



2008 Annual Report

Motor Trades Association of Australia

Presented by the President, Mr Kerry Ambrose-Pearce
to the MTAA Board of Directors.

September 2008



Motor Trades Association of Australia

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President's Report

It is no secret that the Motor Trades Association of Australia (MTAA) Federation has undergone a period of significant upheaval over the past year. Many of you will know that the Victorian Automobile Chamber of Commerce's (VACC) announced in February its withdrawal from the MTAA Federation. MTAA and VACC agreed, as only proper, that neither party would publicly comment on the reason behind their withdrawal, but I note that the decision by VACC to withdraw was greeted by the MTAA Board with a degree of sadness.

As a result, the Federation has undertaken a series of steps to ensure that MTAA remains the peak national body of the retail motor trades. These changes have included the dissolution of the Federal Industrial Council, the body through which MTAA's industrial relations policy was previously shaped and the creation of a modern and more responsive body, the Australian Motor Trades Industrial Council.

The Association has also recognised the importance of securing full national representation on policy matters. As a result, a restructure of the Affiliated Trade Association (ATA) arrangements has occurred. These changes include invitations to industry representatives from non Member states to participate as non-voting observers at ATA meetings and the transfer of all ATA Secretariat's to MTAA's Canberra office. The MTAA Board, recognising the increasing workload of the MTAA National Secretariat, has also created a dedicated ATA Policy Officer position within the National Secretariat.

Following the November 2007 Election, the change in Government has created a new political framework which differs not only in terms of political persuasion, but in the manner in which public policy matters are dealt with. The Rudd Government has spent its first year in office conducting extensive reviews across the public policy spectrum. Throughout this process MTAA has carefully monitored developments and prepared submissions to the reviews which illustrate the impact of existing policy upon the retail motor trades and has further contributed to debates on future policy. Many of the issues reviewed by Government and the Federal Parliament reflect the priority policy areas identified by the MTAA Board of Directors at their annual strategy meeting, which include skills and training, further reform of the Trade Practices Act 1974, petrol matters, franchising and the environment. The Association, in its commentary on these matters has identified the need for Government policy to recognise the contribution of the retail motor trades to the economy and wider community and the need for policy which assists employers operate their business and enables fair and diverse competition within the marketplace. The MTAA National Secretariat will continue to pursue the Association's policy interests in the period ahead.

I would like to take this opportunity to thank my fellow Directors for the work they do in ensuring that the interests of MTAA and its Members are met in a timely and responsive manner. Their commitment to, and passionate belief in a strong and vibrant retail motor trades ensures that even the most difficult challenge is approached in a manner which best represents Members interests.

Similarly, the MTAA Board would not be as effective without the high quality policy and administrative support provided by Michael Delaney and the staff of the National Secretariat, I offer them my thanks

Given the global and domestic economic uncertainty which has occurred over the past year, I would also like to acknowledge the work of MTAA Super in ensuring that the retirement earnings of the retail motor trades continue to provide the best returns possible given the downturn in global markets.

The manner in which the Association has responded to the challenges of the past year illustrates the depth of commitment that the Officers and staff have for representing and securing the interests of our Members; be it their businesses or retirement incomes.

I commend this Report to you.



Kerry Ambrose-Pearce
President
Motor Trades Association of Australia

25 September 2008

Foreword

Members will be aware that at the time of writing, the National Secretariat has provided the Rudd Government in the short time it has been in office, with over 30 submissions on topics as diverse as the future of the Australian automotive industry, trade practices reform, 457 visas, Award Modernisations, Fuelwatch, Australia's consumer policy framework, finance brokerage and occupational health and safety. As always, this advocacy is undertaken with the view of obtaining the best possible outcomes for Members and the retail motor trades as a whole. MTAA's policy approach is always subject to deliberation and consensus building; this ensures that the Association's position is truly representative of the retail motor trades. As a result, the Association is held in esteem by Government and the Parliament.

This would not be possible without the commitment from the Association's Members. There are many who give their time to voluntarily serve on the Association's numerous Boards and committees. The National Secretariat thanks you for your unwavering commitment to the retail motor trades. So too do we thank MTAA President Kerry Ambrose Pearce, the MTAA Board of Directors, Executive Directors and the staff of the Member bodies for their assistance in preparing submissions and undertaking representations on behalf of the Association.

It would be remiss of me not to recognise the efforts of the National Secretariat staff over the past year. They have responded admirably to the pace of the new Government and the challenges associated with the renewed Federation, and I thank them for their commitment to the Association.



Michael Delaney
Executive Director
Motor Trades Association of Australia

25 September 2008

About Us

The Motor Trades Association of Australia (MTAA) is the peak national representative organisation for the retail, service and repair sector of the Australian automotive industry. The Association represents the interests, at the national level, of over 100,000 businesses. MTAA is therefore the largest 'stand-alone' small business association in Australia. The Association is a federation of the various state and territory motor trades associations as well as the New South Wales based Service Station Association Ltd (SSA) and the Australian Automobile Dealers Association (AADA).

MTAA also has a number of Affiliated Trade Associations (ATAs), which represent particular sub-sectors of the retail motor trades, ranging from motor vehicle body repair to automotive parts recycling. Those ATAs are as follows:

- Australian Motor Body Repairers Association (AMBRA)
- Australian Motorcycle Industry Association (AMIA)
- Australian National Radiator Repairers Association (ANRRA)
- Australian National Towing Association (ANTA)
- Australian Service Station and Convenience Store Association (ASSCSA)
- Australian Tyre Dealers and Retreaders Association (ATDRA)
- Auto Parts Recyclers Association of Australia (APRAA)
- Automotive Repairers Association of Australia (ARAA)
- Automotive Transmission Association of Australia (ATAA)
- Engine Reconditioners Association of Australia (ERA of A)
- Farm and Industrial Machinery Dealers Association of Australia (FIMDAA)
- National Brake Specialists Association (NBSA)
- National Heavy Vehicle Repairers Association (NHVRA)
- National Rental Vehicle Association (NRVA)
- National Steering and Suspension Association (NSSA)
- National Vehicle Airconditioning Association (NVAA)

All of the ATA's listed above are composed of the relevant sections of each of the MTAA Member bodies and are represented, at a national level, by MTAA. MTAA's affairs are directed by a Board on which each of the Member bodies is represented. The role of the Association is to:

- raise awareness in the community of the retail motor trades' significant contribution to the Australian economy;
- convey and promote to governments the interests of the retail motor trades;
- promote improved working relationships and practices with the motor trades' unions;
- on behalf of the Members of the Association, provide information about the trades to governments, the public and the trades' employees;
- work with governments to plan the future of the retail motor trades and their role in the economy and other areas of national planning;
- extensively enhance training and to develop work opportunities within the trades in co-operation with education and training authorities, the unions and government generally; and promote and enhance the reputation of the trades with its customers and the general public.

