

# 2010 Public Policy Manual

Motor Trades Association of Australia©  
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# Index

Overview .....	3
Facts and Figures .....	5
The Economy, Taxation and Regulatory Burden .....	6
Taxation and Compliance .....	6
Luxury Car Tax .....	6
Notional Input Tax Credits .....	6
Red Tape .....	6
Fair Trading .....	7
The Australian Consumer Law .....	7
Market Concentration .....	7
Collective Bargaining .....	8
Unfair Contracts.....	8
Statutory Warranties.....	8
Franchise Agreements.....	9
Mandated Minimum Tenure .....	9
Termination at Will Without Due Cause .....	9
Coverage for all Franchise Agreements .....	10
National Competition Policy .....	10
The Australian Competition and Consumer Commission.....	10
Small Business Advocate .....	11
Skills and Training Arrangements .....	11
Education and Vocational Training.....	11
Emerging Vehicle Technologies and Training.....	11
Skills Shortages .....	12
Automotive Industry National Training Body.....	12
Workplace Relations and Occupational Health and Safety .....	13
Australia’s Industrial Relations System .....	13
Recognition of Overlap between Training and Industrial Relations System.....	13
Flexible Awards and Employment Contracts .....	13
Employment Contracts and Workplace Agreements .....	14
Fair and Flexible Minimum Legal Standards .....	14
Occupational Health and Safety.....	14
Vehicle Retailing.....	15
Car Code .....	15
Dealer Rationalisation and Changes in Marketing Arrangements .....	16
Unlicensed Traders .....	16
Motor Vehicle Theft.....	16
Odometer Fraud.....	17
Australian Automotive Manufacturing Sector.....	17

- Motorcycle Retailing ..... 17**
  - The Sale of Non-ADR Compliant Motorcycles ..... 17
  - Motorcycle Theft .....18
- Vehicle Maintenance and Repairs ..... 18**
  - Motor Vehicle Insurance and Repairer Industry Code of Conduct .....18
  - Real Time Real Money .....19
  - Access to Manufacturer’s Technical Repair Information.....19
  - Anti-steering Legislation .....19
  - Vehicle Emissions, Vehicle Safety and Australia’s Aging Car Fleet ..... 20
  - National Roadworthy Inspection Scheme and Vehicle Registration System ..... 20
- The Petroleum Sector .....20**
  - Structure of the Wholesale and Retail Petroleum Market ..... 20
  - Terminal Gate Pricing .....21
  - Alternative- and Bio-Fuels .....21
- The Environment..... 21**
  - Emissions Trading .....21
  - Waste and Recycling ..... 22
  - Green Stamp/Eco-efficiency Program ..... 22
  - End-of-Life Vehicles ..... 22
  - End-of-Life Tyres ..... 23
  - Adding Alternatively Powered Vehicles to the Australian Fleet ..... 23
  - Ozone Depleting Substances and Synthetic Gases ..... 23
  - Underground Storage Tanks ..... 24
  - Recycled Parts .....25
  - Drought Assistance.....25
- Superannuation.....26**

## Overview

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 retail motor trade businesses with a combined turnover of over \$160 billion and which employ over 308,000 people. The Association is a federation of the Motor Trades Association of the ACT, the Motor Trades Association of the Northern Territory, the Motor Trade Association of South Australia, the Motor Trade Association of Western Australia and the Australian Automobile Dealers Association.

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. The Association's affairs are directed by a Board on which each of MTAA's 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.

The range and depth of the activities of the membership of the Association can be seen from the following list of recognised trades, skills and tasks in the retail, service and repair sector of the automotive industry:

- |   |                                     |
|---|-------------------------------------|
| ▪ Air-conditioning Technicians            | ▪ Dynamometer Operators             |
| ▪ Auto Electricians                       | ▪ Engine Fitters                    |
| ▪ Automotive Accessory Retailers          | ▪ Engine Performance Specialists    |
| ▪ Automotive Dismantlers/Parts Recyclers  | ▪ Engine Reconditioners             |
| ▪ Automotive Engineers                    | ▪ Exhaust System Specialists        |
| ▪ Automotive Glass Fitters                | ▪ Farm Machinery Dealers            |
| ▪ Automotive Parts Cataloguers            | ▪ Fuel Injection Specialists        |
| ▪ Automotive Radio and Stereo Specialists | ▪ Gas Fitters                       |
| ▪ Automotive Service Managers             | ▪ Hire and Rental Vehicle Operators |
| ▪ Automotive Trimmers                     | ▪ Marine Automotive Engineers       |
| ▪ Automotive Upholsterers                 | ▪ Motor Boat and Marine Dealers     |
| ▪ Automotive Transmission Specialists     | ▪ Motorcycle Dealers                |
| ▪ Battery Makers and Reconditioners       | ▪ Motorcycle Mechanics              |
| ▪ Body Builders                           | ▪ Motor Mechanics                   |
| ▪ Brake Specialists                       | ▪ Panel Beaters                     |
| ▪ Car Alarm Fitters                       | ▪ Petrol Pump Attendants            |
| ▪ Caravan Dealers                         | ▪ Radiator Repairers                |
| ▪ Car Dealers                             | ▪ Spray Painters                    |
| ▪ Car Salespeople                         | ▪ Tow Bar and Trailer Fitters       |
| ▪ Car Wash Operators                      | ▪ Tow Truck Operators               |
| ▪ Chassis Builders and Repairers          | ▪ Truck Builders and Operators      |
| ▪ Commercial Vehicle Body Fabricators     | ▪ Tuning Specialists                |
| ▪ Detailers                               | ▪ Tyre Fitters                      |
| ▪ Diesel Engineers                        | ▪ Tyre Retreaders                   |
| ▪ Diesel Injection Technicians            | ▪ Wheel Alignment Specialists       |

## Facts and Figures

- The businesses that comprise the retail motor trades, of which there are over 100,000, turnover in excess of \$160 billion per annum and employ more than 308,000 Australians.
- The motor trade sector of the economy acts as the collection point for approximately \$30 billion in Commonwealth, state and local taxes and duties.
- The ownership and operation of motor vehicles accounts for expenditure of approximately sixteen per cent of the average family's income.
- In most rural and regional communities, the motor trades are a significant employer of labour and provider of apprenticeships and traineeships.
- Motor trades associations are committed to the future growth and development particularly in relation to skills development. This is demonstrated through participation in:
  - automotive industry training arrangements;
  - training matters;
  - TAFE College Councils; and
  - Group Apprenticeship Schemes.
- The retail motor trades are responsible for selling, servicing, repairing, fuelling and supplying spare parts for the 15.7 million passenger, commercial and other registered vehicles in Australia.
- The franchising sector represents 14 per cent of Australia Gross Domestic Product (GDP) and is widely recognised as one of Australia's most dynamic business sectors. With a turnover in excess of \$130 billion the franchising sector employs approximately 600,000 Australians. Much of the motor trades sector is franchised and is a substantial part of that growth sector in Australia.
- There are numerous other franchise systems operating in the farm machinery, tyre, battery, brake repair and various other sectors of the retail motor trades.

## The Economy, Taxation and Regulatory Burden

MTAA believes that the maintenance of favourable economic conditions for business, including low inflation and low interest rates, should be an important priority for the Australian Government, both now and in the future. Governments should pursue policies which achieve this outcome. MTAA also believes that future Governments must continue to take positive and firm action in controlling their spending. Government intervention in the economy should also be reduced except in those instances where it is beneficial to the national interest.

