalent to the Japanese K-car definitions) within the Environmental criteria.
- The contrary nature of the criteria such that a vehicle may meet one of the criteria yet it is completely at odds with the other eligibility criteria or with other Government policy objectives which may lead to unintended consequences, such as large numbers of older vehicles being imported under the performance criteria which would be determinantal to the Government's road safety and vehicle environmental objectives.

The FCAI has provided detailed comments on the proposed SEVs eligibility criteria in submissions and discussions held with DIRD throughout 2016 and 2017.

4.2.1 Performance Criteria

Information Sheet 1 defines the Performance Criteria as:

The variant will be required to satisfy a graduated threshold formula, based on vehicle age and a corresponding power to weight ratio – measured in Kilowatts per tonne (kW/t).

- For vehicles manufactured in 1992 (base year of manufacture), the proposed power to weight ratio is 110kW/t.
- For each year of manufacture post 1992, the power to weight ratio increases by 1 kW/t.

This can be simply calculated as;

- Year of manufacture **minus** base year of manufacture **plus** base performance threshold

The draft Rule 118 Performance Criteria¹⁴ states:

- (1) A variant of a road vehicle satisfies the performance criteria if the road vehicle, as originally manufactured, is above the power to weight threshold worked out according to the following formula:

$(\text{Year of manufacture} - 1992) + 110 \text{ kW/t}$

Where:

Year of manufacture means the year in which the road vehicle is manufactured

110 kW/t means 110 kilowatts per tonne

¹² Australian Government, Information Sheet 1, Road Vehicle Standards Bill 2017: Specialist and Enthusiast Vehicles (SEV), December 2017

¹³ Road Vehicle Standards Rules 2017, Exposure Draft

¹⁴ Road Vehicle Standards Rules 2017, Exposure Draft

In 2016 the Government released a “Policy Proposal Consultation Paper” on “Eligibility Criteria Thresholds – The Register and Enthusiast Vehicles”. The “Performance Vehicle” criteria proposed in this paper was:

Noting the steady increase in reported vehicle power over time, it is proposed that a vehicle is required to satisfy a graduated threshold formula, based on vehicle age and a corresponding power to weight ratio – measured in Kilowatts per tonne (kW/t).

- For vehicles manufactured in 1992 (base year of manufacture), the proposed power to weight ratio is 120kW/t.
- For each year of manufacture post 1992, the power to weight ratio increases by 1 kW/t.
- This can be simply calculated as:
 - Year of manufacture **minus** base year of manufacture **plus** base performance threshold

To express this in similar terms to the draft Rule 118 criteria:

$$(\text{Year of manufacture} - 1992) + 120 \text{ kW/t}$$

Throughout 2016, the FCAI provided submissions to the government advising that the proposed criteria did not meet the government’s objective of “high-performance vehicles with specifications significantly superior to mainstream vehicles in Australia.”

With the change to a 10 kW/t lower “base performance threshold” the FCAI considers that the draft Rule is even further away from the policy objective of “high-performance vehicles with specifications significantly superior to mainstream vehicles in Australia.”

The FCAI would consider that “Performance Vehicles” SEVS criteria is for high performance models, available in overseas markets that will **not** be introduced into Australia by the brand as the small number of sales would not provide a return on the investment required to develop the vehicle for the Australian market. The intention of the criteria is to enable **significantly different** (i.e. high performance) vehicles to be imported under concessional arrangements. The Rules to be applied must ensure there is a significant and clearly evident performance difference.

Consideration of a limited number of current mainstream models show their power to weight ratio (PWR) is around 140-150 kW/t which is only 5 to 15 kW/t over the proposed performance threshold of 135 kW/t for a 2017 model. Many mainstream family models have a PWR of from 115 kW/t and up to 130-135 kW/t.¹⁵ This clearly is not “significantly superior” to mainstream models currently in Australia.

The FCAI considers that a performance threshold that is significantly superior would be in the range of 200 kW/t. This would allow high performance vehicles such as Nissan GTR, Mercedes AMG-C63, Audi RS6, etc., where the Australian distributor decided not to develop the model for the Australian market, to be eligible.

It is important that the Parliament understands the development of a model for the Australian market goes beyond ADR certification and includes all aspects of a vehicle operation for the expected service life (up to 20 years). Importantly this currently includes the ability of the vehicle to operate on a lower quality fuel than available in major overseas markets.