Government

As part of its advocacy activities, MTAA regularly makes personal representations to, and liaises with the Government, politicians and Government departments and agencies on issues of importance to the retail motor trades. Issues that have been the focus of MTAA's representation to Government in the past twelve months have included trade practices reform and fair trading matters, franchising, Oilcode; personal property security, taxation and regulation, automotive policy, product standards and consumer safety, industrial relations and skills and training. Advocacy on these matters traditionally occurs through face-to-face meetings, letters, submissions and involvement with Parliamentary committees and inquiries.

MTAA has, over the past year provided numerous submissions to the Government and the Federal Parliament. These submissions include those made to the Review of Australia's Automotive Industry, the Australian Industrial Relations Commission Awards Modernisation Review, and Senate Economics Committee inquiries into the Government's proposed amendments to the luxury car tax and the *Trade Practices Act 1974* as well as to its Inquiry into the introduction of the national Fuelwatch legislation.

MTAA continues to represent the retail motor trades on numerous Government, industry and small business organisations and committees; including the National Motor Vehicle Theft Reduction Council, the Attorney General's Consultative Group on Personal Property Security, the Australian Competition and Consumer (ACCC) Franchising Consultative Panel and the ACCC Small Business Advisory Group. In addition to its work with Government, MTAA also represents the retail motor trades on a number of industry and small business organisations including the MTAA convened Fair Trading Coalition (FTC) and the Small Business Coalition.

2007 Federal Election – MTEAC Activities

In August 2007, the Motor Trades Electoral Action Committee (MTEAC), the non-partisan political arm of MTAA, met to discuss formal strategy for the upcoming Federal Election (which needed to be held no later than 22 January 2008). MTEAC agreed that once the Election was formally announced, that MTEAC delegations would visit candidates to discuss matters of importance to retail motor traders.

With Prime Minister John Howard's announcement that the Election would be held on 24 November, MTEAC delegations arranged to meet with candidates. Prior to meetings delegates were briefed on MTAA policy and were provided with copies of the MTEAC Candidates Kit. The parties themselves were also targeted by MTEAC; an Issues Brief and Questionnaire were forwarded to the major and minor political parties for their consideration and response. Issues highlighted by MTAA/MTEAC included the economy, trade practices reform, industrial relations, franchising, petrol, drought assistance for farm and industrial machinery dealers, taxation and regulatory burden, automotive body repair, the environment and training.

The responses of the parties to the Issues Brief enabled MTAA to determine the level of political support for the issues raised. It also provided the Association with a clear understanding of the policy directions of the parties; a powerful advocacy tool. With the Rudd Labor Government winning office, the success of MTEAC in educating candidates about the retail motor trades ensured that the new Government was aware of MTAA's policy platform. This awareness enabled MTAA and the Government to quickly enter discussions on a number of issues; including trade practices reforms, training and petrol pricing matters.

Trade Practices and Franchising Matters

The Association has been actively involved in trade practices reform debates over the past year. This work has included raising awareness of the Trade Practices Act 1974 (TPA) and franchising matters within political spheres, providing submissions to numerous Parliamentary Inquiries and representing the interests of the retail motor trades with regards to exclusive dealing notifications and authorisations lodged with the Australian Competition and Consumer Commission.

Trade Practices Reform

MTAA's Executive Director, Michael Delaney appeared on the ABC's *7.30 Report* on 3 October 2007 to discuss the negative ramifications of market concentration and predatory pricing upon small business and consumers and the need for greater legislative provisions to protect and restore competition. This appearance was in response to the passage of the Coalition Government's *Trade Practices Legislation Amendment Bill (No 1) 2007*, which secured reforms to Section 46 (misuse of market power) and 51AC (unconscionable conduct) including:

- prohibiting corporations with substantial market power from using below cost pricing for the purpose of substantially damaging a competitor, preventing entry of a person into a market or preventing someone from engaging in anti-competitive conduct;
- increased thresholds for section 51AC from \$3 million to \$10 million;
- and prescribed an additional Deputy Chair of the Australian Competition and Consumer Commission.

Although this legislation was secured just prior to the Federal Election, MTAA and its Members considered that further reform to the TPA was still a priority issue for the Association. As part of MTEAC's 2007 Federal Election activities, MTAA provided the major political parties with an issues brief which highlighted the need for further trade practices reform, specifically the introduction of criminal sanctions for businesses and individuals engaged in cartel activity, the extension of the jurisdiction of the Federal Magistrates Court to enable it to hear s46 matters and regulation prohibiting 'creeping acquisitions' and unfair business-to-business contracts. These reforms were highlighted in the revised *Small Business Charter of Fairness* which was also distributed to candidates and parties during the campaign.

MTAA and the MTEAC led Fair Trading Coalition (FTC) have continued to advocate for further trade practices reform through a series of campaigns, media releases and submissions to the Parliament. In December 2007, the Fair Trading Coalition forwarded copies of the paper *Injecting the Public Interest into Legislation Reviews Conducted Under the National Reform Agenda* to Council of Australian Government (CoAG) members. The paper, commissioned by MTAA and the Pharmacy Guild of Australia, on behalf of the FTC, highlighted the need for governments to give proper consideration to the public interest when making policy decisions affecting competition. The FTC also wrote to all Federal, state and territory politicians in February 2008 announcing its revised Charter and urging consideration of the important role that small business plays within their constituencies.

The new Rudd Government has quickly embraced TPA reform. In January, the Assistant Treasurer and Minister for Competition Policy and Consumer Affairs, the Hon Chris Bowen MP announced that the Government was preparing to introduce legislation criminalising cartel conduct. A draft *Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008* was released by the Treasury for public

comment. The FTC provided a submission to Treasury noting that the proposed criminal conduct test which required an intent to dishonestly obtain a benefit would be onerous to prove and difficult to prosecute, that the prohibition of indemnification of fines and costs be extended to cover criminal offences and proposed that the criminal provision should not be made retrospective. The FTC also noted that it did not support the extension of telephone intercept powers to the ACCC.

