
FCAI supplementary submission to the Motor Vehicle Standards Act Review



Federal Chamber of Automotive Industries
Level 1, 59 Wentworth Avenue
Canberra ACT 2604
Phone: +61 2 6247 3811

Contact: Mr Ashley Wells
Mr James Hurnall

25 June 2015

1. INTRODUCTION

The FCAI is the peak industry organisation representing the manufacturers and importers of passenger motor vehicles, SUVs, light commercial vehicles and motorcycles in Australia. The FCAI welcomes the opportunity to make this supplementary submission to the review of the Motor Vehicles Standards Act 1989 (MVSA).

This submission follows earlier submissions and comments provided by the FCAI to the Infrastructure Department throughout the MVSA review. As the FCAI has made clear, the Australian automotive industry does not support the proposal to further relax concessions on the importation of new or used motor vehicles due to the significant adverse consumer impact

All of these adverse consumer impacts result in a negative impact on the relevant FCAI member brand.

This supplementary submission focuses on the logistical, operational, and technological matters involved in importing a vehicle into Australia and then registering for road use.

2. OVERVIEW OF FCAI POSITION

The FCAI supports the objectives of the MVSA:

- (a) to achieve uniform vehicle standards to apply to new vehicles when they begin to be used in transport in Australia; and
- (b) to regulate the first supply to the market of used imported vehicles.

The MVSA does not preclude full-volume certification, and the subsequent importation and sale of the same motor vehicle (make/model/variant) by more than one legal entity, i.e. parallel importation. However, due to the significant costs involved with setting up a supply and distribution channel, parallel imports of new full volume vehicles do not regularly occur in Australia.

The current SEVs and personal importation schemes are 'concessional' schemes, i.e. there are a range of concessions provided by the government to the supplier to import vehicles into Australia. The concessions include a lower burden of proof, or level of evidence provided, to demonstrate compliance with the safety and environmental regulatory technical standards (i.e. the ADRs). In some cases, exemptions to certain safety standards are granted.

On 16 April 2015, the Assistant Minister for Infrastructure, the Hon Jamie Briggs, announced that the Cabinet had considered the policy options to reform the MVSA. Cabinet "agreed to consider possible options to "reduce restrictions on the personal importation of new vehicles after further public consultation. "¹ As outlined above, the FCAI considers this should have referred to "allowing further concessions" rather than "reducing restrictions."

¹ Assistant Minister Briggs' media release of 16 April 2015.

In the 16 April announcement, the Minister sought comments on the proposed reforms, noting that all comments will assist in informing the development of the Regulatory Impact Statement (RIS) and the Government's final decision. The RIS will be publicly released in coming months and will include a comprehensive assessment of the proposed reforms for the Act.

As the FCAI has made clear in our previous submission and during the extensive consultation with the government, the Australian automotive industry does not support the proposal to further relax concessions on the importation of new or used motor vehicles. The current low volume and personal import schemes fulfils a special need.

Any additional concessions from the current standards for importation of new or used vehicles would have significant potential for adverse downstream impacts including:

- Risk to consumers.
- Reduced safety for vehicle owner, occupants and other road users.
- Inability for the industry to undertake servicing and repair due to lack of tools, equipment and training on non-Australian specified vehicles.

These downstream impacts would be compounded over time and could be felt by vehicle owners and the broader community for the life of an imported motor vehicle, which is typically around 20 years.

3. IMPORTING A NEW MOTOR VEHICLE UNDER THE PROPOSED CHANGES

A range of logistical, operational and technical matters need to be resolved prior to extending the personal import concession and allowing the personal import of new vehicles² (see following section for a discussion on the proposed definition of new vehicle).

The infographic in Appendix A outlines the relevant steps identified by the FCAI and member companies that need to be taken for a personally imported motor vehicle. The following section outlined in more details the operational and regulatory issues that need to be addressed at the major points in the process outlined in the infographic. The FCAI is interested in how matters identified below will be addressed without incurring additional cost and burden to what is currently a streamlined importation process.

3.1 Australian consumer visits website of an overseas dealer and finds a vehicle for purchase

- Source market: how will accepted and 'trusted' markets be defined?
- Authorised (franchised) dealer: how will this be defined?
- How will the buyer establish the true identity of the motor vehicle?
 - Will the vehicle be subject to odometer verification and independent assessment regarding its origins, including age, prior use and possible prior damage and repair?
 - Will the vehicle be assessed for water damage?

² 'new vehicle' also needs to be clearly defined – see Section 5.

- Will the vehicle be inspected to ensure it has not been subjected to significant damage and subsequently repaired?
- Standards:
 - How will the vehicle buyer ensure the vehicle meets the necessary regulatory standards?
 - Is the vehicle 'fit for purpose' or does the vehicle have different specifications to the equivalent Australian model?
 - Does the buyer need to acknowledge that the vehicle may have different specifications and will not be able to expect the Australian distributor to provide support?
 - Does the buyer need to provide proof of origin/ownership and vehicle log history?
- Vehicle Import Approval: what information will need to be provided to DIRD for a Vehicle Import Approval to be issued?
 - How will the bona fides of the owner be established and that the vehicle is for personal use and not for re-sale?