### Taxation and Compliance

*Taxation compliance costs should be minimised and inefficient forms of taxation should be removed as a matter of urgency.*

Low levels of taxation encourage business and employment growth and help to create an environment which is conducive to economic growth; all of which is beneficial to the Australian economy. MTAA supports initiatives that will help to create a lower taxation environment for both business and individuals. The Association also considers that it is important that the compliance costs associated with taxation are minimised, as this will help to reduce the impost on business and the wider community.

### Luxury Car Tax

*The luxury car tax should be abolished.*

Motor vehicles above a GST-inclusive value of \$57,466 are subject to an additional 25 per cent luxury car tax on the value of the vehicle above that amount. Motor vehicles are the only good upon which the Government imposes a 'luxury' tax when a certain arbitrarily determined value is reached. As such, the imposition of this tax is discriminatory and unjustified.

MTAA believes that with the introduction of a GST, the imposition of this tax has no place in a fair taxation system which taxes goods and services across the board at a standard rate. A so-called 'luxury' tax of this kind distorts the market for higher value vehicles and unfairly penalises dealers, manufacturers and distributors, as well as consumers of such vehicles. The Luxury Car Tax should be removed or, failing its abolition, the threshold should be increased to \$100,000.

### Notional Input Tax Credits

*The current arrangements for notional input tax credits should be reformed.*

Under these arrangements, when a GST registered buyer purchases used goods (such as a second hand motor vehicle) from an unregistered seller, then the notional input tax credit is only available when the registered buyer sells that good. In the case of used motor vehicles purchased as trade-ins, this could be up to some months later. MTAA believes that full input tax credits should be available to registered buyers at the time of purchase.

### Red Tape

*Red tape should be minimised to ensure that small businesses are not unfairly burdened by compliance.*

Small businesses are subject to a range of Australian, state, territory and local government regulation and that regulation can create a significant compliance burden for those businesses. This regulatory burden diverts small business operators' attention from the important task of running their businesses and also results in increased administrative and compliance costs for small business.

While MTAA acknowledges that some of this regulation is desirable and necessary, the Association considers that governments should attempt to minimise the impact that their regulation has on business and to ensure that their regulatory response is commensurate with the risk being regulated. MTAA also considers that any superfluous regulation should be removed as matter of priority.

## Fair Trading

Small business plays a significant role in providing competition and choice to consumers. MTAA believes that competition in a market is best secured through there being a large numbers of competitors and a diversity of business ownership and operation.

### The Australian Consumer Law

*Further trade practices reform is required.*

The Government, with the support of the states and territories, has established an Australian Consumer Law (ACL) regime; this essentially integrates and harmonises the *Trade Practices Act 1979* (TPA) with state and territory fair trading legislation. As part of this process the TPA will be renamed the *Competition and Consumer Act 2010* (CCA). MTAA supports the new ACL regime.

The TPA is an extremely important piece of legislation, not just for small business, but for all businesses and consumers. It sets the broad parameters for business behaviour in our society; how competitors behave, how big business and small business interact and provides the underpinning for some mandatory business-to-business codes of conduct.

Small businesses are ‘atomised’. Often, a retail motor trader is required to have a formal relationship (such as a contract or franchise agreement) in place with their supplier, but has little bargaining power when it comes to negotiating the agreement/contract. In some sectors of the retail motor trades, suppliers are also competitors; for example, in the petroleum retail market. MTAA believes a stronger TPA, which governs business-to-business interaction, is fundamental to the future of small business.

The TPA has been amended at various times over the past fifteen years and those amendments have been intended to strengthen the rights and redress available to small business. They have included provisions providing for mandatory codes of conduct, unconscionable conduct, changes to the misuse of market power provisions and the introduction of a collective bargain notification regime. Those changes have not been able to totally address the concerns of retail motor traders about the conduct of larger business suppliers and competitors and further reform is urgently required.

### Market Concentration

*Stronger laws are required to prevent anti-competitive ‘creeping’ acquisitions.*

‘Creeping acquisitions’ are a series of small business acquisitions undertaken by a business with a significant market share over a long period of time. While each acquisition will not, individually, substantially lessen competition, or even be noticed, the cumulative effect of those acquisitions may be to substantially lessen competition.

MTAA believes concentrated markets are potentially not in the long-term interests of Australian consumers. Although the recently introduced *Competition and Consumer Legislation Amendment Bill 2010* will provide the ACCC with the ability to consider creeping acquisitions in local markets, the Association considers that those amendments do not sufficiently address the issue of creeping acquisitions. MTAA is therefore concerned that big businesses are able to acquire small players without breaching the merger provisions of the *Act*, even though such acquisitions may over time substantially diminish competition and thus competitors.

Consequently, MTAA proposes that the merger provisions of the *Act* be amended so that the ACCC can take into account previous mergers and acquisitions by an acquirer and assess the resulting state of competition in any relevant market. MTAA considers that this could best be achieved through the legislative adoption of a market concentration test (where corporations captured within a nominated threshold must notify the ACCC of any further acquisitions in that market in order for the Commission to determine whether or not the acquisition will or is likely to result in an overall public detriment) or the adoption of a model based upon the European Union Merger (where a series of transactions in ‘securities’ are treated as a single transaction).

## Collective Bargaining

*The collective bargaining notification provisions require urgent amendment so that small business can use them.*

Due to the atomisation of small business, the ability of small business to enter into collective bargaining agreements provides a measure of balance to the relationship between small business and their larger suppliers/acquirers. In 2006, the Government introduced collective bargaining notification provisions into the TPA. MTAA, although supportive in general terms, advised the Government that the thresholds set were too low, and thus effectively excluded retail motor traders from accessing the collective bargaining arrangements. In 2007, the Government introduced higher thresholds for some sectors of the retail motor trades, although they have not been entirely effective. It has become evident that the provisions in their current form are under utilised, and in some cases, unable to be utilised because of the requirements of the regulations underpinning the legislation. MTAA believes that the current thresholds do act for many retail motor traders as a barrier to accessing the provisions. In order for small business to access the collective bargaining provisions in the spirit of which the legislation intended, MTAA considers that the underlying regime must be urgently reviewed and amended.

## Unfair Contracts

*Unfair contracts legislation should be extended to capture business-to-business contracts.*

Small businesses are, in many respects, in similar circumstances to consumers. Many acquirer/supplier business to business contracts (for example, franchise arrangements) involve dealings between a large business and a much smaller business. This is particularly the case with franchise arrangements where the smaller business relies on the existence of a contract with the larger party in order for the business to operate. In MTAA’s experience, this often results in a contract coming into existence between the large and small party where the ‘balance of power’ unfairly favours the larger party. In the retail motor trades, such terms extend to the presentation of take it or leave it contracts, unilateral variation clauses and cost shifting arrangements. Obviously these arrangements are not dissimilar to those which concern governments and regulators in relation to business to consumer contracts.

The unfair contracts legislation that was introduced on 1 July 2010 does not extend to business-to-business contracts. MTAA seeks the amendment of the TPA to recognise small businesses as consumers and that extends the same level of protection from unfair contract terms. Businesses covered by mandated codes of conduct under the TPA should be covered under a business to business unfair contracts terms regime.

## Statutory Warranties

*A national framework that requires all goods and services to meet base standards and effectively enforces warranty obligations is required.*

As part of the ACL regime, uniform statutory warranty provisions will soon be in effect across all jurisdictions. The provisions are supported by MTAA, as they will provide for uniform national arrangements and because they preserve existing warranty provisions for small businesses.