On 28 April, 2008, the Assistant Treasurer, the Hon Chris Bowen MP and the Minister for Small Business, Independent Contractors and the Service Economy, the Hon. Dr Craig Emerson MP announced the Government's plan for TPA reform. The proposed reforms included inserting into the Act a provision which noted that there was no requirement for victims of predatory pricing to prove recoupment; clarification of the term 'take advantage' in s46; the requirement that at least one of the ACCC Deputy Chairpersons have a small business background; the extension of the jurisdiction of the Federal Magistrates Court to cases involving s46 breaches; and the removal of the monetary thresholds in the unconscionable conduct (s51AC) section of the Act. The Government also announced that it intended to change the wording of the predatory pricing provision s461AA so that it is consistent with the rest of s46.

These proposed amendments recognised the MTAA/FTC's longstanding belief that fair competition could only be achieved by giving greater protections to small businesses from practices such as predatory pricing, unconscionable conduct and the inequitable use and misuse of market power.

MTAA and the FTC subsequently wrote to the Assistant Treasurer and Minister for Competition Policy and Consumer Affairs welcoming the package. Both MTAA and the FTC noted however, that small business believed that the 'behavioural change' required by the draft legislation could only be achieved if the ACCC was willing to be a strong advocate for 'fair competition'. MTAA and the FTC advised the Assistant Treasurer that the Commission should be required to issue guidelines on unconscionable conduct, misuse of market power and predatory behaviour and it should also identify contract clauses which are unacceptable and publicly announce that businesses that utilise such terms will be subject to scrutiny.

The *Trade Practices Legislation Amendment Bill 2008*, which contained the Government's reforms, was tabled in Parliament on 26 June. Having secured passage in the House of Representatives, the Senate promptly referred the Bill for inquiry by the Senate Economics Committee; the FTC provided a submission outlining its general support for the amendments. Following the tabling of the Senate Economic Committees Report, the Senate debated and passed in an amended form the Government's *Trade Practices Legislation Bill 2008* on 16 September.

During the debate, Senator Nick Xenophon moved a motion proposing that the Senate Economics Committee inquire and report into the need to develop a statutory definition of unconscionable conduct (under Part IV of the *Trade Practices Act 1974* (TPA)), and the scope and content of such a definition. This motion was agreed to by the Senate and the Senate Economic Committee will report by 3 December 2008. Senator Xenophon also successfully introduced his own amendment to the Bill, which enables the Australian Competition and Consumer Commission to initiate certain TPA proceedings in the Federal Magistrates Court.

The Senate did not support the Government's proposed changes to the Birdsville predatory pricing provision (s46(1AA)) of the TPA. The Opposition also opposed the Government's proposals regarding recoupment and an amendment to s46(7) because they included reference to 'market share', whereas the Birdsville provision refers to 'market power'. The Senate also opposed aspects of the Government's proposal to hear s46 cases in the Federal Magistrates Court, although s51AC (unconscionable conduct) cases remain within the Court's jurisdiction.

The Senate agreed to the clarification of the term 'take advantage' as proposed by the Government and supported the removal of the monetary threshold within s51AC. It also agreed to the repeal of s46(4A) on the grounds that it repeated the concepts contained within s46(1AA).

Due to the passage of the Bill in an amended form, the Bill returns to the House of Representative for debate. The National Secretariat understands that it will likely be listed for debate in the next sitting period (13-16 October 2008).

MTAA will continue to work closely with Government in relation to the proposed amendments, to ensure the interests of small business are adequately addressed in any forthcoming legislation.

The Senate also referred Senator Fielding's private member's Bill the *Trade Practices (Creeping Acquisitions) Amendment Bill 2007 [2008]* to the Senate Economics Committee for Inquiry on 26 June. Noting the conflicting impact of creeping acquisition law upon small business (that is preventing the restriction of competition versus preventing owners from selling their business for the highest price), the FTC suggested in its submission to the Inquiry that the Committee examine models such as the CR4 market concentration test or the European Union Merger Regulation. The Committee's Report was released on 26 August. The Majority report confirmed the validity of the impact of creeping acquisitions and noted that the provisions of s50 were insufficient. The Majority Senators recommended that the Senate defer consideration of the Bill until such time as were finalised its proposed community consultation on s50 reform. The Treasury has subsequently released a discussion paper on creeping acquisitions and the FTC/MTAA will be providing a submission on the matter.

Franchising

Members will recall that the Howard Government initiated a Review into the Disclosure Provisions of the Franchising Code of Conduct in June 2006. The Committee Report was released in February 2007 and concluded that whilst the Franchising Code (the Code) was operating effectively, there was a need to ensure that prospective franchisees had access to as much information regarding the Franchise, as reasonably possible. The Government Response, which was released at the same time as the Committee Report accepted a total of 31 of the 34 recommendations outlined in the Committee's Report. The Government drafted regulations amending the Code. The amendments secured passage and came into effect on 1 March 2008.

The Parliamentary Joint Committee on Corporations and Financial Services is currently conducting an Inquiry into the Franchising Code of Conduct. The Inquiry was commenced following a number of speeches made by federal backbenchers in the Parliament in response to the recent findings of franchising inquiries conducted by the West Australian and South Australian Parliaments. The Inquiry's terms of reference include

inquiry and reportage on the operation of the Franchising Code of Conduct, with particular emphasis on the nature of the franchising industry, the inclusion of a 'good faith' clause within the Trade Practices Act 1974 and the interaction between the Code and Part IVA and Part V Division 1 of the *Trade Practices Act 1974*, particularly with regard to the obligations in section 51AC of the Act.

Given MTAA's long history of involvement in franchising matters, the National Secretariat has provided a comprehensive submission to the Inquiry. Although the most recent amendments to the Code were positive, MTAA nevertheless believes that the Code requires further strengthening so that the balance in the power relationship between franchisees and franchisors may be shifted in order to create an environment which is equally beneficial for both parties. MTAA has proposed to the Committee that a more fair and equitable franchising environment can be created through improvements to the Code in a number of areas, including:

- provisions for parties to 'act in good faith'
- stronger and more transparent dispute resolution provisions;
- further disclosure requirements for franchisors;
- provisions to provide for mandated minimum tenure;
- provisions to deal with termination at will without due cause;
- provisions to deal with unilateral variation of franchise agreements; and
- amending the definition of a franchise agreement and the exemption clauses.

The Committee is due to report in early December and the Association will continue to represent the interests of its Members on franchising matters.