¹⁵ For example, the 2018 Holden Commodore has variants with PWR ranging from 115 kW/t to 140 kW/t while the 2016 Toyota Aurion has a PWR of 135 kW/t.

4.2.2 Environmental Criteria

The environmental criteria have been extended “to include a micro-car subcategory for low power (low emissions) vehicles ... will generally allow for vehicles that have a maximum engine capacity of 660cc, maximum engine output of 47 kW and is not more than 3.4 metres in length and 1.48 metres in width.”¹⁶

The same proposal was included in draft Rule 119 (b)(ii) “the variant of the road vehicle has a maximum engine capacity of 660cc, a maximum engine output of 47 kW and is not more than 3.4 metres long and 1.48 metres wide.”¹⁷

The FCAI does not support the inclusion of such micro-cars into the environmental criteria as many vehicles that would meet these criteria do not meet modern safety standards (both occupant protection and active safety) and therefore are not suitable for operation on Australia’s road environment.

The FCAI also questions the suitability of these vehicles to operate on Australian highways and freeways at speeds up to 110 km/hr as it is our understanding that the Japanese micro-cars have a low top speed (less than 60 km/hr). Therefore, allowing these vehicles to operate on Australia’s highways and freeways (including the high-speed toll roads in our major cities) would result in a safety hazard for the occupants of these cars and also other road users.

For these reasons, the FCAI does not support extending the environmental criteria to include micro-cars. However, if this draft Rule remains, it must be amended such that these vehicles must be able to demonstrate compliance to current (i.e. applicable at the time the application is made) safety ADRs.

4.2.3 Overseas second-stage manufacture (“SSM”)

Widening of the SEVs entry criteria in addition to the introduction of the definition of a variant is likely to increase the number of SSM vehicles imported into the Australian market.

Under the proposed regime, vehicles that have undergone SSM overseas (prior to obtaining Australian compliance) can be added to the RAW provided they meet the criteria of a “variant”. Vehicles are able to be signed off by an overseas AVV and imported through a RAW without necessarily being checked by Australian officials, and as such we envisage that this will open up a new pathway for SSM vehicles to be imported into Australia without necessarily meeting the compliance and safety standards currently required and expected of SSM vehicles in the Australia market. In particular:

- while vehicles undergoing SSM in Australia must meet all ADRs, SSM vehicles which are imported under the concessional import scheme, are given concessions from meeting the current national safety and emission standards (i.e. ADRs), resulting in an increased number of vehicles on the road which can be of a lesser standard to OEM imported vehicles;
- if SSM modifications are more frequently performed overseas instead of within Australia as a result of the proposed regime, it will have a detrimental economic impact on the Australian SSM market;
- there will be less government control over the SSM workmanship performed overseas, and little or no control if the work is not performed by a registered RAW; and

¹⁶ Australian Government, Information Sheet 1, Road Vehicle Standards Bill 2017: Specialist and Enthusiast Vehicles (SEV), December 2017

¹⁷ Road Vehicle Standards Rules 2017, Exposure Draft

- vehicles signed off by an overseas AVV could have been modified years ago and imported to Australia now without undergoing any local inspection before the consumer takes ownership.

5 REGISTERED AUTOMOTIVE WORKSHOP SCHEME (RAWS) AND AUTHORISED VEHICLE VERIFIERS (AVV)

The FCAI supports the Governments' policy intentions with the changes made to the RAWS especially the introduction of independent Authorised Vehicle Verifier (AVV) to access each vehicle delivered by a RAWS to establish the identity of the vehicle, ensure the vehicle is free from structural damage and meets its type approval.

The proposed changes are designed to provide greater access to vehicle models and reduce the cost of certification to RAWS workshops, and also to improve consumer protection by requiring each vehicle to be inspected by an independent AVV.

5.1 Removal of RAWS Vehicle Limits

The current concessional scheme includes a limit (or cap) of the number of vehicles that each RAW can process, i.e. import, certify and deliver to the market. Currently each RAW is able to supply up to 100 used vehicles (per category) per year.¹⁸

Information Sheet 2, "Road Vehicle Standards Bill 2017 Registered Automotive Workshops"¹⁹ the Government states:

"There will be no caps on the number of vehicles that can be processed by a single workshop or entered onto the RAV using this pathway."