However, MTAA is concerned that the decline in local production of quality engine components has presented opportunities in the market for suppliers with the capability to source components from overseas. There is no method by which a component might be visibly determined to be ‘fit for purpose’ and it may well be that replacement parts reveal themselves to not be of ‘merchantable quality’ or ‘fit for purpose’ only after they have been installed in an engine and an operational problem arises. Often the suppliers of those products are not willing to take responsibility, when components have been found to be deficient in performance, for the quality of their goods/parts. MTAA believes that the TPA should require suppliers of goods (and/or services) in those circumstances to warrant the quality and fitness for purpose of the goods/services being sold. MTAA believes that there needs to be changes to the provisions of the Act which currently preclude suppliers of goods/services provided for resale or reuse from having to ensure that those goods/services are ‘fit for purpose’. Furthermore, the Association considers that the courses for remedy for faulty components be simple, certain and accessible for all consumers and that effective redress must be available to all parties within the supply chain.

MTAA does not support the introduction of ‘lemon laws’ to provide consumers with specific statutory protection in the event that a motor vehicle purchased through a licensed dealership is found to be inherently defective. The Association considers that the concept of a ‘lemon’ vehicle is misleading as evidence suggests that the number of vehicles that could be categorised as such are negligible. Currently, the ACL regime provides substantial protection for consumers in the supply of goods, as does the supplier’s express warranties. If specific ‘lemon laws’ were introduced this would only duplicate existing warranty provisions, ultimately leading to increased costs for consumers and add further complexity and uncertainty to the motor vehicle retailing sector.

## Franchise Agreements

*All franchise agreements should be covered by the Franchising Code of Conduct.*

Given the predominance of franchises across all sectors of the retail motor trades, franchising regulation and franchising issues are significant policy matters for MTAA. MTAA considers that further strengthening of the Code is urgently required. MTAA continues to seek the inclusion of all franchise agreements under the Code (through the removal of the exemption in clause 5(3) (b)). MTAA also supports the removal of existing termination at will provisions (clause 22) and the inclusion of mandated minimum tenure for franchise agreements.

## Mandated Minimum Tenure

*Mandated minimum tenure is required to protect the significant investments made by franchisees.*

Many franchisees in the retail motor trades invest significant amounts of capital in their franchised businesses and they therefore require a reasonable period of tenure to recoup that investment. The Franchising Code of Conduct does not however currently contain any provision dealing with the minimum tenure period of franchise agreements. As such, franchisors can offer franchise agreements with tenure periods that are insufficient for franchisees to recoup their investments. MTAA considers that circumstance to be unacceptable. MTAA therefore believes that the Code should be amended to stipulate a minimum tenure period for franchise agreements. The Association considers that a minimum tenure period of five plus five years would be appropriate for franchising arrangements in the retail motor trades, given the very significant investments many retail motor traders (in particular, new car dealers) make in relation to their franchised businesses.

## Termination at Will Without Due Cause

*The Franchising Code of Conduct should be amended to proscribe termination at will without due cause.*

MTAA believes that agreements which provide for termination at will, without due cause, are harsh and unfair as they result in a situation where the bargaining power in the relationship rests solely with one party – the franchisor. Those agreements also enable franchisors to undertake a restructure or rationalisation of their

franchise networks by simply terminating the relevant franchise agreements, rather than actually having to pay due respect to those agreements by negotiating an acceptable outcome with affected franchisees. In light of that, MTAA considers that Clause 22, which deals with termination at will, should be removed from the Code and replaced with a new clause proscribing termination at will, without due cause.

### Coverage for all Franchise Agreements

*The Franchising Code of Conduct must be amended to ensure that its application is equitable and fair.*

After more than twelve years, it is inappropriate that some franchises agreements are exempt from the Code. It is clearly time for the exemption provided for in clause 5(3) (b) to be removed from the Code.

### National Competition Policy

*The public interest should be the sole determining factor in any decision relating to the National Competition Policy.*

The reforms introduced as part of the National Competition Policy have provided some benefits to consumers and the Australian economy. However, MTAA considers that those benefits have not been distributed evenly amongst the various sections of the Australian community or across the various regions of Australia.

Indeed, in some communities, particularly those in regional and rural areas, the introduction of the National Competition Policy has resulted in the withdrawal of services, the disappearance of local businesses and a decline in employment opportunities.

In light of the significant impact that such outcomes can have on the viability and vibrancy of affected communities, MTAA considers that National Competition Policy concepts such as contestability, competitive tendering and the rationalisation of government services may not always be in the public interest. Instead, due consideration must also be given to public interest issues, such as the impact that the proposed reforms will have on the level of employment, the viability of small business and the accessibility of government and essential services in local communities.

MTAA therefore considers that the public interest should be the sole determining factor in any decisions relating to the National Competition Policy and the post-National Competition Policy reforms.

### The Australian Competition and Consumer Commission

*MTAA is supportive of the role of the ACCC in ensuring the development and operation of competitive markets.*

MTAA has a productive working relationship with the Australian Competition and Consumer Commission (ACCC) and the Association strongly supports the important role that the ACCC plays in promoting competitive and fair trading in the market place and in enforcing the provisions of the TPA.

MTAA considers that the ACCC also has a major role to play in ensuring that all market participants, both large and small, are able to compete fairly and efficiently in the relevant market. In order for it to fulfil those roles effectively, it is important that the ACCC is adequately resourced and the Association therefore encourages the Australian Government to closely monitor the ACCC's resource levels, to ensure that they are appropriate and sufficient for its regulatory monitoring and reporting roles.

In MTAA's view, the small business focus of the Commission could also be strengthened by the establishment of a "Small Business as Consumers" Division within the ACCC. The role of that division would be taking small business representative actions and to act generally, within the Commission, as an advocate for small business and small business-related matters.

## Small Business Advocate

*An independent and adequately resourced Small Business Advocate should be appointed to provide a voice for small business from within the Government.*

Small business owners in Australia often feel alienated from their governments, with many believing that the policy decisions of regulators, agencies and departments at a federal, state and territory level are made with little regard to the impact that they will have on small business.

While the Australian Government currently has a Small Business Policy Division to provide advice and assistance programs and the ACCC to regulate competition, neither are in a position to be able to act as an independent ‘champion’ of small business.

Unfortunately, the inadequacies of the *Trade Practices Act 1974* limits the ability of the ACCC to deal effectively with small business issues. Furthermore, the Small Business Policy Division is often unable to provide an independent approach to small business concerns as there are political constraints that require the Office to work within the scope of Government policy, sometimes regardless of the consequences for small business. MTAA therefore believes that there is a pressing need for an independent representative who can act as a point of contact for small business and relay concerns to the relevant decision makers as part of the parliamentary process, including Ministers and government departments.

MTAA considers that the appointment of a Small Business Advocate would address that need. As an independent statutorily appointed Officer, the Advocate would be able to communicate the needs of small business to the government and comment on government policy without being constrained by political interest. MTAA notes, however, that the Advocate would need to be adequately resourced to fulfil those roles.

## Skills and Training Arrangements

MTAA is committed to promoting employment and ensuring the delivery of high quality training within the retail motor trades.

### Education and Vocational Training

*Education and vocational training policies should place an emphasis upon developing skills that match the needs of employers and which recognises the increasingly technologically complex nature of motor vehicles.*

MTAA believes that there should be a system of vocational education and training that addresses current cultural and technological challenges and which provides the flexibility to tailor education and training programs to meet the needs of all Australian businesses, both large and small. This should include making pre-vocational courses available to high school students and apprenticeships based on recognised competencies rather than specific durations.