Industrial Relations

With the election of the Rudd Government in November 2007, there was also a shift in industrial relations policy emphasis and, indeed, legislation. The Rudd Government had not been in Office for more than a month before it began the adoption of its agenda of workplace relations reform through the systematic deconstruction and reconstruction of the previous Government's Workchoices legislation and its policy underpinnings.

As discussed earlier, the MTAA Federation has undergone a period of restructuring which included the dissolution of the Federal Industrial Council (FIC), which historically managed MTAA's industrial relations policy. Its replacement, the Australian Motor Trades Industrial Council (AMTIC) was established in March 2008 and is comprised of Executive Directors and Industrial Officers from each of the Association's Member bodies. Over the course of its short life, AMTIC has made substantial submission to the Government to the Australian Industrial Relation Commission (AIRC) on both the National Employment Standards and the Award Modernisation Process.

The AIRC, following a request from the Deputy Prime Minister and Minister for Employment, the Hon Julia Gillard MP, is engaged in Award Modernisation (A.M.); that is a process which will be conducted in stages. The AIRC has announced that the two principle retail motor trade awards, the Vehicle Industry Award and the Retail Service and Repair Award will be considered under stage three of the A.M. process. That process will see the consultations and negotiation for the modernisation of those awards take place largely between March and September 2009. To date, AMTIC has provided the AIRC with submissions regarding *AM 2008/5 Metal and Associated Industries, Rubber Plastic and Cablemaking Industry, Glue and Gelatine Industry and*

Vehicle Manufacturing Industry, AM 2008/7 Private Sector Clerical Occupation, AM 2008/10 Retail Industry and AM 2008/4 Hospitality Industry.

AMTIC has also contributed to the National Review into Model Occupational Health and Safety Laws, which is currently being conducted by the Department of Education, Employment and Workplace Relations. Throughout the year AMTIC has worked closely with representative of the Australian Manufacturing Workers Union (AMWU) Vehicle Division and support of the Union for the maintenance of the two vehicle industry awards is acknowledged.

The Environment

Members of the retail motor trades take their environmental responsibilities very seriously and recognise the many benefits that environmentally friendly work practices and green vehicle technology produce. MTAA/AADA has also made numerous submissions to Government advocating for the removal of barriers which discourage consumers from purchasing vehicles with new green vehicle technology. As well MTAA's submission to the 2008-2009 Federal Budget consultation process identified the need for funding to establish a Government fund to assist in the environmental clean-up and site remediation associated with leaking, non-leaking and otherwise 'orphaned' underground storage tanks that have not been properly decommissioned.

The Garnaut Climate Change Review

Over the past twelve months MTAA has been closely monitoring the Garnaut Climate Change Review. The Draft Report of the Review was released on 4 July 2008 and the Supplementary Draft Report was released 5 September 2008, with the Final Report due for release on 30 September 2008. The Draft Report suggested that climate change requires a global solution and that only a comprehensive international agreement can provide the wide coverage and coordinated action needed for effective emissions abatement. The Draft Report also acknowledged the need for an emission trading scheme to provide protection for trade-exposed industries from avoidable economic disadvantage. The Supplementary Draft Report stated that in the event that there is an effective global agreement, Australia's target needs to be to reduce emissions net of international trading by 10 per cent from 2000 levels by 2020 (30 per cent per capita), and 80 per cent by 2050 (90 per cent per capita). MTAA considers the findings of this Review, and the Government's response to those findings, to be of critical importance to the interests of the Association. MTAA will therefore continue to closely monitor this issue and in due course, develop a policy statement on climate change and emissions trading.

Automotive Air Conditioning Code

On 26 June 2008 the new *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* came into effect. MTAA was pleased to acknowledge that *The Australian Automotive Code of Practice for the Control of Refrigerant Gases during Manufacture, Installation, Servicing or Decommissioning of Motor Vehicle Air Conditioners* was included in the Regulations. This revised Code replaces the previous version published by MTAA in 2000 and is based largely on material provided by MTAA.

Tyre Product Stewardship Scheme

On 6 May 2008, the Minister for the Environment, Heritage and the Arts, the Hon Peter Garrett MP, announced the release, for public comment, of a consultation package in connection with the Government's proposed Tyres Product Stewardship Scheme (TPSS). The release of that package represented the most recent stage of the development of the TPSS and also signalled the commencement of the formal consultation period in relation to the proposed Scheme. MTAA prepared in response to that consultation package, a submission of comments to the National Environment Protection Council (NEPC) which raised a number of concerns the Association has about the Scheme, such as the arrangement for the operation of the proposed tyre National Environment Protection Measure and the proposal for a differentiated benefit for certain tyre products. MTAA has asked Members to consider if the MTAA wishes to continue to support its current position within the Scheme as a signatory to it.

Skills and Training

In addition to the extensive advocacy undertaken by MTEAC during the 2007 Federal Election, the Association has made written and oral submissions to the Deputy Prime Minister and Minister for Education, the Hon Julia Gillard MP, the Department of Education, Employment and Workplace Relations, the Department of Immigration and Citizenship, the Review of Australia's Automotive Industry and the Expert Social Panel for the Drought Policy Review in relation to the future training arrangements for the automotive industry.

MTAA believes that promotion of the retail motor trades as a rewarding and challenging career is a crucial first step in meeting future skills demands and has contributed to the "A LIFE" careers promotion educational DVD package, which will highlight the benefits of a career in the retail motor trades to those of school leaving age. The Association with the support of the MTAA Super Fund has commissioned five career profiles on the DVD. These profiles are service technician (mechanic) light, panel beater, spray painter, car sales and motorcycle technician. The Association continues to advocate strongly for increased support for skills and training within the retail motor trades and for the removal of barriers to skilled migration

Automotive Training Australia

The Association has continued to maintain and advocate its position for a "stand-alone" industry skills council for the automotive industry. It is disappointing, therefore, that with Automotive Training Australia's (ATA) most recent funding arrangements due to end in September 2008 that the future of the training arrangements remains undecided. Throughout the year, the National Secretariat has made strong representations in a number of forums in an effort to secure appropriate training arrangements for the retail motor trades. The submission made by AADA to the Bracks Review into the Australian Automotive Industry focused particularly on future training arrangements. The Association was encouraged that other submissions made to that Review by other bodies, such as the AMWU and FCAI, supported and reinforced the views on training advanced by the Association. It is disappointing, then, that the Report on the Bracks Review made only scant mention of proposals for future training arrangements for the industry. At the time of writing the Government has not released its response to the Bracks Report, nor had it indicated its position on future training arrangements for the automotive industry.