Previous documentation from the Government, such as Info Sheet 4, "Reform of the Motor Vehicle Standards Act 1989 Registered Automotive Workshop Scheme" issued in August 2017²⁰ noted that adequate controls were still required;

"Current limits on the number of vehicles that can be processed by each workshop will be removed. ... (the Department) will consult with industry on appropriate controls."

The FCAI does not support the intention to remove the limits on the number of vehicles that each RAW can supply to the market as the FCAI is not aware of:

- Any evidence to justify the removal of the limit.
- The appropriate controls to ensure the commercial scale importation of used vehicles under concessional arrangement do not occur.

Without any other appropriate controls in place, a limit on the number of concessional import (or SEVS) vehicles²¹ that each RAW can deliver to the market needs to remain. Otherwise the SEVS is likely to become a de-facto commercial scale used car import scheme. This is clearly not the policy intention of the legislation.

The FCAI support maintaining the current limit of 100 vehicles per category per year.

5.2 RAWS and AVVs Located Overseas

The FCAI does not support the proposal to allow both RAWS and AVVs to be located outside Australia as this is not in the best interests of Australian consumers. The Government has limited resources to ensure compliance and has demonstrated significant difficulty with enforcement and

¹⁸ Australian Government, Department of Infrastructure, Regional Development and Cities, Welcome to RAWS, www.raws.dotars.gov.au [accessed 10 April 2018]

¹⁹ Australian Government, Information Sheet 2, Road Vehicle Standards Bill 2017: Registered Automotive Workshops, December 2017

²⁰ Australian Government, Info Sheet 4, Reform of the Motor Vehicle Standards Act 1989 Registered Automotive Workshop Scheme Revised August 2017

²¹ Vehicles that are given concessions from meeting the current national safety and emission standards (i.e. ADRs).

compliance with RAWs located within Australia. It is not logical then to allow both RAWs and AVVs to be located overseas without a significant increase in compliance and enforcement resources.

Allowing AVVs to operate overseas and not conduct (at least) a final inspection (to ensure compliance with the type approval) within Australia does not address the current issue of some RAWs supplying non-compliant vehicles. The inability of either the Federal or State/Territory governments to locate and inspect non-complying SEVs vehicles and link these to the RAW for appropriate enforcement action has not be addressed.

To meet the Government's consumer rights policy objectives, the final AVV inspection must be conducted within Australia at the RAWs facility.

Also, to assist with compliance and enforcement actions of RAWs and AVVs, the FCAI recommends that the Road Vehicle Standards Rules must require all RAWs and AVVs (e.g. Rule 94) to keep records in English.

6 RISKS

All proposed changes within the concessional schemes, including the variant definition, performance criteria and environmental criteria definitions within SEVS, removal of vehicle limits for RAWs and allowance of AVV inspections to be conducted overseas creates the opportunity for unrestricted imports of used vehicles. This is clearly contrary to the Government's stated policy objective.

Without the correct balance between the new car market and SEVS imports (i.e. without adequate limits in place for concessional imports) used imports will be substituted for new vehicles. This will then have the following flow-on effects:

- Increasing age of the in-service fleet (or car parc).
- Reduced rate of take-up of new safety and emission technology.
- Loss of new car sales will lead to loss of jobs within new car dealerships. At best this will translate to a substitution of jobs in the used car industry.
- Reduced consumer protections under the Australian Consumer Law.

6.1 Australian Consumer Law

The Australian Consumer Law (ACL) is Australia's national consumer law, replacing previous consumer protection laws in the Commonwealth, states and territories.

Under the ACL, there are nine consumer guarantees that apply to new and used motor vehicles sold to a consumer:²²

1. Suppliers and manufacturers guarantee that motor vehicles are of acceptable quality.
2. A supplier guarantees that motor vehicles will be reasonably fit for any purpose the consumer or supplier has specified.
3. Suppliers and manufacturers guarantee that their description of motor vehicles (for example, in a catalogue or television commercial) is accurate.
4. A supplier guarantees that motor vehicles will match any sample or demonstration model.
5. Suppliers and manufacturers guarantee that motor vehicles will satisfy any extra promises – or 'express warranties' – made about them.
6. A supplier guarantees they have the right to sell the motor vehicle (clear title), unless they alerted the consumer before the sale that they had 'limited title'. Note that licensing laws in some states or territories may require motor car traders to guarantee clear title.
7. A supplier guarantees 'undisturbed possession' or that no one will try to repossess or take back motor vehicles, or prevent the consumer using them, except in certain circumstances.
8. A supplier guarantees that motor vehicles are free of any hidden securities or charges and will remain so, except in certain circumstances.
9. Manufacturers or importers guarantee they will take reasonable steps to make spare parts and repair facilities available for a reasonable time after purchase.