### Emerging Vehicle Technologies and Training

*Automotive training packages must incorporate emerging vehicle technologies.*

Motor vehicles are constantly evolving through the adaptation of new technologies such as hybrid and electric power and advanced composite materials. This evolution is in response to demands for safer and more efficient vehicles. As new technologies and materials are introduced, vehicle repairers are required to invest not only in the tools and software to undertake servicing and repair, but also in training staff to service and repair vehicles with those technologies. Because of the advanced nature of these technologies, the automotive training packages will, therefore, need to be substantially and urgently updated.

## Skills Shortages

*It is essential that a range of strategies to address the skills shortages and retention issues be considered by government and industry.*

The retail, service and repair sector of the automotive industry is currently experiencing skills shortages in a range of retail motor trades. Those skills shortages are expected to worsen in the future, as existing trades people retire or leave the industry and an insufficient number of new entrants take their place. The Association therefore considers that the retail, service and repair sector, in conjunction with the Australian Government and other industry stakeholders, must address this issue as a matter of importance. The Association notes and welcomes the Australian Government's recognition of the skill shortages being faced by many sectors of the economy.

MTAA considers that there is a range of strategies which could be adopted to address the issue of skills shortages facing the retail motor trades and make a career in the trades a more attractive proposition for both existing and potential employees. Those strategies include activities to:

- promote the career paths available within the retail motor trades in the wider community;
- promote the wider use of skilled migrants; and
- support competency based apprenticeships and the development of more flexible training options.

The Association acknowledges, however, that no single strategy is likely to be a panacea for the skill shortages facing the industry.

MTAA believes that it is imperative that the sector continue to work with the Australian, state and territory governments and other relevant stakeholders developing strategies to address this important issue.

## Automotive Industry National Training Body

*The Association believes that the AUR05 Retail, Service and Repair training package needs urgent restructuring.*

MTAA did not support the Government's decision in early 2009 to transfer responsibility for the two automotive training packages (the AUR05 and AUM08 packages) from Automotive Training Australia to Manufacturing Skills Australia.

However, the subsequent decision in early 2010 that the automotive training packages be the responsibility of an MSA subsidiary company controlled by the automotive industry, is a welcome one.

The Association believes that the AUR05 Retail, Service and Repair training package needs urgent restructuring and updating in order to meet the changing needs of employees, trainees/apprentices and the rapidly changing technology in vehicles.

# Workplace Relations and Occupational Health and Safety

MTAA supports the continued development of an industrial relations system that enhances competitiveness through the fostering of employer-employee relationships based on direct consultation, participation and negotiation.

## Australia's Industrial Relations System

*The retail motor trades do not support a complex system of industrial relations but a nationally consistent model that is easily applicable to all, so there is clarity, fairness and simplicity in the employer and employee relationship.*

The retail motor trades support a national modern award system that recognises a single award structure for the automotive industry which looking forward, continues to embrace new technologies and the demand for changing and updating of skills. The Award structure also needs to accommodate the substantial changes to business operational demands to operate competitively and embrace flexible work practices and meet the needs of employees in balancing work and family.

Accordingly, a system of industrial relations that is underpinned by and continually reviewed for consistency, simplicity and responsiveness to industry needs is essential to ensure confidence in industry to invest in economic growth and engage employees.

## Recognition of Overlap between Training and Industrial Relations System

*A nationally consistent training structure is a fundamental component of the new Modern Award.*

In recognising the comprehensive integrated and cross skilled nature of the retail motor trades covering the service repair, retailing, wholesaling and reconditioning/remanufacturing sectors, the retail motor trade supports a stand alone training structure which, where appropriate, may have synergies with automotive manufacturing. A nationally consistent training structure is seen as a fundamental component of a single modern award for the motor industry to give the parties clarity in all aspects of employment and training.

## Flexible Awards and Employment Contracts

*The retail motor trades support flexibility of conditions of employment in the workplace to suit both employers and employees.*

MTAA believes that workplaces should be able to negotiate individual contractual arrangements with employees or at the enterprise level without impediments - provided the total package inclusive of non-wage benefits exceeds the minimum industry conditions as set out in the award and where relevant, the minimum standards in the legislation. Awards should contain matters concerning hours of work, overtime, penalty rates of pay, rest/meal breaks, shift work, rates of pay, work on public holidays and allowances.

Outdated and unnecessary restrictions on cashing out of entitlements need to be addressed as a matter of urgency with the appropriate safeguards in place.

Many employers, particularly small employers, do not have the resources, nor want the responsibility for maintaining or negotiating detailed conditions of employment.

Awards generally, and in particular industry awards, should be maintained with organisations having a primary role to represent the major interests of their membership on major standards/employment conditions. However, such organisations interests must be bound to adhere to the principals underpinning flexible work

arrangements. Industry awards have a legitimate and proper role and should be encouraged through the *Fair Work Act 2009*. Provisions in awards should be minimum standards and flexible, which enable agreement making at the workplace level.

### Employment Contracts and Workplace Agreements

*Individual employment contracts and Individual Flexibility Agreements need to remain a feature in Australian Industrial Relations, with adequate guidelines so employers and employees can negotiate arrangements without fear of breaching awards or the Fair Work Act 2009.*

Uncomplicated mechanisms to negotiate and register agreements are preferred by small employers. The retail motor trades support the right of individuals to choose to enter into an agreement either individually or collectively. Agreements, either Individual Flexible Awards (IFAs) or common law contract agreements, are a tool to achieve the necessary flexibility in the workplace. A fair and relevant set of industry conditions in awards provides the necessary safety net for agreements.

### Fair and Flexible Minimum Legal Standards

*Small Business required greater guidance on critically relevant areas of the Fair Work Act 2009.*

Australian minimum legal standards, introduced as National Employment Standards (NES) under the Fair Work Act 2009, do not contain sufficient underpinning guidance for small business. For example, for Sick/ Personal/ Carers leave, the NES provides general guidance on employees giving notice to take such leave and evidence that would satisfy a reasonable person in support of taking that leave. For small business, there should be a minimum notice requirement set by regulation. Such regulation should still allow the opportunity for medium/large employers to introduce more specific rules.

The retail motor trades do not support unfettered right of entry of unions to workplaces. Any attempt to restrict the work of reasonable overtime in service industries is also strongly opposed. The retail motor trades do not support inflexible legal minimum standards, or those that fail to meet industry needs. Even minimum standards concerning notice periods should be flexible to allow mutual agreement to vary terms of notice. Minimum standards concerning matters of redundancy and severance pay need to consider the needs and capacity of small business. This is a serious issue for one section of small business for the next five years as one of two sets of rules apply, depending on whether the business was respondent to a federal award as at December 2009 or a NAPSA (Notional Agreement Preserving a State Award). The retail motor trades, therefore, urge the Government to review its legislation by introducing essential regulations creating clarity and one fair rule for all.

Codes or minimum standards concerning termination of employment should be fair and not be overly onerous on small business. Additionally, any standards need to include mutual obligations on both the employer and employee, such as the requirement to give notice on termination of employment and the forfeiture of wages for failing to give notice to the employer.

### Occupational Health and Safety

*MTAA supports an Occupational Health and Safety regime that is practicable and fair.*

MTAA encourages all employers to provide a safe workplace that complies with Occupational Health and Safety legislation. Retail motor traders acknowledge that they have certain responsibilities and obligations in relation to occupational health and safety. However, MTAA believes that the obligations placed on small business should not be unreasonable or overly burdensome. MTAA is, in general terms, supportive of the efforts of governments to create a uniform occupational health and safety regime, but reiterates that such a regime must be reasonably practicable and recognise the responsibilities of both employer and employee in promoting a safe workplace.