Skilled Migration

MTAA has a significant interest in ensuring that the underpinning principles, framework and regulatory regime relating to the operation of Subclass 457 visas deliver outcomes that are in the best interests of all parties and has thus actively participated in the independent integrity review of the 457 visa regime. The Association has provided two submissions, with a third due early next month, to the integrity review reiterating the need for suitably qualified tradespeople. The Association has emphasised the point that 457 visa arrangements should not impose unnecessary costs and obligations on those small business employers who seek to engage 457 visa holders. Additionally, MTAA has also responded to a Discussion Paper released by the Minister in June 2008, which sought stakeholder reporting on proposed legislative reforms to the 457 Visa regime. Again, MTAA emphasised the point that the regulatory and compliance burden associated with the visa arrangements should not act as a barrier to small employers accessing skilled labour under the program. The Association continues to support the Industry Outreach Officer (I.O.O) program of the Department of Immigration and Citizenship by hosting a Departmental staff member at the National Secretariat's office. The role of the I.O.O. is to assist employers by providing information about the 457 Visa program and from the National Secretariat's perspective the I.O.O. arrangement has been a very positive one for the retail motor trades.

Retention

MTAA/FIMDAA has contributed to the Government's Drought Policy Review, which is examining the social impacts of drought. MTAA/FIMDAA's submission highlighted that the employment and retention of skilled workers during and after drought was of major concern for farm machinery dealers. Noting the social and economic value of employing and retaining apprentice and trainee positions, MTAA/FIMDAA requested Federal assistance to contribute to the costs of ongoing skills development for employees in drought affected areas. At the time of preparing this Report the Drought Policy Review was ongoing.

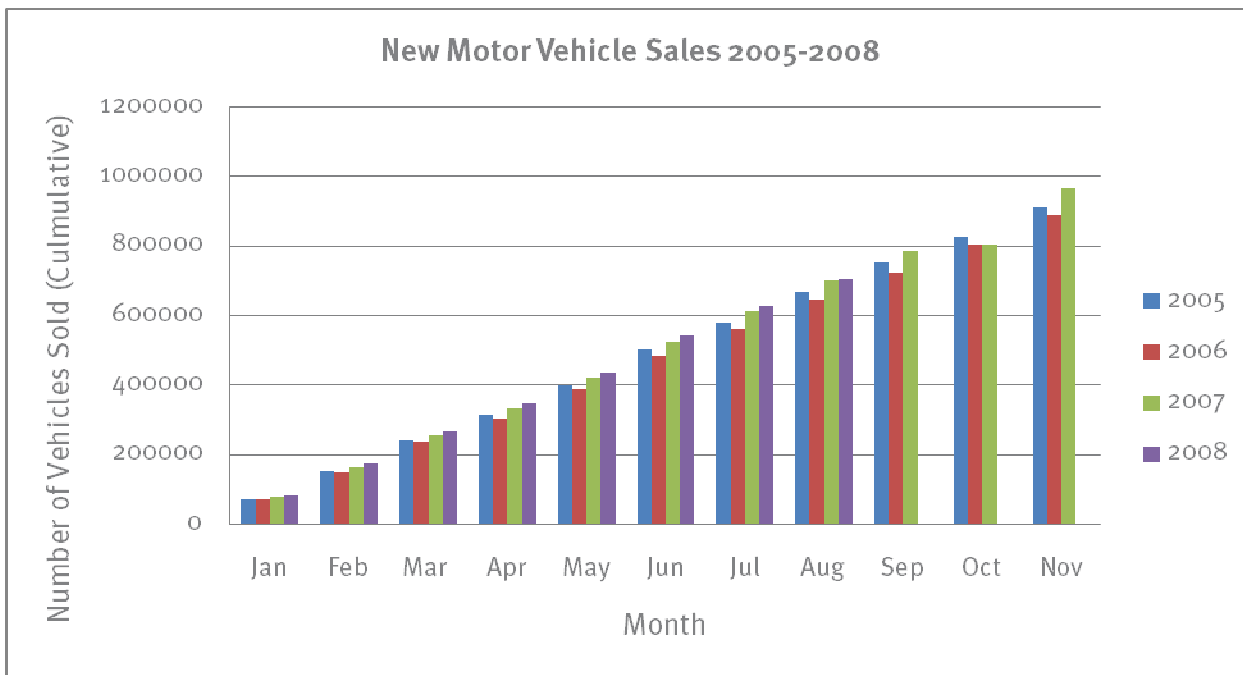
The Retail Motor Trades

State of the New Vehicle Market

Sales of new vehicles were strong throughout the first half of 2008, although sales in the following months have slowed considerably. Annual sales to June 2008 were higher than the same period in 2007, up by 18,319 or 3.5 per cent, yet total vehicle sales for July and August were down 2.7 and 12.3 per cent respectively on 2007 figures. This downturn in sales is indicative of the recent uncertainty in the economy and the downturn in financial markets. However it is encouraging to note that a record 1,068,301 new vehicle sales were recorded in the 2008-2007 financial year, which was an increase of almost 65,000 on last financial year's record result.

The single biggest contributor to growth in the first six months of 2008 was the medium SUV segment which saw an increase in sales of 18.5% on last year, with sales increases also occurring in July and August. However, sales in the large and upper large passenger vehicle segment have continued to fall considerably, with total sales for 2008, as at 31 August, down 15.2 and 33.7 per cent respectively. August figures also show that sales in the luxury vehicle segment have fallen by 19.3 per cent on 2007 figures. This is clear evidence of the impact on sales due to the proposed increase in the Luxury Car Tax (LCT).

MTAA believes that although the growth of the motor vehicle market in the first half of the year was encouraging, the outlook for the latter half of the year appears challenging for dealers. These challenges stem primarily from the economic uncertainty caused by interest rate rises, fuel price increases and significant turbulence in world financial markets. Business sales, in recent months, have suffered as a result with a drop in consumers spending being reflected in vehicle sales. MTAA also believes dealers will face a new challenge in 2008, with the entry of Chinese manufactured vehicles into the Australian market, expected to occur by the end of the year.



