
FCAI Response to NSW Review of Motor Dealers and Repairers Act 2013



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About the FCAI

The Federal Chamber of Automotive Industries (FCAI) is the peak industry body for the motor vehicle industry in Australia. Sales of new motor vehicles by FCAI members represent over 99% of all new motor vehicles sold in Australia each year. The FCAI welcomes the opportunity to make this submission on the Statutory Review of the Motor Dealers and Repairers Act 2013 (NSW) (MD&R Act), which it does so on behalf of its members. In this submission the FCAI will only address those matters which have specific relevance to its members.

The FCAI has not responded to all the questions in the discussion paper and have only commented on the matters of interest to us.

Licensing criteria

6. Is the licensing criteria, including licence fees and duration, appropriate? Why or why not? If you think there should be changes, please provide details:

- FCAI acknowledges that the licensing of parties trading as motor dealers is essential. However, some aspects of the licensing regime may not be fit for purpose, are potentially impractical in 2020 and beyond, and may not be sufficiently flexible to allow new ways of working to emerge and flourish.
- While the sale of new motor vehicles has, for many decades, been concentrated in high street dealership locations and on traditional motor vehicle dealership 'lots', new ways of selling and trading in motor vehicles have emerged in recent years, where sale transactions can occur outside this traditional setting.
- In addition, traditional large high street dealerships are under pressure from increasing property costs, council land rezoning and low margins. In the face of these pressures, motor dealers and distributors are looking for new, innovative ways to sell motor vehicles.
- FCAI observes that in recent years both motor vehicle dealerships and some motor vehicle distributors have experimented with trading from traditional shopping centre malls and selling vehicles online. FCAI expects that this is likely to increase into the future, and that other 'non-traditional' models may emerge over time. It is evident the COVID-19 pandemic situation has accelerated change at a rapid pace, with many prominent motor vehicle brands and dealers taking steps to provide online ordering and purchasing of motor vehicles, either through their franchised dealers or directly from the distributor, with vehicle delivery to the customer handled by the customer's local franchised dealer, or 'delivery to the home' availability as an option.
- Indeed, technology allows for the entire purchase transaction of a motor vehicle to occur remotely and online, and for the vehicle to be delivered to the consumer at their home or workplace, even interstate. It is conceivable that a motor dealer could operate from an office premises and trade with consumers via an online store. The dealer could hold its motor vehicle stock in a holding yard that customers never see or visit. Upon sale, the dealer can deliver the vehicle to the customer at any location. The dealer and customer

might never meet face to face but might discuss the sale via telephone or video conference call, with sale contract paperwork being exchanged via email or even electronically with document execution software, and from any electronic device. Consumers are asking for, and new vehicle dealers and distributors are striving to deliver, more of a 'click, buy and deliver' car buying experience.

- Unfortunately, the present motor dealer licensing (and vehicle registration) regime, not only in New South Wales but in every State and Territory, does not allow for new and agile ways of working and remains tied to the traditional bricks and mortar motor dealer showrooms and lots.
- Specifically, the requirements of some sections of the Act, such as Section 48 (Motor Vehicles Must be Sold at Licensed Premises) and Section 7 (Licence Holder to Display Signs) don't envisage the possibility that a motor dealer might not even operate from a physical dealership site, or that a motor dealer could operate from a 'non-traditional' location such as a shopping centre mall. The requirement on motor dealer license application and renewal to declare that the motor dealer's premises is zoned for motor dealership operations seems redundant.
- FCAI envisages that further gravitation of motor vehicle sales to online, along with enticing car retailing into areas such as shopping centres, mobile pop-ups and major events will decrease the need for traditional bricks and mortar dealerships, the land use for which use is arguably better utilised for housing in today's environment.
- FCAI suggests that a relaxation of some of these property and location related licensing requirements, while at the same time maintaining an obligation for motor dealers to hold a licence and display it on advertising, would open the way for motor dealers to operate more agile businesses, that better exploit available technologies and new ways of working, while at the same time posing little if any detriment to consumers. Indeed, we think most consumers would consider online purchase and delivery of their vehicle as a benefit.

Motor dealers

10. Should the dealer guarantees under the Act remain the same, or rely on the consumer guarantees under the ACL? Explain why.

- Our members report that, since the introduction of the Australian Consumer Law (ACL), consumers have developed a high degree of literacy and understanding in relation to their rights under the consumer guarantees in the ACL. In addition to this, in recent years many new motor vehicle distributors have increased the length of their warranties against defects, from what was previously the more common 3 year warranty, to a now more common 5 year warranty, and in some cases even longer. FCAI also notes a regulatory overlap, with respect to the consumer guarantees under the ACL and the dealer guarantees under the Act.
- Considering this, the dealer guarantees for new motor vehicles under the Act would seem largely redundant, and do not seem to serve the same purpose that they may once have before introduction of the ACL.