The ACL applies to any entity that is supplying new or used vehicles.

²² Commonwealth of Australia, 2013, Motor vehicle sales and repairs: An industry guide to the Australian Consumer Law

6.2 Safety

It is widely acknowledged that newer cars are safer and more environmentally friendly. To cater for their policy of commercial scale used imports, New Zealand significantly lags Australia in terms of mandated safety and environmental regulatory standards.

The Federal Government's Department of Infrastructure and Regional Development's submission to the Productivity Commission's 2015 Review of the Trans-Tasman Mutual Recognition Agreement highlighted there were significant differences between the mandated regulated vehicle standards in relation to major occupant protection crash standards, active safety systems and emission standards. In this submission the Department also noted there were "observable differences in vehicle safety performance between Australia and New Zealand" and that the road fatality rates per 100,000 population in 2014 were:

- 4.92 in Australia
- 6.59 in New Zealand

6.3 Consumer Rights

The Consumer In particular, the implications of having vehicles more vehicles imported through a RAW and not through an OEM are:

6.3.1 No local OEM warranty/support

Consumers who purchase imported SEVs in Australia, will not have the same protections as purchasers of locally released models. For instance, as the vehicle is not supplied locally, the purchaser will not have the protection of the local manufacturer's warranty and would not be entitled to seek a remedy from the local OEM for a breach of the consumer guarantees. Instead, the purchaser must rely on the importer or otherwise the original manufacturer in the country of original supply for after sales support and to enforce any warranty that the purchaser may have (noting that manufacturer's warranties are unlikely to apply once the vehicle is exported and used in a different market).

6.3.2 Defects and safety recall risks

RAWs typically do not have the same level of resourcing, experience, training, equipment, technical knowledge, or access to parts catalogues and vehicle data (including safety data). These limitations may impact their ability to appropriately support their customers in the short, medium and long term compared to local OEMs and authorised distributors. This means that consumers who have purchased SEVs from RAWs may find themselves with inadequate ongoing support for the life of the vehicle. A consumer may not be able to obtain the same high levels of support that an OEM can provide for minor and major failures and the ability to remedy defects and carry out safety recall will be limited to the RAW's knowledge and skills, which are likely to be far inferior to that of an OEM.

Taking the recent Takata airbag recall as an example, if there was a large number of vehicles in Australia which had been imported through the SEVS pathway, then there would likely have been a substantial number of those vehicles which would not have been recalled, or the RAW importer would not know that affected vehicles needed to be recalled, would not have access to the scarce replacement parts and therefore the completion rates would be significantly lower and present a risk of injury or death to Australian consumers.

The ACCC has recognised the limitations of RAWs and other parallel importers (referred to as “grey importers”) in their recommendation to the Assistant Minister to the Treasurer that a compulsory recall of Takata airbag inflators. In the recommendation the ACCC stated:

“Grey imports represent a particular challenge for the recall of Affected Takata Airbag Inflators. These businesses may not have the resources (and in some cases may not have the regulatory awareness) to discharge the administrative burden presented by the recommended Recall Notice.”

6.3.3 Vehicle specifications

Vehicles are built for specific conditions. An increased number of SEVs entering the Australian market under the proposed regime means a potential influx of vehicles that are built for different markets where the vehicle specifications match the climate / environmental conditions where the vehicle is expected to be used. For instance, some vehicles with specifications for cooler climates may not be suitable for Australian conditions which could result in reduced towing capacities, engines overheating, which in turn would ultimately compromise the performance of the vehicle and safety of its occupants.

6.3.4 Reputational harm

The proposed expanded criteria to SEVs represent a significant risk to car brands of reputational harm, on the basis that SEV purchasers may not be properly informed as to their rights (or lack thereof) to aftersales support and statutory remedies. It is likely that these customers will mistakenly expect that the local OEM will honour the original manufacturer’s warranty or will have all parts and equipment necessary to properly service and repair the vehicle, and will naturally become disgruntled and frustrated when they discover their car is not supported locally.