Review of Australia’s Automotive Industry

In February 2008, the Government announced that it would be conducting a Review of Australia’s Automotive Industry. Chaired by the Hon Steve Bracks, the Review was tasked with assessing the current state of the automotive industry in Australia. AADA, with Member assistance, made a comprehensive submission to the “Bracks” Review. AADA’s submission addressed several key industry issues including environmental issues, employment skills and workplace relations matters along with current automotive policy arrangements such as the luxury car tax (LCT), lemon laws and tariff arrangements. Following the Review Report’s release, AADA issued a media statement in response to the Report welcoming the recommendation to harmonise and reduce motor vehicle stamp duty, registration and compulsory third party costs at the state and territory levels and re-iterated its support for a stand-alone, fully-funded automotive training body and urged the Government to consider the unique training requirements of the automotive repair and service sector when formulating its response to the Bracks Report. It is important that the Government’s response to the Review be not only beneficial for the Australian automotive manufacturing industry as a whole, but also to the many retail motor traders that support, and are indeed a part of, this important industry.

The Review Report contained some 34 recommendations including:

- the creation of the Automotive Industry Innovation Council (AIIC);
- within the AIIC the establishment of a reference group to provide Manufacturing Skills Australia with advice on automotive skills issues;
- the reduction of the passenger motor vehicle tariff to 5 per cent by 2010;
- the establishment of free trade agreements with the Gulf States, South Africa and ASEAN;
- the national harmonisation and reduction of motor vehicle taxes;
- increased funding to the Green Car Innovation Fund (from \$500 million to \$1 billion);
- the inclusion of road transport within any emissions trading scheme; and
- replacing the Australian Competitiveness and Investment Scheme with a new Global Automotive Transition Scheme.

At the time of writing, the Government has not released its response to the Report, but had noted that the Report requires serious consideration.

Luxury Car Tax

As part of the 2008 Federal Budget the Treasurer, the Hon Wayne Swan MP, announced the Government's plan to increase the LCT rate from 25 per cent to 33 per cent. AADA/MTAA identified as part of its MTEAC activities its preference that the LCT be abolished. The Government's announcement was most unwelcome given the lack of consultation and the burdensome nature of the proposed arrangements. Over the course of the year AADA has proposed to the Treasurer, the Treasury and the Bracks Review of the Australian Automotive Industry that the LCT be abolished. Failing that, AADA has sought a significant increase of the LCT threshold through these forums. In addition, in a media release on 11 May 2008, AADA has condemned the Government's announcement of an increase in the LCT and asked that the discriminatory tax be removed.

On 12 June 2008, the Government introduced several bills to the House of Representatives to increase the rate of LCT from 25 to 33 per cent as of 1 July 2008. Following passage in the House of Representatives, the Bills were tabled in the Senate and they were subsequently forwarded to the Senate Economics Committee for Inquiry and report in late August 2008. AADA lodged a submission with the Senate Economics Committee on 10 July 2008 outlining several issues AADA has with this unfair and discriminatory tax in terms of its application and its consequences for dealers and their customers. These issues included that the proposed law failed to take into account: the regulatory burden dealers would face as a consequence of the changed tax levels because the delay in passing the legislation (particularly, as the changes will be applied retrospectively), the contribution green technology, safety and vehicle security contribute to vehicle prices, the insufficient level set for the LCT threshold (\$57,123.00), and, the distortion the tax change would create in the vehicle accessories market. Included in the recommendations made by AADA were that the LCT be abolished or the LCT threshold be increased to \$100,000; that the retrospective application of the additional LCT impost be removed, that consumers be encouraged to purchase vehicles which offer safety, environmental and vehicle security benefits; and that accessories be removed from the LCT valuation calculation. The interests of AADA were represented at several of the Senate Committee Hearings including by representation by AADA President, John Byrne, in Melbourne. Unsurprisingly, the Government Senators Report supported the draft Bill.

On 4 September 2008 the proposed LCT amendments failed to secure passage in the Senate. At the time of writing however, the Government has publicly indicated that it will reintroduce the legislation and seek its passage during the next sitting period (15 to 25 September 2008). In the meantime the ATO and the Government have advised that the increase in the tax will apply from 1 July 2008; irrespective of when the legislation is passed. Many dealers have thus been collecting LCT at the higher rate and holding the increase in trust pending passage (or not) of the legislation. The state of affairs with the increase in the LCT is best discussed as messy and highly unsatisfactory. MTAA/AADA remains dissatisfied with this discriminatory tax and will continue to seek its removal or a substantial increase in the threshold.

Petrol

Members will be aware that the Australian Competition and Consumer Commission released the Report of the Inquiry into the Price of Petrol across Australia on 17 December 2007. The Report acknowledged the effect of the Coles and Woolworths shopper docket schemes upon small business, but did not find this to have any long term affect upon competition. It also acknowledged that the petroleum market was relatively concentrated, with the major refiners having established 'a comfortable oligopoly', resulting in significant impediments for the independent import of petrol. The Report did not though make any recommendations on improving competition in the market.

Announcing the Report and the Government's Response, the Assistant Treasurer and Minister for Competition Policy and Consumer Affairs, the Hon Chris Bowen MP, noted that the Government and the ACCC had agreed that the Commission would undertake a more detailed examination and on-going monitoring of buy-sell arrangements, complete an audit of terminals suitable for importing refined petrol into Australia, covering terminal capacity, use and leasing and sharing arrangements, provide on-going monitoring of the use, leasing and sharing of terminals suitable for importing refined petrol into Australia, and monitor developments relating to shopper dockets as they arise, including any changes in the extent of the impact of shopper docket arrangements on competition.

The Government's response to the Report was welcomed by MTAA/ASSCSA insofar as it directed the ACCC to conduct further examinations and monitoring of buy-sell arrangements. The Government also provided the Commission with formal monitoring powers to investigate 'significant diversion' in petrol prices. The Association was however disappointed with the lack of action in relation to concerns expressed by many Inquiry participants about the lack of competition in sectors of the market and the fact that the retail market was highly concentrated.

Record retail pump prices continued throughout the first quarter of 2008, and the Government, announced in February 2008 that a new Petrol Commissioner would be appointed to the ACCC and would have oversight of monitoring of wholesale and retail petrol prices. MTAA publicly welcomed the appointment of Mr Patrick Walker (who previously oversaw the West Australian Fuelwatch scheme) and publicly announced its willingness to assist the Commissioner in his examination of the wholesale and retail petrol markets. In his role as Petrol Commissioner, Mr Walker made a number of public statements regarding the uncompetitive behaviour of petrol companies and their failure to pass on savings to consumers. MTAA responded to Mr Walker's comments through a series of press releases demanding that retail pump prices reflect decline in the barrel price of crude oil. Mr Walker resigned from his position in July 2008 (effective end September 2008); his replacement has not been announced at the time of writing.

