



Australian Automotive Aftermarket Association

Comment on Regulatory Impact Statement
Motor Dealers and Repairers Regulation 2014

The Australian Automotive Aftermarket Association Ltd (AAAA) is the national industry association representing manufacturers, distributors, wholesalers, importers, mechanical repair & modification services and retailers of automotive parts and accessories, tools and equipment in Australia.

The Association has over 1700 member companies in all categories of the Australian automotive aftermarket and includes major national and multi-national corporations as well as a large number of Australian owned small and medium size businesses.

AAAA members manufacture, supply and fit motor vehicle components, including:

Products used to modify, maintain or enhance the performance of vehicles, including modifications for rough terrain, speciality products, safety, comfort, appearance, functional performance and body components.

Products that are replaced regularly throughout the life of the vehicle as a result of normal wear and tear – e.g. filters, tyres, wiper blades, batteries and brake pads.

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Executive Summary

Thank you for the opportunity to comment on the Regulatory Impact Statement on the Motor Dealers and Repairers Regulation 2014. AAAA have been consulted on this matter over an extended period of time and we thank NSW Fair Trading for their continued engagement with our organisation. We have also welcomed the opportunity to contribute to the debate on automotive industry specific consumer affairs and competition policy issues through our position on the Motor Vehicle Repair Industry Advisory Council (MVRIAC) which provides advice to the NSW Minister for Fair Trading. Throughout the course of this submission we will comment on matters that are of direct concern, and we will also put forward our views regarding business preparedness to implement the new Regulation.

We note that the regulatory impact considerations are discussed in three options. We would contend that despite the preface in which the three options are analysed for costs and benefits, the preferred option (Option 3) does not sufficiently consider the costs to business and consumers. In advocating for Option 3, the RIS specifically states that the regulatory impact of introducing the proposed Regulation and commence the Motor Dealers and Repairers Act, are minimal for consumers and for business:

*There are **no additional costs for consumers** arising from this option. Additional costs for industry will arise from the requirement for tradesperson certificates to be renewed every three years. Other costs for industry and Government include changes to business systems and procedures to accommodate changed requirements, such as the new, simplified form of notices to be issued by motor dealers. However, as the proposed Regulation reduces and simplifies overall administrative requirements, industry compliance costs should be reduced overall over the life of the Regulation.*

We contend that this is not the case. In our discussions with our automotive repairer and retailer membership in NSW it is very clear that there will be increased costs, both for consumers and for business within the proposed Regulation. It is important to note that the increased costs of compliance for business will ultimately be passed on to the consumer. In our view a regulatory impact assessment should individually assess each proposed measure for costs and benefits.

The simple 'implement all of these items or not' approach is not really an impact statement because the full impact of each of the items is not discussed at all. It is

self-evident that Regulations are required because the Act has been passed by NSW Parliament. It is difficult to see how this document meets the definition of a Regulatory Impact Statement when the impact of various aspects of the proposed Regulation is not measured.

In particular, three specific elements of the proposed Regulation will result in a significant cost burden due to the cost of compliance or the cost to the consumer due to increased service charges:

1. Display Of Licence Numbers
2. Prescribed Parts - Requirement For Recordkeeping
3. Definition of Vehicle Services

Display of Licence Numbers

The draft Regulation requires all licence holders to include their name and licence numbers in advertisements and business signage. There is not enough information in the RIS to inform us of the affect of the Regulation on service and repair groups such as Repco Authorised Service, Kmart Tyre & Auto, Midas & Ultra Tune. These entities work from different business models; some groups or service chains can be legally constituted as **one entity** and therefore have effectively one licence to operate from multiple locations, whilst others operate under a franchise model in which each location is registered as a separate legal entity and has its own dedicated licence.

When these groups with **multiple licences** advertise in the market under one brand name, would it be expected that every business name and licence number within the group should be mentioned in the advertisement? If this were the case, many forms of advertising would become unviable. Issues could arise with radio advertising, where the listing of every business name and licence number could take longer than the advertisement itself. Similarly in print advertising, a sizeable amount of space could be required to cover each and every licence number within an automotive chain.