## Vehicle Retailing

MTAA believes that the characteristics of the motor vehicle retailing sector, along with the substantial economic contribution of the sector, require specific regulatory arrangements (through legislation and self regulation) that promote competition. MTAA continues to encourage consultation between all parties to ensure that motor vehicle retailers are not unduly burdened by policy decisions.

### Car Code

*A retail automotive sector code of conduct would restore balance to the increasingly one sided relationship between dealers and vehicle suppliers.*

The distinctiveness of the retail motor vehicle sector means that there can be circumstances arising that are not adequately addressed by the Franchising Code of Conduct, but which negatively impact on dealers. For example, a dealer's Prime Market Area (which is often delineated by postcode), may be arbitrarily changed to suit the supplier's understanding of the market without reference to the franchise arrangement or, indeed, to the dealer. In order to address this type of behaviour, MTAA believes that there is a need for a motor vehicle dealer specific Code of Conduct that recognises the nature of a typical retail motor vehicle dealer's operations and the relationships they have with their franchisor.

Currently, franchise agreements within the retail motor vehicle sector can be characterised by a high level of investment, small gross profit margins (in the order of one to two per cent), the short tenure of franchise agreements that may be offered by vehicle suppliers (three years is not unusual), and the ability of a supplier to effectively terminate the arrangement at will.

MTAA understands that businesses in the retail automotive trade face a number of sector-specific problems, including the use of unfair terms in contracts and the imbalance of power that exists between vehicle suppliers and retail motor dealers in the negotiation of agreements and then in any subsequent dealings in relation to that agreement.

To assist in addressing those issues, MTAA advocates the development of a retail automotive sector code of conduct ('the Car Code') which would provide sector-specific protection against unconscionable conduct and the increasing market power of motor vehicle suppliers. It is intended that this code would prohibit undesirable and unfair business practices that currently exist in the automotive industry, including:

- unilateral variation of contracts;
- the presentation of 'take it or leave it' agreements;
- the termination of contracts at will without due cause;
- insufficient tenure; and
- setting of sales and other targets without consultation with individual dealers.

It is envisaged that a code could also provide motor vehicle dealers with a number of basic rights in their dealings with suppliers, including:

- minimum tenure of five plus five years;
- 'reasonable' automatic renewal of franchises;
- an inalienable right to sell more than one brand at one site; and
- the payment of adequate compensation on the termination of a franchise agreement before its conclusion.

MTAA continues to monitor the progress of the Franchising Code of Conduct in achieving outcomes for franchised motor vehicle dealers. However, in light of the sector-specific issues that exist between dealers and their suppliers, MTAA continues to support the introduction of a Car Code.

## Dealer Rationalisation and Changes in Marketing Arrangements

*Any structural adjustment of the dealer network must be achieved fairly and with due consideration of, and full consultation with, all of those involved.*

Global change and structural readjustment in the automotive industry has in the past significantly impacted on the dealer network in Australia.

Changes in global ownership of vehicle manufacturing gives rise to a number of important issues which MTAA believes that in the event of restructuring, vehicle suppliers must take into account and act to address the impact on the retail sales and service sectors of the industry and act in a fair and ethical manner.

## Unlicensed Traders

*Regulatory agencies must actively pursue and prosecute unlicensed traders.*

Within the retail motor trade, there are backyard operators who trade in vehicles and who do not comply with normal business and automotive specific regulations. Consumers who purchase vehicles from these unregulated operators are, in reality, not protected by fair trading or warranty legislation. As these operators are unlicensed, it is difficult for authorities to seek redress on behalf of consumers whose vehicles are faulty or have been subject to disreputable practices such as odometer fraud or vehicle 'rebuilt' or where title to a vehicle is subsequently proved at time of purchase by the unsuspecting consumer to have not been 'clear'.

MTAA believes that the lack of government enforcement in relation to backyard traders is unsatisfactory as the existence of unlicensed or backyard traders both discriminates against those retailers who comply (to their cost – both in terms of capital investment in their business and in ongoing operating costs) with the regulatory requirements and leaves consumers, notwithstanding *caveat emptor*, quite unprotected.

In MTAA's view, there is a need for regulatory agencies to actively pursue, and where appropriate prosecute, the unlicensed sellers of motor vehicles. In relation to this area of consumer policy, enforcement activities should be focused as much, if not more so, on the activities of those retailers who operate outside the system as on those licensed and legitimate businesses who operate, in the main in a successful and compliant manner, within the system.

## Motor Vehicle Theft

*The national commitment to reducing vehicle theft should continue.*

MTAA considers that motor vehicle theft is a social problem as well as a policing one due to its unequal cost burden, the manner in which it subverts values and property rights, and the very disproportionate impact that it has on different classes of people. While some vehicles are stolen for 'joy-riding' many are stolen as 'feed-stock' for the illegitimate trade in vehicles and parts. MTAA believes that only action by all governments will ensure an end to the trade in stolen vehicles and components. This includes improvements in monitoring and assessing damaged vehicle presented for re-registration.

MTAA endorses the introduction of a nationally consistent written-off vehicle register and considers that such a register is an essential component of any effective strategy designed to combat the trade in stolen vehicles and the re-birthing of stolen vehicles. MTAA approves of measures taken by governments and industry to eradicate the export of stolen car parts and vehicles.

MTAA supports the development of appropriate *Australian Design Rules*, as provided for in the *Motor Vehicle Standards Act 1989*, in order to support measures to reduce motor vehicle theft. MTAA also supports the use of improved identification measures for component parts, including the use of micro-dot technology in an effort to abolish trade in stolen component parts.

MTAA supports and endorses the continuing efforts of the National Motor Vehicle Theft Reduction Council in seeking to have all levels of government adopt policies to eradicate the problem of motor vehicle theft.

## Odometer Fraud

*Odometer fraud is unacceptable and MTAA supports efforts to eradicate this practice.*

Odometer fraud is the practice of fraudulently tampering with a motor vehicle's odometer to reduce its reading. It is a dishonest and potentially dangerous crime which harms consumers and legitimate motor vehicle dealers. This practice, therefore, remains an issue of serious concern for motor vehicle dealers, governments and consumers. In light of that, MTAA supports the efforts of state and territory governments to eradicate this unacceptable practice.

## Australian Automotive Manufacturing Sector

*The presence of a domestic car manufacturing sector supports the high standards of service, repair and maintenance within the retail network.*

The domestic car manufacturing sector provides the foundation for Australia's high quality vehicle car sales and service network and is the driving force behind that network achieving optimum efficiency and the highest standards of service.

MTAA welcomes the Government's continuing support for the Australian automotive manufacturing sector, which allows for the production of cars that are suited to Australian road conditions and the distances travelled by Australian motorists.

However, the Association considers that any future consideration of vehicle tariffs should be examined in the context of reciprocal arrangements with countries whose markets are much more closed to Australian imports.

## Motorcycle Retailing

### The Sale of Non-ADR Compliant Motorcycles

*State and Territory governments must prohibit the sale of non-ADR compliant motorcycles by unlicensed traders.*

The practice of selling non-ADR (Australian Design Rules) compliant motorcycles by unlicensed traders is of serious concern to MTAA, due to consumer safety and regulatory compliance issues. Of particular concern for the Association is the lack of specialist product safety knowledge of the vendors and the potential difficulties consumers may face in sourcing parts and warranty work.