Because of the public perception regarding the Government's ability to restore balance to retail pump prices, the Government made a series of announcements relating to retail pricing, including the inclusion of the fuel excise within the terms of reference for the forthcoming Taxation Review. In April 2008, the Government announced that it would, by mid December 2008, establish a National Fuelwatch scheme, administered by the ACCC, whereby all service station operators would need to notify the ACCC by 2pm each day, of their retail price for the following day. That price would apply from 6.00am and be fixed from then, for the next 24 hour period.

Legislation to introduce the National Fuelwatch Scheme was tabled in Parliament in June 2008, and was referred to the Senate Economics Reference Committee for inquiry. While generally supportive of initiatives designed to allow consumers greater access to information, MTAA provided the Inquiry with a submission outlining its concerns regarding the disadvantages independent service station operators would face in determining their daily pricing strategy due to their lack of access to the comprehensive and extensive in-house econometric pricing analysis undertaken by the oil companies and Coles/Woolworths. To remove this disadvantage, MTAA recommended that independent service station operators be allowed one price change within the 24 hour period. MTAA also raised the costs of compliance and its concerns that Fuelwatch will have little to no effect on the impact of discounting, in terms of the shopper-docket programs and that larger retailers will selectively target, through the use of national pricing strategies, independent retailers. A number of Member Association's subsequently appeared before the Committee confirming their support for the position outlined in MTAA's submission.

Somewhat disappointingly, the Committee released an Interim Report on 27 August 2008 in which Government Senators confirmed their support for the Bill in an unamended form. The final Report is not due to be presented to the Senate before 29 September 2008. MTAA/ASSCSA will continue to advocate the need for amendments to the Bill which will provide independent service station operators with the ability to compete against the major petrol retailers.

In addition to the matters above, 2008 is also the year in which the mandated Review of Oilcode has occurred. Conducted by the Department of Resources, Energy and Tourism, the Review has considered the first 12 months of Oilcode's operation. MTAA/ASSCSA provided the Department with a submission which advised that the Association holds numerous concerns regarding Oilcode, many of which it foreshadowed at the time of Oilcode's negotiation and during the drafting process. These concerns relate to tenure, disclosure, dispute resolution, Terminal Gate Pricing and contractual terms.

The National Secretariat understands that the Review has had to take into consideration the effect of Fuelwatch upon the operation of Oilcode. The Department has advised that the Review Report will contain some recommendations but will present a range of options regarding the future direction of Oilcode, including the need for it to be underpinned by a strong policy framework. The National Secretariat understands that the Department's Report will be provided to the Minister for Resources and Energy, and Minister for Tourism, the Hon Martin Ferguson A.M., M.P. towards the end of September. The Department has further advised that additional stakeholder consultation regarding the options canvassed in the Report will occur later in the year.

Personal Property Security

The Government, through the Australian Attorney General's Department, is proposing to reform personal property security (PPS) arrangements in Australia through the establishment of a National PPS Register. The National Secretariat has continued to work closely with the Department on this project through MTAA's participation on the Attorney General's Consultative Group on Personal Property Security Reform. The National Secretariat has also continued to make strong representations of Member's interests to the Department through written submissions and through direct representations to Officers of the Department. It is proposed that the national PPS arrangements will replace some 70 pieces of state and territory legislation.

At the time of writing this report, the Government had not long released both a draft PPS Bill and draft PPS Regulations. Combined, these documents describe the detail of the manner in which the proposed national PPS regime is likely to operate. In its review of these documents, the National Secretariat has identified - with Members assistance - a number of characteristics of the proposed PPS regime that it considers have the potential to have an undesirable impact on some retail motor trades operations. These are matters upon which the National Secretariat has already made strong representations to the Department on and it is confident a satisfactory outcome can be secured. Based on overseas experience it is expected that motor vehicles will comprise roughly 42 to 47 per cent of the PPS register.

The adoption of a national PPS register will alter aspects of the operating environment of retail motor traders and the Association has been active in ensuring that the impact of those changes is minimal and not adverse upon retail motor trade businesses. While advice received from the Department is consistent with other assessments that the effects of the proposed regime upon many aspects of retail motor trades operations will be of minimal impact and potentially of assistance in terms of clarity and certainty in encumbrances and titles, there are other aspects over which the National Secretariat continues to express concerns. It is these areas where the Association will continue to make representations on Members behalf to the Department through its active involvement in the development of this regime.

APRAA Accreditation Plus Program

In December 2007 the Association finalised the formal arrangements with the National Parts Code (NPC) and the National Motor Vehicle Theft Reduction Council (NMVTRC) which has seen the NPC act as an independent auditor of APRAA's Accreditation Program.

The applications for the 2008 APRAA Accreditation Plus Program closed on 31 March 2008. There were 70 renewals and one new member of the Accreditation Program. The National Secretariat sent letters to all Accredited members informing them that under the terms of the Accreditation Plus program that they may be contacted by the program auditor to arrange an appointment for an audit by an NPC auditor.

The National Secretariat has also prepared a brochure listing the Accredited Repairers in each state and territory. This brochure was launched at the 2008 AutoEquip Expo in Sydney which was attended by APRAA Executive Committee members and National Secretariat staff.

The National Secretariat and the APRAA Executive Committee continue to liaise with NMVTRC/NPC about the future of the Accreditation program.

Motor Vehicle Insurance and Repair Code of Conduct

The operation of the Motor Vehicle Insurance and Repair Code of Conduct (the Code) continues to be supported by MTAA and its Members. The Code is administered by the Code Administration Committee, which completed its internal review of the Code in late 2007. While the comments received about the operation of the Code were generally positive it was recognised that areas of the Code relating to clauses 6.1 and 6.3, which relate to the estimate, repair and authorisation process require further monitoring. It was also recognised that the Code will require on-going promotion within the sector.

The level of formal dispute resolution under the Code has stayed relatively low over the two years of its operation. However, anecdotal information provided by Members suggests that there are still areas within the repairer-insurer relationship that are causing difficulties for repairers.

Currently the only major insurer not a signatory to the Code is RACQ Insurance. Members of the Code Administration Committee have met with representatives of RACQ Insurance and negotiations are still on-going to correct this. Currently 22 insurance companies are signatories to the Code.

The Code Administration Committee has continued to pursue access to technical information from vehicle suppliers and manufacturers, but with limited success. The Committee also approved an Assessor Training Course proposed by MTA-NSW.

MTAA representatives on the Code Administration Committee are Ms Sue Scanlan, Mr James McCall, Mr Gunther Jurkschat (until March 2008) and Mr Phil McGilvray (from March 2008).