Such consumers have the potential to cause significant reputational damage to the car brands by taking action such as voicing their concerns and dissatisfaction on (social) media.

6.3.5 Second hand SEVs

There will also be a serious problem for purchasers of second hand SEVs who may not realise or have been properly informed that their vehicle is not supported locally. We hold the same level of concern in terms of the potential for reputational harm in relation to this category of consumers.

7 CONCLUSION

The RVSA (like the current Motor Vehicle Standards Act) is critical to the business of FCAI member brands and to Australian consumers as it sets the national standards for road vehicles and the administrative arrangements to import vehicles and demonstrate compliance with the national standards (i.e. Australian Design Rules) prior to delivery to the market.

The FCAI supports the majority of the proposed RVSA and sees the majority of the Government's policy objectives as beneficial to the new vehicle industry and to consumers.

The proposed changes to the concessional schemes (including the variant definition within SEVs, removal of the vehicle limits for RAWs and allowing AVVs to inspect vehicles off-shore) creates the opportunity for commercial-scale imports of used vehicles which is clearly not the Government's policy intention.

If the issues outlined in this submission are not addressed, the policy objectives outlined in the new RVSA will be undermined.

ATTACHMENT A – THE AUSTRALIAN NEW VEHICLE INDUSTRY

The Australian new vehicle industry



brands
67



dealership locations
+3,500



total employees
66.4 k

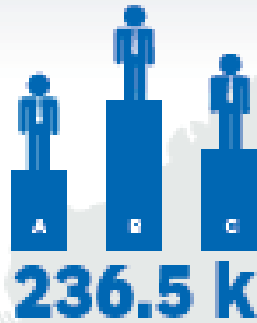
Industry employment impact

a: direct employment
66,400

b: indirect (supply chain effect)
94,700

c: induced (income effect)
75,400

total employment impact



Industry contribution to the Australian economy

1% direct economic impact of Australian economy (nominal GDP)

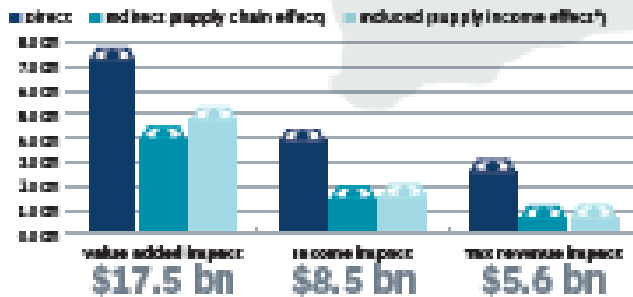
1.4% total economic impact of Australian economy

1% direct employment impact of Australian employment base

2% total employment impact of Australian employment base

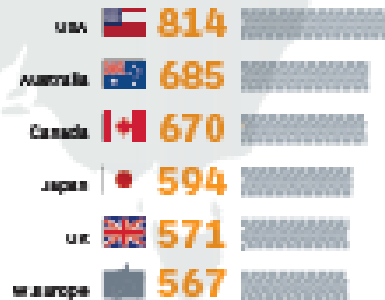


The economic impact of the Australian automotive retail industry – 2018

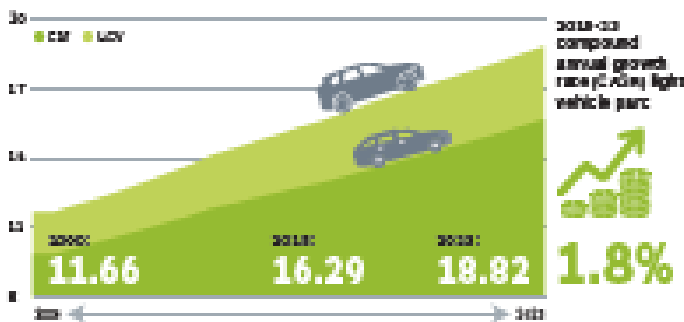


Note: income (tax) are a result of direct/indirect employee spending within the community.

2018 light vehicle density



Australian light vehicle participation



vehicle market overview



share of new light vehicle sales

car, SUV, light truck



Note: This study was commissioned by the Federal Chamber of Automotive Industries (FCAI) and conducted by IHS Global Vantage. Sources: IHS Global Vantage (vehicle sales per 1,000 residents); FCAI (share of new light vehicle and SUV/light truck sales).

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