3.2 Vehicle is exported to Australia

- Logistics arrangements and costs - Export of the vehicle:
 - Who is arranging inland freight, sea freight and insurance?
 - Who is actually exporting the vehicle from the source market?
 - Are there any border controls that need to be complied with?
 - Will a provenance and ownership check be conducted prior to export or when the vehicle arrives in Australia?
 - How will an export price be determined and/or validated?
 - Vehicles may be classified as Dangerous Goods for maritime carriage under UN 3166, Class 9 (especially where shipping containers are used). Who will ensure a vehicle to be exported complies with international Marine Orders? Refer Australian Maritime Safety Authority.
- Is import approval sought and received prior to the purchase of the vehicle or after the vehicle is purchased in the source market?
- When does the Department of Infrastructure assess and approve the vehicle's compliance, and is this undertaken in Australia or at country of purchase:
 - Identification plate
 - Proof of ownership
 - Regulatory standards/ADRs being met (for vehicle and any accessories fitted)
 - Emissions standards being met

3.3 Vehicle arrives at an Australian border

There are a number of checks that will need to be undertaken to assess the motor vehicle meets the relevant Australian requirements across a range of areas.

- *Department of Health*
 - Does the vehicle comply with the National Industrials Chemicals Notification and Assessment Scheme? (i.e. chemicals in the vehicle must be registered prior to importation or removed/drained prior to importation).

- *Department of Environment*
 - Vehicles fitted with air-conditioning systems are still subject to the Synthetic Greenhouse Gas Levy. How will the Government collect this? Will the owner need to obtain a SGG licence? Will (dormant) carbon tax requirements be applied?

- *Quarantine and biosecurity*
 - Will an automatic bio-security check at point of export be required?
 - Will a similar check be conducted at point of entry?
 - Will cleaning/quarantining of the vehicle be required?

- *Customs*
 - Will Customs staff check each vehicle that is imported via an Australian port?
 - What tariff classification will apply to the vehicle?
 - How will rules of origin be assessed to determine relevant duty and other taxes (i.e. GST and LCT) payable?
 - Origin of vehicles will be difficult to prove; therefore it is likely that personal imports will be ineligible for FTA concessions.
 - How will one-off imports be validated?
 - Valuation of vehicle needs to be undertaken to establish value for duty – how will this be applied?
 - Are the Customs IT systems able to handle a large volume of personal importation of ‘new’ vehicles?
 - Who will pay for wharf and other transport charges?
 - What will be the insurance requirements for the purchaser to meet?

- *Attorney-General’s Department*
 - How will the purchaser know if they need to comply with the Anti-Money Laundering/Counter Terrorism Financing legislation?
 - Note: this legislation requires banks to notify the regulator of the identity of any person performing a cash transaction of \$10,000 or more.

- *Australian Communications and Media Authority*
 - Does the vehicle comply with Australia’s EMC and radio communication standards?
 - What is the impact on telecommunications companies and tollways?
 - Cooperative ITS is being introduced throughout the world with different standards due to each region’s unique conditions. Any personal import will need to ensure C-ITS is able to be integrated into the Australian operating spectrum and does not interfere with other telecommunications equipment.

- *Other*
 - Are any modifications required to the vehicle to meet registration requirements and who would conduct and verify that the modification meets the necessary standard?
 - Some overseas markets allow use of TV/video to operate in the motor vehicle while moving, while Australia does not. Will these features be disabled?

3.4 Vehicle is registered

- *Certification checks*
 - What standards are personal imports being measured against and how is this conducted?
 - Does the vehicle meet the state/territory vehicle registrations requirements?
 - How will State/Territory Registration Authorities undertake the registration process; (see Appendix B for a summary of how personal imports are currently managed by state/territory registration authorities).
 - Vehicle valuation needs to be conducted for registration (stamp duty) payable.
 - Will these vehicles need to be registered for 'private use'?
 - Will owners need to keep the vehicle for a minimum number of years and if so, how will registration authorities manage this?
 - Will state/territory governments manage recalls?
 - Will standards and certification processes be consistent regardless of source markets?
 - Do personal imports need to meet the same standard as other new car imports?
- *NEVDIS, WOVR and PPSR*
 - The National Exchange of Vehicle and Driver Information System (NEVDIS) is the database of Australian driver and vehicle information. It includes the national Vehicle Identification Number (VIN) database and the national Written Off Vehicle Register (WOVR) database.
 - Need to ensure necessary processes are in place to load vehicle details (including VIN) onto NEVDIS.
 - What will be the ability of provenance checks including accessing vehicle details via the Personal Property Security Register (PPSR)?
 - How will the Government prevent re-birthing of stolen vehicles from other countries and not undermine the work that has been undertaken with initiatives such as the Written-off Vehicle Register.
- *In-service*
 - How will the vehicle be managed 'in-service'? Where will the owner be able to access servicing, repairs and parts for an 'orphan' vehicle?
 - What does the consumer do in relation to warranty considerations for a vehicle not intended for the Australian market?
 - What service and parts obligations will exist for a vehicle not intended for the Australian market?
 - Who will manage vehicle recall notices?