MTAA encourages and supports safe and responsible motorcycling. However, it is MTAA's observation that motorcycle selling activity of this type is not always accompanied at the point of sale by any appropriate safety apparel, such as approved helmets, boots or other protective clothing. Nor is there often any recommendation made by sales staff as to the need for appropriate protective clothing to be worn by anyone operating these motorbikes. Virtually all licensed motorcycle dealers will provide supplementary safety advice and support such as this as a matter of course.

Generally, non-ADR compliant motorcycles are not supplied by a recognised brand manufacturer and it is reasonable to suggest that parts availability is likely to be somewhat limited in these circumstances. This potentially leaves purchasers of these bikes exposed in the event the bike require, as they inevitably will, repairs and maintenance. This situation is concerning if the apparent lack of after-sales support for these vehicles bring into question the retailer's ability to meet its warranty obligations, particularly if any problems arising also happen to be safety related.

## Motorcycle Theft

*A national database of Vehicle Identity Numbers would assist in stopping the trade in stolen motorcycles.*

Motorcycle theft is a significant problem that has both social and economic costs for society. As a significant number of Australia's motorcycles are 'off-road' motorcycles, and are therefore not required to be registered, the identity details of many motorcycles are not recorded on any of the databases which store vehicle identity data (for example, the Register of Encumbered Vehicles and the Written-Off Vehicle Registers). This makes it almost impossible to trace stolen "off-road" motorcycles.

To address the issue of motorcycle theft, MTAA advocates the introduction of a national database to record the vehicle identification numbers (VIN) of "off-road" motorcycles. MTAA also proposes that motorcycle VIN details or other identifiers be provided by motorcycle importers. MTAA considers that such a database could also be accessible to the dealer network. Dealers could then check details to ensure that second-hand stock is not stolen. This database of VIN's could be incorporated into the proposed PPS arrangements.

MTAA also supports the use of improved identification measures for component parts, including the use of micro-dot technology.

## Vehicle Maintenance and Repairs

Automotive body repairers are largely dependent upon 'outside' entities for their work flow, income and viability. Virtually all work carried out by an automotive body repairer is the subject of a claim made against a motor vehicle insurance policy. In these circumstances, the relationship between the repairer and the insurer, while invariably skewed in favour of the insurer, is an important element of the repairer's business.

### Motor Vehicle Insurance and Repairer Industry Code of Conduct

*MTAA supports the Code and is committed to an ongoing dialogue with insurers about the relationship between repairers and insurers.*

Relations between motor vehicle repairers and insurance companies have been strained in recent years due to the increasing pressure being placed on motor vehicle repairers by insurance companies with respect to "least-cost repairs" and the creation by some insurance companies of network smash repairer schemes. Repairers at the same time have been faced with the rising cost of labour and parts and the cost of purchasing new equipment to deal with the changing technology of vehicles.

The introduction of the Motor Vehicle Insurers and Repairer Code of Conduct (the Code) in September 2006, which is administered by a Code Committee comprising of representatives from MTAA and the Insurance Council of Australia, was an acknowledgement of the need for better relationships between repairers and insurers.

The Code requires that insurers who operate a network smash repair scheme publish criteria for membership in their scheme. If the criteria are satisfied, the Code also prohibits insurers from unreasonably refusing a smash repairer access to its network repairer scheme. The Code also includes a requirement for insurers to specify their respective policies in relation to the use of parts, sub-let repairs, warranties and choice of repairer. The Code specifies a minimum payment term of 30 days and provides for the separate costing of paint and parts. In addition, repairers are not required to offer a warranty for parts or paint used in repair for a period that exceeds the manufacturers' warranty. The Code does, however, specify that repairers will provide a three year guarantee for their workmanship. The Code also provides an alternative dispute resolution process.

## Real Time Real Money

*MTAA supports a move to a system where the contractual arrangements between repairers and insurers are based on real time and real money, with individual businesses establishing their own charge out rates and preparing quotes based on those rates and the actual times they require in their own businesses to complete a vehicle repair.*

For many years the payment arrangements between insurance companies and body repairers have been based on a system of 'Funny Time, Funny Money', which reflects neither a true time to repair a vehicle, nor an hourly rate that the majority of body repairers would consider sufficient for their individual businesses. In the most cases the hourly rates paid by insurers have not been sufficiently increased to reflect the current costs of owning and operating a business. MTAA, therefore, supports a move to a system where the contractual arrangements between repairers and insurers are based on 'real time and real money', with individual businesses establishing their own charge out rates and preparing quotes based on those rates and the actual times they require in their own businesses to complete a vehicle repair.

## Access to Manufacturer's Technical Repair Information

*Repairers require access to manufacturer's technical repair information to ensure that vehicles are repaired to their pre-accident condition and to ensure that the safety and structure of the vehicle is not compromised.*

Modern motor vehicles are becoming increasingly sophisticated in design and construction and many of them contain the very latest in engineering and materials technology. This reality has significant implications for the performance of a successful repair of a damaged vehicle by a motor body repairer. Often, detailed technical knowledge of appropriate repair techniques is required from vehicle manufacturers in order to ensure a repairer is able to not only restore the vehicle to its pre-accident condition, but also so that the vehicle continues to meet regulatory requirements such as those described in the ADRs. For example, the ADRs applicable to vehicle occupant protection in the event of an accident must not be compromised by a repair to that vehicle.

State and territory motor vehicle registration regulations demand that any repairs carried out on vehicles are of an appropriate standard and do not compromise the safety and integrity of the vehicle. In order to meet this requirement, repairers may have the need to obtain technical information from vehicle manufacturers, so that manufacturer-approved repair techniques and procedures may be applied. This is particularly important with contemporary vehicles that may be engineered and built with technologically advanced materials and in some cases using materials which require the application of quite distinct repair methods.

## Anti-steering Legislation

*Anti-steering legislation at the state and territory level will enhance consumer safety, ensure the viability of the smash repair industry and provide consumers with freedom of choice.*

MTAA firmly believes that members of the public have the right to make choices regarding the quality and standard of repairs made to their vehicle. The Association believes that the 'steering' of customers by insurance companies is akin to anti-competitive behaviour and, as such, ought to be prohibited. Claims made of insurance companies of 'choice of repairer' ought to mean just that; the customer gets to choose. MTAA supports the developments that have been made by the MTAA's member bodies in an effort to curb "steering behaviour" and will continue to support the introduction of any measures that will enhance consumer safety and ensure the viability of the smash repair trade in the future.

## Vehicle Emissions, Vehicle Safety and Australia's Aging Car Fleet

*Governments should adopt a range of policies that encourage the reduction of the average age of Australia's Fleet.*

The average age of the Australian car fleet is close to ten years despite record new car purchases since the introduction of the GST. The emission control systems and safety equipment installed in many of those older vehicles fall well short of the standard fitted to new vehicles. This discrepancy in emission and safety standards places Australian consumers and the environment at increasing risk.

MTAA considers that there are a range of policy measures that could be adopted that will encourage a gradual reduction in the average age of the Australian car fleet, with a view to enhancing consumer and environmental safety.

Such policies could include:

- nationwide compulsory annual registration inspection;
- the sponsoring of research and development into improved emission control systems;
- a continuation of current policies in relation to tighter fuel economy standards and the harmonisation of fuel standards and vehicle emission controls with those adopted internationally; and
- policies that encourage regular vehicle servicing, more widespread usage of environmentally-friendly fuels and the introduction or more stringent pollution testing.