This issue warrants further consideration: our research and market intelligence on buyer behaviour is that the market share of automotive chains and franchises is growing. These are nation-wide brands operating in most states and territories in Australia, and they are receiving a growing share of the market. The Regulation should not be designed with a stand-alone repairer as the only business model in the market. The Regulation should be designed for the diversity of today's market and the likely shape of the market in the future. If the intent of advertising the licence number is to ensure that consumers are informed, the requirement to list

the licence number on web sites, business cards and business premises is likely to be the most useful avenue for providing this information. It would be unusual for a consumer to quickly note down the licence number from a radio or TV advertisement. The placement of the licence number is a means to an end, to allow consumers to research this licence holder and to ensure that the entity is a bona fide provider. This is not likely to occur by listing 20 different licence numbers on a radio advertisement.

Prescribed Parts

The Regulatory Impact Statement fails to account for the additional business expense in the new proposed requirements for recordkeeping. The draft Regulation mandates additional recordkeeping requirements for certain motor vehicle parts and accessories, which, in the view of the RIS, present a 'higher risk of theft'. It is in fact more likely that the entire vehicle, or items within the vehicle such as mobile phones, portable navigation devices and personal belongings, would be stolen.

The list of prescribed parts is extensive, and there would be significant business costs required to manually check and record the serial number of each item. We feel that the additional record keeping requirements under the Regulation are not justified. It is highly unlikely that items on the list of prescribed parts would be stolen individually – for example, we would certainly be interested to know the occurrence of theft for items such as hatchback doors, and would guess that these do not occur often. We assume that this element of the Regulation intends to target vehicle rebirthing, however we contend that recording serial numbers may help to prove a case against the offender but it will not significantly reduce the rate of theft and is this is not an effective mechanism of doing so. The benefits of Regulation should outweigh the costs – we are not sure that they do so in this proposed Regulation. The cost of compliance is not assessed and neither is the likelihood of these costs being passed on to the consumer.

In addition some of these prescribed parts are likely to be fitted by other non-repairer services or by vehicle owners themselves so in many circumstances, there will be no record kept by the vehicle owner of each item's description and serial number. A good example is electronic navigation equipment. Theft of these items occurs because they are often purchased separately by consumers and mounted as a (temporary and easily removed) aftermarket fitment.

In our view an RIS should in fact include a full impact statement: What is the cost of the theft of doors, how often does this occur and what is the cost of compliance with the list of prescribed parts? A regulatory impact statement should probably include the impact of each of the proposed regulations rather than a blanket

statement at the commencement. We would not argue against a limited list, but this list is overly extensive and it even includes out-dated items such as tape recorders. We would like to see how many of these are actually stolen out of a vehicle and how many of these items would or could be located if repairers were to record the item's details when a car is repaired.

Recording parts may not appear to be an onerous requirement, but the repairer must keep a list of the prescribed items and store the data. An additional cost for little benefit. Costs that will inevitably be passed on to the consumer.

Definition of Vehicle Services

This part of the Regulation is of significant concern to the AAAA. The new Vehicle Services class captures all of the aftermarket parts and accessory fitters' roles that are not exempt from requiring a licence. There will be an impact on our members who fit basic accessories and they will need to be aware of this and undertake suitable licencing and training for their fitters at a cost. Many of our members that will be affected by the Regulation do not in fact see their role as being one of vehicle repair: most are retailers that install simple items and accessories as a customer service.

In our view, the list of services and parts exempt from the Regulation is too definitive and too restrictive. The impact statement does not provide full justification for these repairs, there is no technical assessment and we are surprised at the small number of exemptions.

The 2nd interim report of the NSW MVRIAC on the Minister's Policy Priority Areas, states the following:

Policy Priority Area 2: Advise on an appropriate definition for accessory fitting in the NSW motor vehicle industry

Following consultation with members of the automotive industry and industry bodies, Council members agreed on the following definition for automotive accessories.

*Automotive accessories are products suitable for fitment to motor vehicles which are not essential to the basic operation of the vehicle. An automotive accessory is **an addition to the vehicle that does not alter the performance, handling or standard safety equipment of a vehicle** but is designed to better equip it for the operator's purposes.*

Automotive accessories include products that:

- cosmetically customise the vehicle;*
- provide enhanced entertainment options;*
- inform the driver on vehicle functions;*
- assist the driver in navigation or communication; and/or*
- equip the vehicle for occupational tasks.*

These products are not designed to repair the vehicle or otherwise restore it to basic operational condition, but to enhance its appearance, driver information, entertainment, and/or occupational functionality.