- *Australian Consumer Law*
 - This is relevant to both the initial purchaser and also the 2nd (and subsequent) owners.
 - What remedies/recourse is available to the owner to pursue the overseas seller if the vehicle doesn't meet the buyer's expectations?
 - What exposure will the brand in Australia have for the vehicle, even though the brand did not import the vehicle?
 - How will the subsequent owner be aware that the vehicle is a personal import (not a full volume import)?
 - What remedies will be available to that purchaser if the vehicle does not meet expectations?
 - How will initial purchaser be made aware of ACL obligations³
 - Recalls:
 - How will any safety recalls be conducted?
 - Where will the details of the vehicle be registered and who will check on any recalls announced on that model in its home market?

The FCAI seeks to understand how the Government will address the matters identified above without incurring additional cost and burden to streamlined importation process for new vehicles imported by FCAI members.

4. IDENTIFICATION OF PARALLEL/PERSONAL IMPORTS

The ACCC has recently added a page to their website titled *Buying Parallel Imports*.⁴ The page contains guidance to consumers when considering purchasing a parallel import. Importantly, the ACCC has highlighted:

- It may be more difficult to obtain a remedy if something goes wrong with a parallel import
- The seller of the parallel import cannot refuse to help the purchaser of the parallel imported good.
- Although the product may carry a particular or popular brand name—if it is sold to you as a parallel import, the local manufacturer is not required to help you if the product develops a fault.

Included in Appendix D is a series of media articles from Australia and overseas that highlight the challenges that will be presented to consumers through parallel import avenues including;

- Winding back of odometer readings (articles of examples from NSW, Victoria and Germany).
- Written-off vehicles being exported from Australia and sold in New Zealand.

Identification that a vehicle is a parallel or personal import under the current concession schemes is based largely on the colour Identification Plate⁵;

- Personal imports—yellow Identification Plate.

³ ACCC, *Buying Parallel Imports*, www.accc.gov.au/consumers/online-shopping/buying-parallel-imports [accessed 11 June 2015]

⁴ www.accc.gov.au/consumers/online-shopping/buying-parallel-imports

⁵ Administrators Circular 0-3-2 Identification Plates, Issue 12, June 2010

- SEVS vehicles—green Identification Plate.

With increasing use of internet based systems, many consumers are conducting their initial research for vehicles (new and used) online rather than by a physical check of the vehicle. This includes the use of both private sites such as carsales.com.au and government initiatives such as the Personal Property Securities Register. Owing to this, the ability to identify a vehicle that has been imported under one of the concessional schemes (e.g. SEVS or a personal import) should also be online.

If the Government persists with the current proposal for personal importation of new vehicles, then a system to identify these vehicles as personal imports is necessary. Additionally, the FCAI considers that a system to identify vehicles not imported under the full volume certification (including new and used motorcycles) is also necessary. A first step could include expanding the current system where imports of used Japanese domestic vehicles are given a new VIN starting with '6U9' to create a 17 digit VIN. Changing the VIN of all parallel/personal light vehicle imports to start with '6U9' would be at least the first step in providing the necessary notification to consumers (and other interested parties such as insurance companies and finance companies) that the vehicle was a parallel or personal import.

Obviously, the vehicle details including the VIN would need to be made publically available along with sufficient public information.

5. DEFINITION OF A NEW VEHICLE

5.1 Proposed Definition of a New Vehicle for Personal Import

The FCAI understands that the proposed definition of a 'new vehicle' for a personal import is;⁶

- the vehicle is of a light vehicle category and is right hand drive;
- The vehicle must be manufactured no more than 12 months prior to import application;
- The vehicle is purchased from an authorised dealer located in a trusted source market; and
- The vehicle is permitted to have a maximum of 4000 kms delivery mileage⁷.

5.1.1 Right Hand Drive (RHD);

The FCAI interprets this requirement as the vehicle was originally manufactured in RHD for a RHD market.

Many overseas markets are left hand drive (LHD). Therefore the Government would need to put in place safeguards to ensure vehicles exported from another country and converted from LHD to RHD are not re-exported from a region such as UK to Australia (assuming UK is a trusted market).

5.1.2 Manufactured no more than 12 months prior to import application;

⁶ Letter from Assistant Minister Briggs to Mr Tony Weber of 18 Nov 2014

⁷ At a meeting on 18 June Assistant Minister Briggs advised the FCAI that the maximum distance (i.e. odometer reading) was to be reduced to 500 km.

The FCAI assumes that it is the government's intention that verification that the vehicle is no more than 12 months old will be conducted via a check against a vehicle's build date (e.g. plate/label with mth/yr of vehicle production).

Date of manufacture (or build date) may not be easy to ascertain as many overseas markets do not require a build date to be recorded on a plate/label and added to the vehicle.

In Australia, the FCAI has a voluntary Code of Practice where FCAI member brands a fit plate/label with a build date to provide accurate information to consumers.

The Government would need to put in place a system to replicate an Australian build plate for a personal import vehicle.

5.1.3 Authorised Dealer

The draft definition includes purchasing the vehicle from an 'authorised dealer'. The FCAI assumes that the intention is that an authorised dealer is an accredited (or franchised) new car dealer for that particular brand.

- If so, how will the government verify that the car was purchased from a dealer who is authorised to sell a particular brand and model of vehicle in the overseas market?
- Will the government check an overseas companies credentials and authority to export?

While the FCAI has not had detailed discussions with Australia's border enforcement agencies on this detail (i.e. Authorised Dealer) for the Government to achieve its stated aim the following additional criteria would be necessary:

- The 'authorised dealer' must maintain ownership of the vehicle up until the time the vehicle is legally transferred to the Australian personal importer.