## National Roadworthy Inspection Scheme and Vehicle Registration System

*The introduction of a National Roadworthy Inspection Scheme or Standard should be a priority.*

Each jurisdiction in Australia currently has its own registration and, in some cases, inspection arrangements and as a result, the standards applied to vehicle inspection vary considerably across the nation.

MTAA believes that the introduction of a National Roadworthy Inspection Scheme or, alternatively, a National Roadworthy Inspection Standard enforced consistently in each jurisdiction, would provide a range of benefits, including enhanced environmental outcomes, improved vehicle safety and greater control over written-off vehicles. MTAA also believes that the National Road Transport Commission should consider adopting a National Vehicle Registration System, as this would encourage the development of a nationally consistent regulatory environment for motor vehicles.

## The Petroleum Sector

Small and independent retailers are often the drivers of competition in the market and the presence of a strong and competitive small business sector in the retail petroleum market is crucial to securing the best possible prices for consumers in the long term. To assist in that there must be adequate arrangements for access to oil company terminals for all buyers, at a competitive wholesale price. The current regulatory arrangements do not provide for that.

## Structure of the Wholesale and Retail Petroleum Market

*MTAA supports a transparent and competitive wholesale and retail petroleum market.*

In recent years, the entry of Coles and Woolworths into the retail petroleum market has had a significant impact on the structure of the retail petroleum market. Their use of shopper docket petrol discounts has, and will continue to have, a significant impact on small and independent petrol retailers. MTAA remains concerned that, should further market concentration occur, the number of independent operators will be further diminished, thus reducing the level of competition in the market. MTAA does not believe that such an outcome is in the long term interests of our society or of motorists.

## Terminal Gate Pricing

*The introduction of a true Terminal Gate Price would increase competition and transparency in the wholesale market.*

The wholesale market for petroleum products in Australia is dominated by the four major oil companies – Caltex, BP, Shell and Mobil - with independent imports only accounting for a small proportion of the market. As a result, there is very little competition in the wholesale market and the market is defined by the lack of transparency in determining the wholesale value of petroleum products. The Government must recognise that due to this lack of transparency, service station operators invariably become price takers and are unable to contest the price either at the terminal, or on delivery to their service station. MTAA believes that this lack of competition and transparency in wholesale pricing is not in the best interests of motorists or service station operators.

MTAA believes that the introduction of a true terminal gate pricing arrangement, where costs incurred after the terminal gate are itemised and charged separately and where access to terminals to purchase fuel at the terminal gate price is available to all suitably qualified buyers, would significantly increase the level of competition and the degree of price transparency in the wholesale market.

## Alternative- and Bio-Fuels

*The use of alternative- and bio-fuels should be encouraged.*

MTAA considers that the widespread use of biofuels and alternative fuels would deliver substantial benefits to the environment. These fuels include liquefied petroleum gas, liquefied natural gas, ethanol fuel blends, biodiesel and compressed natural gas. MTAA supports the introduction of measures that will help to increase the use of these fuels throughout Australia, including the use of sustainable practices by producers of alternative and bio-fuels.

MTAA considers, however, that in the interest of consumer safety, the use of biofuel blends should be consistent with the maximum levels recommended by motor vehicle manufacturers and also with Australian fuel standards. To encourage uptake of alternative fuels and biofuels, the Association believes it is important that the government encourage the production of these fuels and assist in the development of the necessary infrastructure for the production of these fuels. MTAA considers that it is important that government policies dealing with all alternative fuels do not discriminate between the various fuels.

## The Environment

Members of the retail motor trades take their environmental responsibilities very seriously and recognise the importance of ensuring that the environment is protected for the use and enjoyment of future generations. MTAA supports policies and programs that are designed to achieve this outcome and MTAA encourages the development of suitable public policies to minimise the environmental impact of the activities of the retail motor trades. MTAA notes that where some form of regulation is deemed to be necessary and in the public interest, industry self-regulation or co-regulation, rather than prescriptive regulation, is preferable.

## Emissions Trading

*Any emissions trading scheme considered by government should examine the costs and benefits to consumers and small business.*

MTAA recognises the current issues involved with climate change and the need to adequately address these issues. MTAA supports the development by governments of measures to address climate change. However, any policy adopted by the Government needs to deal with the costs and benefits to both consumers and retail motor traders.

## Waste and Recycling

*MTAA supports the continued development, based on full consultation, of strategies to maximise recycling and to minimise waste.*

Some groups within the retail motor trades are significant users of environmentally hazardous products and MTAA seeks to ensure that appropriate environmental standards are developed for those products.

MTAA also considers that it is important that the impact that those products, along with other products used by retail motor traders, have on the waste stream and environment is minimised. MTAA, therefore, supports the continued development, in consultation with all industry stakeholders, of strategies to maximise reuse and recycling and minimise waste in the retail motor trades.

MTAA believes it is important that such strategies acknowledge that consumers must bear some of the responsibility associated with waste consumer products, as they derive the greatest benefits from those products. The Association, therefore, does not support the proposition that industry should bear the sole responsibility for, and the costs associated with, the ultimate disposal of waste automotive products. It also considers it appropriate that industry should be able to pass on to consumers the costs associated with any increased waste product responsibility.

MTAA also supports, where appropriate, the recycling of parts and materials used in motor vehicles and the introduction of policy measures that will encourage the reuse or recycling of such products.

## Green Stamp/Eco-efficiency Program

*Commonwealth funding to support the Green Stamp/Eco-efficiency program should continue.*

The Member Associations' Green Stamp/Eco-efficiency program, with funding assistance from the Australian Government, has established a network of environmental coordinators, industry specific information resources and initiatives that are assisting small and medium retail automotive businesses to reduce or abate their environmental impacts. The program's initial success has encouraged all state and territory Associations to continue the program. However, a limit in the internal resources available for the program is restricting the program's development. Continued support and funding from the Australian Government will assist with broader and more effective adoption of the national program; a first for Australia's automotive retail sector.

## End-of-Life Vehicles

*The Australian Government should consider end-of-life vehicle initiatives that encourage greater recycling of parts.*

End-of-life vehicles have a potentially damaging impact on the environment. MTAA is committed to working with Government to help reduce the impact end-of-life vehicles have on the waste stream and on the environment in general. MTAA notes that many of the components and materials used in the production of motor vehicles can be recycled or reconditioned.

While safety and other considerations may limit the type of automotive components that can be reused or recycled, there are still large numbers of automotive components that can be recycled or reused. As the cost of reconditioning or recycling these components is far less than that of producing new components, MTAA believes that the practice should, therefore, be encouraged.

MTAA seeks to work cooperatively with government agencies responsible for developing and applying policies with a view to encouraging greater recycling of suitable products. Those policies could range from ones which require products to meet certain minimum recycling requirements, to policies that encourage the development of a sustainable recycling industry.

Specifically, the Association, in conjunction with government and other industry stakeholders, would support the development of an end-of-life vehicle policy.

## End-of-Life Tyres

*Measures which reduce the environmental impact of end-of-life tyres are supported by MTAA.*

MTAA supports programs designed to prolong tyre life, including driver awareness campaigns to educate drivers about correct tyre maintenance and tyre pressure, as these programs could help to reduce the number of end-of-life tyres. The Association also supports the appropriate re-treading of tyres.

However, MTAA recognises that while it is possible to reduce the number of tyres entering the waste stream, through retreading, or by encouraging more appropriate tyre maintenance, this does not address the issue of end-of-life tyres. MTAA has been working for many years in collaboration with the Australian Department of the Environment and Heritage and other industry stakeholders to develop a product stewardship scheme for end-of-life tyres.