Real Times Real Money

During the past 12 months MTAA is aware that IAG has been rolling out its New Times And Rates (NTAR) program with smash repairers across NSW and the ACT. Under NTAR, the calculation of their hourly rate by individual repairers involved the use of a 'calculator' developed by IAG that moved them from FTFM to RTRM. Unfortunately it became obvious early on in the 'roll-out' phase of NTAR that there were some inconsistencies in the calculator which were of concern to repairers. Initial negotiations between MTA-NSW and MTA-ACT with IAG prompted a national meeting between all stakeholders that has seen the creation of an calculator acceptable to both of the Associations, paint companies and IAG that repairers will utilise in calculating their hourly rate.

Continued discussion regarding a revised calculator for use by repairers to calculate annual reviews of labour rates based on RTRM have been agreed to. The National Secretariat understands that this will happen prior to the first annual review of the NSW scheme.

MTAA is aware that the IAG timetable for the further roll-out of this program has been slightly delayed. However at the time of writing smash repairers in NSW and ACT do have the option to use the new times and rates. The NTAR system will be extended to other states and territories during 2009. The Association also recognises that there has been a degree of goodwill around the negotiations that did not exist for many years. Notwithstanding these initial difficulties, MTAA believes that the introduction by IAG of NTAR is a positive step for the body repair section.

Other Activities

MTAA Super

2008 has been a tough and challenging year for world financial markets. Every sector of the market has been impacted including all Australian superannuation funds, which have recorded an average crediting rate for their Balanced Option (or equivalent) of negative 6.39 per cent. In contrast, MTAA Super's Balanced Option crediting rate of negative 2.13 per cent was significantly higher than this average.

In the 2007-08 financial year period, MTAA Super's total funds under management grew to \$6.1 billion, an increase of \$500 million on the June 2007 figure. In this period, total membership of the Fund increased from 268,000 to 280,111 members and personal super (public offer) members increased by 37 per cent. The number of active employers grew by 18 per cent to 31,890 over this period.

MTAA Super's Balanced Option, which most members are invested in, has once again been ranked as number 1 over 10, seven, five and three years and number 3 over 1 year for investment performance by independent analyst SuperRatings¹.

The Growth and Conservative Options have also been ranked very highly in the SuperRatings² surveys, both having positive crediting rates along with the Target Return and Cash Options.

These results are a true testament to the Fund's two portfolio investment strategy which is specifically designed to reduce the impact of difficult market investment conditions while delivering long-term performance.

Crediting rates for MTAA Super's Balanced Option as at 30 June 2008

At 30 June 2008 rolling crediting rates ³ for the MTAA Super Balanced Option were as follows:		How MTAA Super Balanced Option ranks against other Funds in the SuperRatings 30 June 2008 survey ³	
Period	Return	Ranking	Total number of funds
1 year	-2.13%	No. 3	43
3 years	11.49%	No. 1	42
5 years	13.46%	No. 1	40
7 years	10.15%	No. 1	25
10 years	9.92%	No. 1	15
Since inception	9.75%		

Crediting rates for Superannuation Members

¹ SuperRatings SR50 Balanced Index Option survey at 30 June 2008

² SuperRatings 30 June 2008 Balanced Index survey rates MTAA Super's Growth Option number 1 over one, three, five and seven years and its SR50 Capital Stable Index survey rates MTAA Super's Conservative Option number 3 over one year and number 1 over three, five and seven years. (The Growth and Conservation options commenced in 1998).

³ SuperRatings SR50 Balanced Index Option survey at 30 June 2008

In 2007-08, the crediting rates for MTAA Super's pre-mixed superannuation options, as at 30 June 2008 were:

Conservative	2.42%
Balanced (Default option)	-2.13%
Growth	2.49%
Target Return	8.38%

Crediting rates for Pension Members

In 2007-08, the crediting rate for MTAA Super's pre-mixed pension options, as at 30 June 2008 were:

Conservative	2.93%
Balanced (Default option)	-2.30%
Growth	2.97%
Target Return	9.73%

New Products and Services

In 2008, MTAA Super launched two online services for members, RateMySuper and RateMyPension. RateMySuper enables members to compare MTAA Super's services and performance against 180 other superannuation funds. RateMyPension has been specifically designed to compare MTAA Super's pension services and investment performance with over 70 other pension products.

Both products use extensive data from SuperRatings (an independent company specialising in the research of Australian super funds) to compare super funds across areas such as investment performance, fees, insurance cover, and much more.

MTAA House

Several projects have been undertaken this past year, including the creation of two new offices on Level 3 for MTAA Super and the installation of a new Building Management System. Replacement carpets are expected to be installed by the end of the 2008-2009 financial year as part of the Directors continued efforts to maintain the House's attractiveness to tenants.

Members have received regular financial and tenancy updates for the House and will be aware that the House remains fully tenanted, although small tenancy changes are expected for the 2009-2010 financial year.

AADA National Dealer Convention

The 2008 Convention, which returned this year to Royal Pines at the Gold Coast, featured the theme of 'The Secret to Achieving Industry Best Practice'. Dealers continued to embrace the expanded Convention program, which continued the successful day seminar and reinvigorated partner program, with 520 delegates attending the Convention. This year's Convention provided an outstanding line up of international guest speakers and presenters including a profitability workshop delivered by Jim Ziegler and Tom Stucker also providing dealers with an insight into sales best practice. Li Cunxin inspired the audience at the

MotorOne breakfast with his remarkable tale of success in the face of overwhelming adversity and audiences were entertained with performances from Daryl Braithwaite and Brian Cadd.

The Convention program continues to provide dealers with an opportunity to consider the issues and challenges facing the automotive industry, as well as providing a valuable networking and social occasion for dealers. The 2009 Convention will return to Melbourne; with Adelaide likely to host an expanded Convention and trade Show in 2010.

NADA Study Tour

The annual AADA study tour to the NADA Convention provides AADA members with the opportunity to learn from and experience the largest dealer convention in the world. In February 2008, over a hundred AADA delegates attended the very successful NADA Convention in San Francisco. The 2009 Convention will be held in New Orleans, and registrations for the AADA study tour are now open.

Conclusion

The work of MTAA would not be possible without the contributions made by the Executive Directors, staff and their Members to the development of policy and submissions. The assistance and support provided to the National Secretariat is invaluable and ensures that the Association is truly representing the national interests of the retail motor trades

National Secretariat
Canberra

25 September 2008