5.1.4 Trusted Source Market

The FCAI considers that further clarification is needed on which markets are 'trusted' and how these are defined. For example, will 'trusted source markets' need to be:

- Signatories to both the 1958 and 1998 Agreements?
- Adopt or apply the same UN Regulations as Australia?

In addition, the Government will need to address the practical logistical issue of ensuring any vehicle intended for personal import into Australia was in fact built for sale and use in that trusted market, i.e. the market where they were intended to be sold and driven as opposed to a 'pass through' vehicle intended for another market. For example, assuming UK is confirmed as a trusted market, the vehicle will need to be built for the UK domestic market rather than a vehicle built for a non-UK RHD market (e.g. South Africa or India) being sold to an Australian customer via a UK-based dealer.

5.1.5 Less than 4,000 km mileage

Apart from the lack of rigidity and evidence for any relaxation of existing concessions, FCAI and member companies do not support the proposal to allow a vehicle with up to 4,000 km to be considered a 'new' vehicle for this purpose.

The FCAI and member companies consider that a motor vehicle with 4,000 km on the odometer as proposed constitutes a used car, and with it all of the associated complications with establishing provenance and quality of the motor vehicle in question.

In a recent discussion (18 June 2015) with Assistant Minister Briggs, the FCAI were advised that the maximum distance (i.e. odometer reading) will be amended to 500 km. While this is a positive change, this still does not change the fundamental consumer protection concerns, i.e. establishing provenance and quality of the vehicle.

5.2 Definitions of New and Used Vehicle;

The MVSA Section 5 Interpretation, Clause (1) contains the following definitions;

new vehicle means a locally made vehicle, or a new imported vehicle, that has been neither:

- a) supplied to the market; nor
- b) used in transport in Australia by its manufacturer or importer;

used imported vehicle means an imported vehicle that has been used in transport outside Australia

used in transport, in relation to a road vehicle, means use the vehicle on a public road otherwise than;

- a) to move it in order to:
 - (i) have work done on it; or
 - (ii) have it registered under a law; or
 - (iii) protect it; or
- b) for a prescribed purpose.

For practical purposes, within Australia a new vehicle is normally considered a vehicle that has not previously been registered.

The Californian vehicle code⁸ defines both a new vehicle and used vehicle;

430. A "new vehicle" is a vehicle constructed entirely from new parts that has never been the subject of a retail sale, or registered with the department, or registered with the appropriate agency or authority of any other state, District of Columbia, territory or possession of the United States, or foreign state, province, or country.⁹

665. A "used vehicle" is a vehicle that has been sold, or has been registered with the department, or has been sold and operated upon the highways, or has been registered with the appropriate agency of authority, of any other state, District of Columbia, territory or possession of the United States or foreign state, province or country, or unregistered

⁸ California Legislative Information, www. <http://leginfo.legislature.ca.gov/faces/codes.xhtml> [accessed 25 June 2015]

⁹ California Vehicle Code, Amended by Stats. 1994. Ch. 1253, Sec. 6. Effective January 1, 1995

vehicles regularly used or operated as demonstrators in the sales work of a dealer or unregistered vehicles regularly used or operated by a manufacturer in the sales or distribution work of such manufacturer. The word "sold" does not include or extend to:

- (1) any sale made by a manufacturer or a distributor to a dealer,
- (2) any sale by a new motor vehicle dealer franchised to sell a particular line-make to another new motor vehicle dealer franchised to sell the same line-make, or
- (3) any sale by a dealer to another dealer licensed under this code involving a mobilehome, as defined in Section 396, a recreational vehicle, as defined in Section 18010.5 of the Health and Safety Code, a commercial coach, as defined in Section 18012 of the Health and Safety Code, an off-highway motor vehicle subject to identification, as defined in Section 38012, or a commercial vehicle, as defined in Section 260.¹⁰

Under the Victorian Motor Traders Act 1986, a used motor car is defined as:

...a motor car that has, at any time before being offered or displayed for sale, been registered under the Road Safety Act 1986 or the Motor Car Act 1958 or under any Act or law of a place outside Victoria which contains provisions corresponding to the provisions of the Road Safety Act 1986 for registration of motor cars.¹¹

The FCAI also considers that a car that has been driven on the road for demonstration or delivery to another dealer under permit (e.g. using a dealer plate) should also be considered as a used vehicle.

The Irish Tax and Customs defines a new car as:

...a new motor vehicle should generally be regarded as one which has not been owned by any person other than the manufacturer, distributor(s) and authorised dealer(s), and/or has not been registered by any of these in their own name(s).¹²

In discussions with Government, it became apparent that the intent of the maximum distance (odometer reading) provision in the draft proposal is to enable the sale of so-called 'demonstrator' cars from dealerships overseas.

The NSW Motor Dealer and Traders Act 2013 identifies through its definition, that a demonstrator motor vehicle is a motor vehicle that:

...that has been registered only in the name of a motor dealer, a person on behalf of a motor dealer or another person in anticipation of the sale of the motor vehicle to that person.¹³

Irish Tax and Customs again identify that a demonstrator is a used motor vehicle for taxation purposes, and that the sale of such a vehicle is subject to the country's Margin Scheme:

...where a dealer has registered a vehicle in his or her own name and subsequently sells that vehicle, it must be treated as a second-hand vehicle and sold through the Margin Scheme, even if there have been no other owners.¹⁴

¹⁰ California Vehicle Code, Amended by Stats. 1988, Ch. 1583, Sec. 2.