*Where accessories are sold with end-user installation instructions, and fitment does not impact the performance, handling or safety levels of the vehicle, impact the Australian Design Rule compliance, or require disarming or dismantling of original fitment devices, **there is no reasonable requirement for fitment by a qualified automotive tradesperson.***

Where these parameters are impacted, the fitment should only be performed by an appropriately qualified automotive tradesperson in appropriately licensed premises to ensure the continued safe operational capability of the accessorised vehicle. In all instances, parts must be known to comply with relevant design rules and appropriate Australian Standards.

We are unsure as to why this definition of accessory fitting, specifically requested by the NSW Minister for Fair Trading from a panel of industry experts tasked to provide advice on these matters, was not used in the proposed Regulation.

The use of a definition drawing on the above would be less prescriptive, yet define the limits of accessory fitment that would be exempt from licensing.

Instead the Draft Regulation specifies a narrow definition of repair work that does not require a licenced fitter. We contrast this list with accessories that are regularly fitted by retailers as a customer service to highlight the anomalies that arise due to this narrow definition.

Implementation of the RIS definition of excluded repair work will mean:

- Fitters do not need to be licensed to fit Windscreen wiper blades, but do for Seat Covers
- Fitters do not need to be licensed to fit Weather Shields, but do for Dash Mats
- Fitters do not need to be licensed to fit Number Plate Frames, but do for Bike Racks

- Fitters do not need to be licensed to fit Roof Racks, but do for Roof Boxes
- Fitters do not need to be licensed to fit Mud flaps, but do for Seat Belt buddies

In addition, under this definition a licensed fitter is not required if a battery replacement is performed by a Roadside assistance provider. But if the same item is sold and fitted by an aftermarket retailer – it will now it require a licenced fitter. There is also no restriction on the car owner fitting the battery themselves.

All the above items are frequently fitted by consumers, none affect the vehicle systems and all come with instructions if required. These comparisons demonstrate the arbitrary nature of the definition of excluded repair work in the draft regulation.

It is also very difficult to see how the implementation of this Regulation as drafted would not add to the consumer's cost. The opening statements note that there is minimal cost to the consumer – but with this small number of excluded parts, there are so many other services that will now require licenced and accredited fitters, adding to the cost of buying and installing these items.

We believe that it would be far superior to adopt the definition of accessory fitment developed by the MVRIAC at the request of the Minister.

Consultation and Implementation Timeframes

The MVRIAC meeting of 11 February 2014 was advised by the Assistant Commissioner for Fair Trading that the RIS would be distributed in March. Stakeholders were directly distributed a copy of the RIS on 13 May and comments are due on 6 June. This is an unreasonably short time to comment on the document.

In addition, we contend that the timeline put forward for the implementation of the Regulation may not provide sufficient time for businesses to prepare for full implementation. The timeline will be tight for some businesses where additional signage is required, or where suitable qualifications are required to be obtained. In the case where qualifications (i.e. to apply for a Vehicle Services Licence) are to be obtained, suitable recognition of existing experience should be granted toward granting of qualification or permission given to continue fitting whilst undertaking study to qualify.

We note that there is some provision for transition arrangements on page 22 although in our view a 12 month implementation timeframe would be more realistic.

Availability of Appropriate Training

Reference to the *NSW Smart and Skilled* Skills List shows that there is only 1 aftermarket training course available for Automotive Aftermarket Accessory Fitters and that is (AUR20412) and we are not aware of any NSW based registered training providers currently offering this course.

Concluding Remarks

The requirement to display licence numbers in all advertising, the recordkeeping requirements for a wide range of prescribed parts and the wide definition of vehicle services which will now encompass basic fitment of non-safety related vehicle accessories will result in a significant cost burden for the aftermarket industry which will ultimately be passed on to consumers.

Prior to the implementation of these specific sections of the proposed Regulation we believe that there is an onus on the NSW Government to provide further information and a detailed assessment of the actual regulatory impact and specifically the costs to business and consumers.

Proposed regulations should be consistent, logical and provide evidence that the new measures will result in community benefits that outweigh the costs.