While MTAA supports the development of such a scheme, MTAA considers that it is important that any introduced scheme does not have an undue impact on other sectors of the trades. In particular, the Association considers that the Government should ensure that any proposed scheme does not have a detrimental impact on the tyre re-treading sector and its ability to source the quantity of tyre casings it requires at an appropriate price.

In light of the impact that end-of-life tyres have on the environment, MTAA considers that the Government should prohibit the importation of used tyres other than for the purpose of providing casings for re-treading.

## Adding Alternatively Powered Vehicles to the Australian Fleet

MTAA supports the efforts of vehicle manufacturers and suppliers to diversify the Australian fleet.

MTAA supports efforts by manufacturers and vehicle suppliers to include alternatively powered vehicles in the Australian fleet. Given community concerns about the need for environmentally friendly transport options, the demand for 'greener' vehicles, such as hybrid and electric powered vehicles, is slowly altering consumer purchasing habits.

With vehicles of this sort increasingly entering the market, access to relevant technical information will need to be supported by appropriate standards in order to ensure that those vehicles continue to be able to be sold, serviced, maintained and repaired in a safe and in an environmentally appropriate manner.

MTAA supports efforts already underway to develop electric-vehicle standards for the Australian market. That access and those standards will be particularly important for the safety of repairers.

It is likely that many vehicle manufacturers will soon have for sale vehicles using a diverse range of drivetrain technologies. MTAA believes that diversity in the market can deliver significant public benefits by allowing consumers to choose vehicles that more accurately reflect their transport energy requirements.

## Ozone Depleting Substances and Synthetic Gases

*Regulatory arrangements for the use of ozone depleting substances and synthetic gases should not unfairly burden retail motor traders.*

The Government's regulatory arrangements for the use of ozone depleting substances and synthetic greenhouse gases in mobile and stationary air-conditioners now require businesses and trades people working

with these gases to be licensed. For these trades people to obtain a licence, they must be fully qualified and have completed relevant qualifications in mechanical air conditioning.

While MTAA understands the policy reasons behind these arrangements, MTAA considers that it is important that there is no undue cost or compliance burden on retail motor traders. Similarly, in administering these arrangements, the prior technical experience of trades people must be duly recognised to ensure that employees are not forced to undertake unnecessary and costly training to comply with the regulations. MTAA, therefore, considers that prior competencies, particularly for older and more experienced employees in the industry, must be taken into account.

MTAA also considers it important that the new regulatory arrangements do not create distortions in the market and experienced trades people who lack the relevant qualifications are not penalised or forced out of the trades.

MTAA further believes that it is appropriate that these arrangements apply to all refrigerants used in motor vehicles; including LPG.

## Underground Storage Tanks

*A whole of government approach to the issue of underground storage tanks is required.*

Service station operators, along with other commercial, industrial and agricultural businesses, use underground storage tanks to store a variety of petroleum products. In some circumstances, those tanks may leak and release petroleum products into the surrounding environment and obviously, there are serious environmental, safety and public health hazards associated with the release of such products.

MTAA supports measures which are not only designed to minimise the potential for leaks to occur, but ensure that any leaks that may occur are detected and remedied within an appropriate timeframe. However, MTAA prefers that any such measures adopt a self-assessed risk management approach.

In response to the potential environmental concerns associated with underground storage tanks, the various state and territory governments in Australia have introduced, or are in the process of introducing, stricter controls on the installation, maintenance, use and decommissioning of underground storage tanks.

The Association is concerned that those regulations are inconsistent in their approach, application and methods. MTAA therefore advocates the adoption of a nationally consistent framework governing the installation, use and decommissioning of underground storage tanks. It is also important that the requirements for the ongoing testing of tanks are not so overly burdensome as to jeopardise the viability of small service station operators.

MTAA also understands that prior to the introduction of stricter state and territory controls on the installation, maintenance and decommissioning of underground storage tanks, a significant number of leaking and non-leaking tanks were not properly decommissioned and were instead abandoned in-situ. While MTAA is unsure of the exact number of abandoned tanks, the Association is aware that such tanks are located throughout Australia.

In light of the potential impact that those tanks may have on the environment, MTAA believes that it is important that this issue is considered further at the national level and that the Government commits to undertake a national survey to determine the location and number of abandoned underground tanks. A national policy for remediation of these sites needs to be developed.

## Recycled Parts

*APRAA's Recycled Parts Policy encourages efforts to improve standards within the auto-parts recycling sector and promotes the suitability and advantages of recycled parts.*

The automotive parts recycling sector plays an integral role in the lifecycle of a motor vehicle. MTAA firmly believes that where it is appropriate, the use of recycled parts in the repair of motor vehicles should be encouraged.

The Automotive Parts Recycling Association of Australia (APRAA) is an Affiliated Trade Association of MTAA. APRAA's Recycled Parts Policy recommends, noting that manufacturer's warranties must not be compromised, the following principles for the increased and effective use of quality recycled auto parts:

- recycled parts are a viable option where freedom of choice of parts is available, especially with regard to the environmentally friendly and economic savings advantages;
- recycled Original Equipment Manufacturer (OEM) parts satisfy the safety and other specifications of the Australian Design Rules (ADRs);
- insurance companies should be encouraged to adopt policies and incentives of using recycled parts in vehicle claim repairs where appropriate to ensure quality repairs and to support the environment;
- panel repairers and mechanical workshops should be encouraged to promote and consider using Recycled Parts in vehicle service and repairs where appropriate and where warranty arrangements allow, to ensure quality service/repairs, for consumers and to support the environment;
- government, regulatory authorities and environmental organisations should be encouraged to understand and adopt policies to promote the environmentally friendly and economic savings advantages of using recycled parts;
- recycled parts should be of merchantable quality and fit for purpose with regard to the age of the recipient vehicle, the professional service or repair being provided;
- recycled parts supplied should be OEM unless otherwise requested and identified;
- recycled parts should be supplied with a suitable warranty with the terms and conditions clearly identified;
- recycled parts should be supplied with clear legal title satisfying parts traceability requirements;
- recycled parts should be correctly identified and clearly described;
- recycled parts should be graded according to their quality and wear condition; and
- where practicable, recycled parts should be cleaned (and tested where applicable); numbered within the stock control system; stored/shelved; and presented (wrapped/packaged) for sale.

## Drought Assistance

*Access to drought assistance should be simplified.*

As most farm machinery dealers sell the majority of their goods and services to agricultural producers, their economic prospects are inextricably linked to those of their customers. Consequently, the recent and in some areas ongoing drought has had a severe impact upon the farm machinery sector, with many farm machinery dealers experiencing a substantial downturn in sales and diminished business cash flow.

The difficult trading environment associated with drought conditions places significant pressure on the ability of farm machinery dealerships to retain apprentices' qualified staff and to employ new apprentices, with many dealerships forced to retrench staff or switch some employees to part-time work in times of severe drought.

MTAA believes that governments must consider the broader impact of drought upon rural communities. MTAA believes that it is important to retain skills in rural communities and drought assistance measures should recognise this need.

## Superannuation

MTAA believes that the nexus between mandated superannuation and industrial awards provides a mechanism for the effective and efficient administration of superannuation arrangements as between employers and their employees. MTAA supports the retention of superannuation as an allowable matter within federal awards. MTAA supports the objective that all Australians should be members of superannuation funds which are appropriate to their needs for retirement savings.