¹¹ http://www.austlii.edu.au/au/legis/vic/consol_act/mcta1986194/

¹² <http://www.revenue.ie/en/tax/vat/leaflets/vat-and-vrt-on-motor-vehicles.html#section1.1>

¹³ <http://www.legislation.nsw.gov.au/maintop/view/inforce/act+107+2013+cd+0+N>

¹⁴ <http://www.revenue.ie/en/tax/vat/leaflets/vat-and-vrt-on-motor-vehicles.html#section7.8>

Accordingly, a demonstrator vehicle is a used motor vehicle by virtue of the motor vehicle being registered.

Attached at Appendix C are examples of two Mercedes-Benz used cars for sale in Melbourne¹⁵. As you will see, the attached information provides details of the requirements on dealers in Victoria under the Motor Traders Act 1986. Both motor vehicles have less than 4,000 kilometres on the odometer and are listed as used cars.

The Government needs to consider the implications of other legislation within Australia that currently deal with used vehicles and industry practice if the intention is to allow personal import of 'new' vehicles.

6. CONCLUSION

The FCAI welcomes the opportunity to provide this supplementary submission to the Review of the Motor Vehicle Standards Act (MVSA). The FCAI and member brands support the objective of the MVSA, i.e. to set uniform national vehicle safety and environmental standards for new vehicles to be supplied to Australia.

Accordingly, the MVSA provides for a minimum set of safety and environmental standards for the supply of vehicles to Australian consumers. It does not 'restrict' the importation and sale of new or used vehicles provided the importer is able to undertake the Government's vehicle certification process.

The MVSA does not preclude more than one legal entity undertaking full-volume certification of a motor vehicle, nor does it preclude the subsequent importation and sale of the same make and model. However, due to the significant costs involved with setting up a supply and distribution channel, parallel importation of new (or used) full volume vehicles do not regularly occur in Australia.

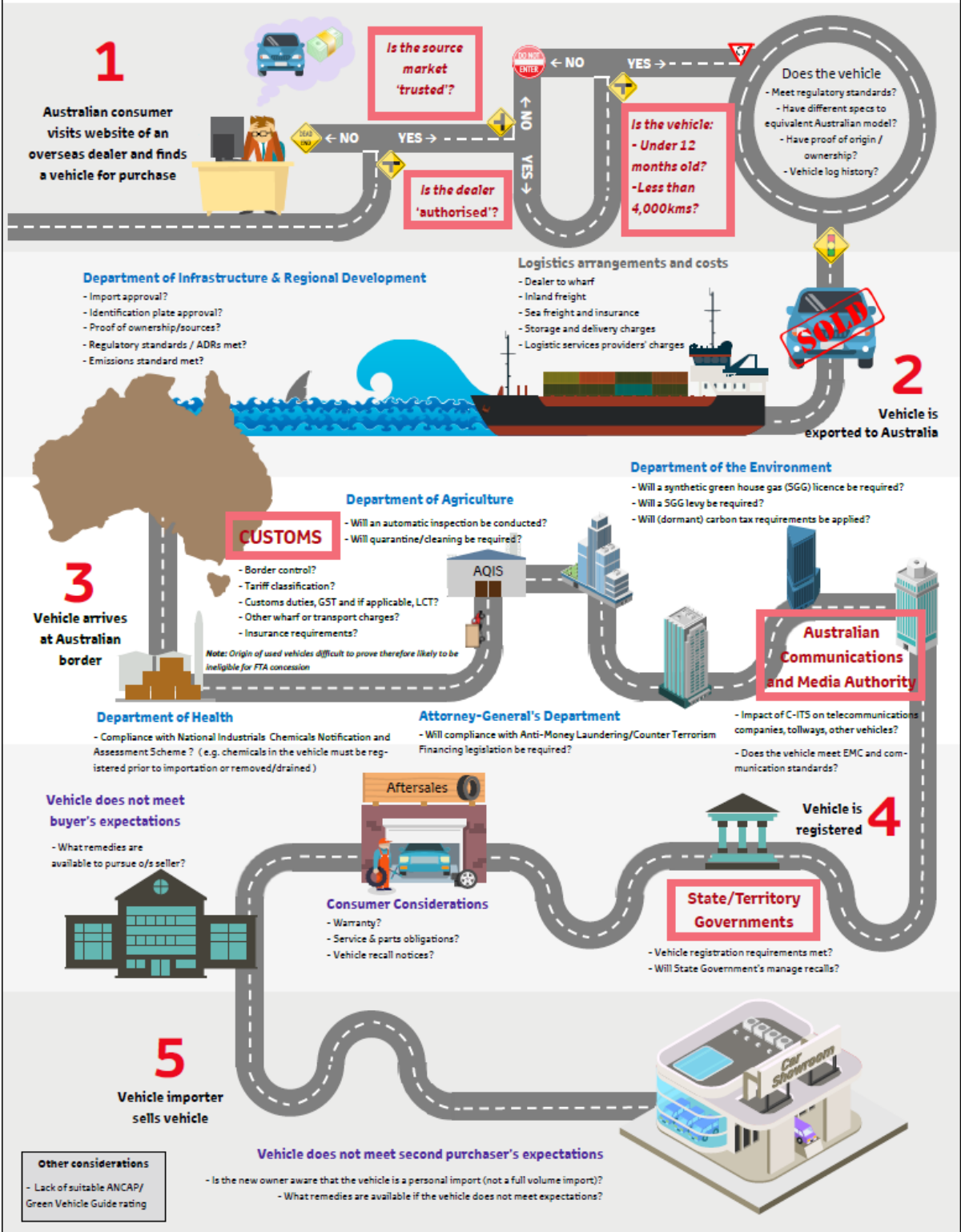
The FCAI also considers it is important to stress that the MVSA does not preclude parallel imports. Currently the MVSA allows for SEVs and personal imports under concessional schemes. The FCAI does not support expanding the current concessional schemes.