- FCAI is of the view that the dealer guarantees for a new motor vehicle could be repealed, with no consumer detriment ensuing.

Motor vehicle recyclers

12. What activities should be captured in a motor vehicle recyclers licence?

- Any vehicle being recycled or disposed of should have the VIN registered as being written off.

13. Are the current obligations for motor vehicle recyclers fit for purpose? For example, requirements for record keeping and provision of information to consumers. Please provide comments.

The current requirements require the following components to be recorded:

- airbags and air curtains (side impact airbags)

However, there are numerous safety components involved in vehicles that should never be considered for resale and this includes:

- All Airbags; Front / Side / Curtain Shield / Seat / Knee / Occupant separation.
- Seat Belts; most modern seatbelts contain numerous additional safety devices such as pyrotechnic seat belt pre-tensioners.
- Electronic control modules that control the operation of primary safety systems such as Airbag and Seatbelt deployment systems, Pedestrian deployment systems.

All of these components are designed to operate within critical time frames and there is no onsite testing that could be undertaken to confirm the integrity of these devices following an accident to ensure that the device will operate as intended under a subsequent accident.

Licensing regime

16. Should licensing of motor vehicle repair businesses and tradespersons be retained in NSW? Why or why not?

FCAI considers that the licensing regime in NSW is a very appropriate mechanism to ensure that tradespeople working on motor vehicles are appropriately qualified to undertake the work on the vehicles, this provides consumer confidence and support, ensuring that the motor vehicle repair industry is not infiltrated by unqualified and potentially unscrupulous repairers.

Classes of repair work

20. Do you support the existing classes of repair work in the Regulation? Why or why not?

FCAI recommends that there needs to be some adjustments to the new classes of definitions requiring a certificate II as per the following:

- (c1) electrical accessory fitting work—being the work carried out by persons who install or remove electrical accessories in or from motor vehicles, but does not include —
- (i) work that involves cutting, splicing or altering wiring harnesses, or
 - (ii) work carried out on hybrid or electrically powered motor vehicles, or
 - (iii) work carried out that requires connection to the vehicle communications area network (CAN-BUS or similar) - connections to the vehicle communications network can negatively impact critical vehicle functions including safety functions.

21. Do you think there should be more or less classes of repair work? If so, which classes should be added and which should be removed?

In line with the considerable changes that are occurring within the Automotive industry the FCAI supports the future introduction of some new classes of repair work as follows:

- Automotive High Voltage (HV) Technician—being the work carried out by persons who diagnose, repair, or install High Voltage (HV) electrical components on vehicles with electrified powertrains. This would include Hybrid Electric Vehicles (HEV), Plugin Hybrid Electric Vehicles (PHEV), Battery Electric Vehicles (BEV) and the Fuel Cell Electric Vehicles (FCEV).
- With the impending commercialisation of Fuel Cell Electric Vehicles (FCEV) there is no doubt a need to develop a category to consider the gaseous elements of these vehicles. Hydrogen gas has completely different characteristics to other gaseous fossil fuels such as LNG, CNG or LPG and therefore requires unique education and skill sets, this is an issue being currently considered through the Automotive Strategic Industry Reference Committee through “PWC - Skills for Australia”.
- Advanced Driver Assistance System (ADAS) Technician – being the work necessary to diagnose, repair, install and calibrate ADAS to maintain system integrity and interaction with other safety systems.
- Automated Driving System Technician – being the work necessary to diagnose, repair, install and calibrate and update Automated Driving Systems (Levels 3, 4 or 5) to maintain system integrity, interaction with other safety systems as well as connectivity with inter-related networks.

FCAI and our members are working through the Automotive Strategic Reference Committee – Skills for Australia to develop training products that support the above recommendations, acknowledging that these qualifications are not yet in existence, notwithstanding the developing requirement with advanced technologies emerging in new vehicles rapidly in response to societal goals of reducing emissions and improving road safety.

22. Should any of the existing classes of repair work be amalgamated? Why or why not?

FCAI considers that the classes that could be combined would be those dealing with the various types of fossil fuel gases. Whilst we acknowledge there are some differences, the fundamental skills required for working with these various fossil fuel gases and the behaviour of the gases are reasonably similar, the classes that could be combined are:

- Compressed natural gas mechanic
- Liquefied natural gas mechanic
- Liquefied petroleum gas mechanic

Thank you for considering the above issues in relation to the review of the NSW review of the Motor Dealers and Repairers Act.

FCAI remains prepared to further discuss as required.

Best Regards

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