This supplementary submission focuses on the range of logistical, operational and technical matters need to be resolved prior to extending the personal import concession and allowing the personal import of new vehicles.'=

---OOO---

¹⁵ As at 2 June 2015

Importing a vehicle under the proposed personal parallel import model



APPENDIX B – STATE/TERRITORY LEGISLATION CHANGES REQUIRED

The following federal and state legislation would need to be amended if the proposal for personal importation of new vehicles was to proceed;

1. Motor Vehicle Standards Regulations;

Section 13 of the Motor Vehicle Standards Regulations, Definition of Personal Import would be amended.

2. Australian Vehicle Standards Rules;

Following on from amending the Motor Vehicle Standards Regulations, amendments would also be required to the Australian Vehicle Standards Rules (AVSRs), Part 3, Division 2, Section 23 which contains definitional requirements and vehicle standards requirements for a personally imported vehicle.

3. State vehicle standards and registration legislation/procedures;

Each state would also require changes to their state legislation (which reflects the AVSRs) to reflect the new definition for 'new' personal imports.

As part of the registration of personally imported vehicles at a state level, an inspection by an 'engineering signatory' is required to certify that the vehicle meets the standard in Vehicle Standards Bulletin (VSB) 14, Code LO3.

With a definition for a 'new' vehicle allowed under a personal import, a new code in VSB 14 Section LO Vehicle Standards Compliance will need to be developed for state governments to assess the 'new' personal import meets the relevant ADRs.

APPENDIX C – EXAMPLES OF USED MOTOR CAR PRICE AND DATA SHEET

590114197

Form 5
Motor Car Traders Act 1986 Regulation 11 and 12
Used motor car price and data sheet

Warranty Information

Is this motor car automatically covered by a statutory warranty under section 54 of the *Motor Car Traders Act 1986*?

Yes No

Please note:
Motor cars that are less than 10 years old and that have been driven less than 100,000 kms are automatically covered by a statutory warranty under section 54 of the *Motor Car Traders Act 1986* for the first 3 months or 5,000 kms after delivery, whichever occurs first.
If this motor car is not automatically covered by the statutory warranty, the trader does not have any obligation under the *Motor Car Traders Act 1986* to repair or make good any defects after delivery. However, the trader may have other obligations under other legislation including the Australian Consumer Law.

Name and business address of the current owner of the motor car:
Mercedes-Benz Melbourne 135 Kingsway South Melbourne Vic 3205

PARTICULARS OF MOTOR CAR

Make of motor car (if any)	MERCEDES BENZ
Model of motor car (if any)	C 300 BTH
Odometer reading at the time acquired by LMCT	3070 kms
Build date (if it appears on motor car)	05/11/14
Compliance date	12/01/15
Registration number of the motor car (if any)	ADD579
The vehicle identification number of the motor car	WDD2050122F125779

PRICE OF MOTOR CAR

Cash price of motor car excluding fees and duties*	\$4400
Total cash price of motor car including fees and duties	\$87,990.00 Inc. GST Driveaway

Written off register
Is the motor car entered on the register of written-off vehicles or on an interstate written-off vehicles register within the meaning of the *Road Safety Act 1987*? Yes No

Registration
Is the motor car to be sold with registration? Yes No

LMCT. 6776

Signature of motor car trader	Name	Date
Signature of purchaser	Name	Date

* The cash price of the motor car means the price at which the vendor is willing to sell the motor car for cash (excluding duties and transfer fees). Motor cars sold, offered or displayed for sale at public auction are not required to show the cash price of the vehicle.
AFFIX TO RIGHT SIDE WINDOW (Rear where applicable)
(NOTE: On the sale of the motor car the purchaser must sign and be given a copy of this form under sections 52(8) and 83C(1) of the *Motor Car Traders Act 1986* and regulation 28 of the *Motor Car Traders Regulations 2008*.)

Form 5
Motor Car Traders Act 1986 Regulation 11 and 12
Used motor car price and data sheet

Warranty Information

Is this motor car automatically covered by a statutory warranty under section 54 of the *Motor Car Traders Act 1986*?

Yes No

Please note:

Motor cars that are less than 10 years old and that have been driven less than 160,000 kms are automatically covered by a statutory warranty under section 54 of the *Motor Car Traders Act 1986* for the first 3 months or 5,000 kms after delivery, whichever occurs first.

If this motor car is not automatically covered by the statutory warranty, the trader does not have any obligation under the *Motor Car Traders Act 1986* to repair or make good any defects after delivery. However, the trader may have other obligations under other legislation including the *Australian Consumer Law*.

Name and business address of the current owner of the motor car:

Mercedes-Benz Melbourne 135 Kingsway South Melbourne Vic 3205

PARTICULARS OF MOTOR CAR

Make of motor car (if any)	MERCEDES BENZ
Model of motor car (if any)	C 250T
Odometer reading at the time acquired by LMCT	3542 kms
Build date (if it appears on motor car)	11/10/14
Compliance date	18/12/14
Registration number of the motor car (if any)	ADD578
The vehicle identification number of the motor car	WDD2052452F111227

PRICE OF MOTOR CAR

Cash price of motor car excluding fees and duties*	82600
Total cash price of motor car including fees and duties	\$85,990.00 inc. GST Driveaway

Written off register

Is the motor car entered on the register of written-off vehicles or on an interstate written-off vehicles register within the meaning of the *Road Safety Act 1986*?

Yes No

Registration

Is the motor car to be sold with registration?

Yes No

Signature of motor car trader LMCT. 6776

	Name	Date
--	------	------

	Name	Date
--	------	------

* The cash price of the motor car means the price at which the vendor is willing to sell the motor car for cash (excluding duties and transfer fees). Motor cars sold, offered or displayed for sale at public auction are not required to show the cash price of the vehicle.

AFFIX TO RIGHT SIDE WINDOW (Rear where applicable)

(NOTE: On the sale of the motor car the purchaser must sign and be given a copy of this form under sections 52(6) and 83C(1) of the *Motor Car Traders Act 1986* and regulation 28 of the *Motor Car Traders Regulations 2008*).

“Huge market in NZ for Aussie insurance write-offs” NZ Automotive News, 22 April 2015

'Huge market' in NZ for Aussie insurance write-offs, says transport official

on April 22 2015 | in [Highlights](#), [Industry news](#), [Latest news](#), [Tips & advice](#) | by [Alastair Sloane](#) | with [Comments Off](#)

Vehicles written off by insurers in Australia continue to be given a new lease on life in New Zealand through the TradeMe auction site.

More than 400 such vehicles are being imported into NZ each month from Australia and sold online, says a senior NZ Transport Agency official. Two years ago around 100 write-offs were landing here each month; now near-parity with the Australian dollar has seen numbers soar.

Almost all are insurance rejects bought for a song at auction by registered NZ car dealers and traders. Some are new and unregistered, some are damaged. Most come from New South Wales where every write-off is statutory, meaning the vehicle can never again be registered for use on Australian roads.

In many cases insurers will end the Australian life of a new and unregistered vehicle if it has been exposed to water or smoke damage. It will be written off, auctioned, shipped to NZ, registered as new, and sold for a healthy profit. In one case a late model Subaru was bought at auction in Sydney for A\$6000 and eventually sold in NZ for NZ\$31,000.



NZ law allows insurance write-offs from Australia to cross the country's borders and be born again

“There is a huge market in statutory write-offs,” said the NZTA official. It's not just the profit potential – NZ law allows the car to be born again. A 2011 model sitting unregistered on an outer Sydney distributor's lot for three years before being engulfed by smoke from a bushfire, can end up on the NZTA's books as a first-registered 2015 model. Its history begins in NZ.

The NZ Transport Agency logs the arrival of each vehicle and records the Vehicle Identification Number (VIN). It will red flag the VIN of a visibly damaged import but it has no way of enforcing importers to declare the vehicle's complete history.

“We want them to but there's nothing we can legally do to force them,” the official said. “They will do whatever they can to not declare the history.”

TradeMe doesn't require the seller to list the vehicle's number plate let alone the VIN. The NZTA has asked it to do so to help better protect buyers but TradeMe has refused, the official said. “TradeMe said it doesn't ask for identification on other products for sale on its site, so why should it do so for vehicles.”



Tom Ruddenklau, VW general manager: "It is frustrating that these write-offs are allowed into the country"

TradeMe Trust and Safety division spokesman Jon Duffy told *Automotive News NZ* 18 months ago when write-offs began to arrive in numbers: "The core issue we must consider is if the vehicle has been subject to a statutory write-off in another jurisdiction, that is information a consumer would expect to know about. We are quite happy to list but the need to fully disclose is there."

Consumer Affairs Minister Craig Foss said in late 2013 that he would tighten up the Consumer Information Notice (CIN) to force sellers to provide car buyers with more information.

"It is clear that information provided on the current CIN (2010 version) could be more helpful," said Foss.

"I have decided to amend the CIN to provide more meaningful information for consumers and help them make a more informed decision when purchasing a vehicle."

But there is nothing in the CIN that warned a NZ car buyer last month that the vehicle with a 2015 registration he quite liked was built in Europe in 2011, landed in Australia in 2012, was parked, unregistered, on a lot outside of Sydney until November 2014, when it was written off as water-damaged, auctioned and shipped to NZ.

- The latest Australian write-offs to appear on TradeMe are Volkswagen Golfs and Mazda3 models. There's a BMW X1, too. Said Volkswagen NZ general manager Tom Ruddenklau: "As custodians of the Volkswagen brand in New Zealand it is frustrating that these cars are allowed to come into the country. We are very supportive of the tightening-up of requirements, as it's vital that we do all we can to preserve the safety of Volkswagen owners."

"German odometer scam hits millions" The Australian [accessed 7 May 2015]

World Breaking News

German odometer scam hits millions

- From: *AAP*
- June 30, 2014 12:20PM

NEARLY a third of all second-hand cars sold in Germany have been rigged by unscrupulous dealers, who wind back the odometers and trick customers into paying more for alleged low-mileage examples, a report claims.

GERMANY'S ADAC car club warns that private buyers are most likely to be hit by the fraudulent practice, which is often difficult to detect, especially if service documents have also been forged.

The club said cars made from 2000 onwards, when mechanical odometers were phased out in favour of digital versions, were particularly prone to manipulation.

Devices for resetting a car's mileage could now be bought for the equivalent of less than \$US10,000 (\$A10,820) and the fraud carried out within the space of 30 seconds, said the ADAC.

Cheaper copies from China of the equipment were offered for sale at a fraction of that price.

The warning comes as a dealer went on trial in Munich for allegedly tampering with the odometers of dozens of high-mileage Italian luxury cars. Prosecutors said the man bought the cars cheaply and sold them at a premium to unwitting customers.

Among the brazen cases cited by the ADAC in Germany, where millions of second-hand cars change hands annually, was another case in Munich in 2011. A car was seized by police after it turned out that the dealer had rewound the true mileage of 700,000 kilometres back to 150,000 kilometres.

Under German law, dealers have to take back a "clocked" car and refund the sale price only if the buyer can prove that it was deliberately tampered with.

ADAC experts advised customers to examine a second-hand car carefully if the claimed mileage appears not to match the general condition.

Telltale signs of high mileage include thoroughly worn seats and rubber mats.

“Odometer cheats conning second-hand car buyers” Herald-Sun, 29 March 2015

Odometer cheats conning second-hand car buyers

- by: Mark Buttler
- From: Herald Sun
- March 29, 2015 9:30PM

POLICE have issued a warning to second-hand car buyers after a spate of vehicles have been sold with their odometers wound back.

The old-time scam has returned as criminals use new technology to provide false mileage readings, significantly boosting the value of old cars.

And some vehicles have had their odometers replaced with meters from lower-mileage wrecks to dupe unsuspecting buyers.

Detective Sen-Sgt Mark Ward, of the vehicle crime squad, said speedometer crime was attractive to criminals.

“Speedo windbacks is emerging as a serious vehicle crime issue. It is reasonably high profit with a minimal risk factor,” he said.

“Often, unsuspecting purchasers are not aware they have purchased a speedo windback vehicle until something goes wrong with that vehicle.”

Sen-Sgt Ward said buying cars through online forums was “fraught with danger” because of the lack of statutory protection a buyer had.

“The old adage holds true, ‘If it seems too good to be true, it probably is’,” Sen-Sgt Ward said.

Victorian Automobile Chamber of Commerce executive director David Purchase said the organisation would like to see more severe penalties for odometer tampering.

“Odometer tampering is a serious offence and it can affect the sale and resale value of the vehicle, as well as hide the fact the vehicle may need more extensive servicing, or result in unexpected breakdowns, sooner than expected,” Mr Purchase said.

The Herald Sun has been told insurance companies are red-flagging vehicles with low mileage on the clock combined with surprisingly high years.

One car-buyer said he had bought a late-model Toyota 4WD for his family with 57,000km on the clock from a private seller in the north-western suburbs.

Months later, he took it to the original dealer for a service only to be told the vehicle had travelled about 170,000km, devaluing the purchase by thousands of dollars.

“We were ripped off and deceived. We did everything we thought was right,” the buyer said.

Industry sources say there are unscrupulous operators with the right equipment to charge small amounts to those in the know wanting their clocks wound back.

Victims are often afraid to take the matter further after confronting a vendor who already has their address and other personal details.

Odo clocking breakthrough serves up a warning

Posted by [Max Pichon](#)

on July 25th, 2014



An Australian court has accepted the authenticity of Japanese registration certificates, in an odometer clocking case brought against Sydney's Prestige Auto Centre.

The buyer of a wound back car received the original Japanese papers provided by Japanese Odometer Check (JOC) – and then went on to win his case in the NSW Civil and Administrative Tribunal (NCAT).

In April, *Public Defender* reported that 'car-clocking crusader' Apurva Mishra was taking action in the NCAT, alleging the imported Lancer he paid Sydney's Prestige Auto Centre \$30,000 for had travelled about three times the 34,000km showing on the odometer.

The NCAT ruled Prestige Auto Centre had engaged in "misleading and deceptive conduct" and ordered it pay Mishra \$18,526.

NCAT senior member Sabine Thode says: "I am satisfied, on the balance of probabilities, that the odometer reading was changed by the respondent or that a third party changed the odometer reading with the knowledge of the respondent in order to mislead or deceive the applicant."

NCAT accepted the Japanese registration certificate Mishra presented, regarded as an important breakthrough as it was bought through a third party, not the registry in Japan, but Mishra was able to demonstrate its authenticity.

Until now there has been a question mark over whether such documentation is legitimate.

This result should serve as a warning to any person considering winding back odometers.

People wanting more information on odometer tampering – or 'clocking' as it is more popularly known – can go to the JOC website by [clicking here](#).