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Motor Trades Association of Australia

Annual Report 2002



*Presented by the President
Mr Ian Field*



From the President

Mr Ian Field

Two Thousand and Two

At the time I presented the 2001 Annual Report to the Members of the MTAA Federation, the nation was only a matter of weeks away from one of the most momentous and hard fought election campaigns of our era. Amidst all the debate about refugee policy, defence and the Tampa, the Government and the Opposition were both keenly aware that the small business vote was up for grabs. In the weeks leading to the election MTAA prepared its most comprehensive election material ever and ensured that key issues about the conduct of business in today's Australia came to the forefront.

In the year since that momentous election MTAA's Small Business Charter of Fairness has become a key document for political discourse in Australia. During the course of the 2001 Federal election campaign all candidates from the major political parties and key representatives of the parties holding the balance of power in the Senate were informed of our agenda. Almost all have committed themselves to support our endeavours.

In response to concern about the misuse of market power, the laws relating to mergers and the activities and performance of the ACCC, the Coalition announced that it would, if re-elected establish a comprehensive review of these matters. That is what governments tend to do when faced with quite overwhelming pressure. The fact that the pressure was coming from all sectors of the business community meant that these were issues that could not be ignored; at least not before an election.

The re-elected Coalition Government was somewhat slow on its feet after it was returned to office. It took over six months to establish the Trade Practices Act Review and appoint a panel chaired by Sir Daryl Dawson. It gave Sir Daryl about six months to complete the task.

I doubt that the Government had any idea of the forces that would be unleashed. As of last week, over 170 submissions had been made to the Review Panel.

MTAA's response to the proposed Review commenced even before it's Terms of Reference had been announced. We took the view that for small business to have an effective voice we needed to take certain initiatives. MTAA set out to lay the groundwork for the creation of a broad coalition of interested small business representatives who would act and speak with one voice on the subjects of concern. That Coalition would have a continuing interest in the Review, the politics surrounding it, the process for consideration of recommendations and the inevitable parliamentary negotiations, debates and pragmatic decisions that would follow.

Out of that has been born the Fair Trading Coalition, a group now comprising some 20 individual small business associations each of which has endorsed a comprehensive submission to the Review. The recommendations contained in that submission are detailed later in this report.

MTAA has as well prepared separate submissions on behalf of the retail motor trades and a number of its constituent elements including franchised dealers, body repairers, petrol retailers and farm machinery dealers.

I have devoted some space to this issue because for MTAA there is no current matter of greater importance to us. The questions of market power, unconscionable conduct, the capacity to collectively negotiate and the sanctions on errant business behaviour go to the heart of our day to day business activity. The Trade Practices Act is probably the most important piece of legislation governing our business lives. It impacts across the board on business in the retail motor trades whether we be dealers, repairers, petrol resellers or any of the other trades that exist to sell, service or repair motor vehicles.

MTAA has taken the leading role in establishing, informing and presenting on behalf of a broad range of businesses, drawn from every sector of our economy. All of them believe that our society is in danger of being engulfed by economic forces that threaten to turn our small business sector into a captive community. Enterprise, imagination and boldness will not get their due reward.

Beyond the biggest issue, there have of course been a myriad of other matters that have occupied MTAA and its Members over the last twelve months. We continue to wrestle with aspects of the new tax system and comment on and analyse proposals for further changes to business taxation. Fortunately the Federal Government has in recent days abandoned some proposals for so-called reform. The Tax Value Method, a tax proposal dreamed up by a Treasury official as the ultimate answer to business taxation has thankfully been buried. The Government has announced it will not be proceeding with its heavy-handed proposal to tax trusts. Some good sense has shown through.

As well, we have been pleased to see attention given to several key sectors of our business. The Federal Parliament has finally passed legislation to put an end to the rampant and much abused arrangements allowing unregulated importation of used vehicles from Japan. The new arrangements are sensible and in consumers' interests. The Government continues to examine the petroleum sector and, while awaiting the results of the Dawson review, the new Minister for Industry, Tourism and Resources, Ian Macfarlane, has indicated his preparedness to take some tough decisions. Finally, the ACCC has at long last begun to take a serious interest in the insurance and repair sector and has begun to seek answers to some hard questions about insurance industry practices and their effect on consumers and repairers.

These are all welcome steps. They indicate however the need for MTAA to remain eternally vigilant in seeking to protect, preserve, foster and promote the interests of those operating businesses in the retail motor trades. The workload of our national Association is not going to diminish in the future and it is more important than ever that we make certain that MTAA speaks with a unified national voice. Without that, we are less likely to be heard and noticed by those whom we seek to influence.

MTAA must as well use the skill and knowledge that resides in its National Secretariat to assist the Member bodies and their constituent parts in the multitude of dealings with Government that are undertaken in each jurisdiction.

Finally may I make mention of the work done by and on behalf of the MTAA Federation by our associated entities. The MTAA Superannuation Fund has become a major force in industry superannuation. The services it provides and the benefits it brings to our endeavours are crucial to our continuing high reputation as a small business lobby group. Our ownership of MTAA House is another substantial reminder of our place in the activities of our national politics. MTAA's allied trade associations also provide a constant source of advice for our deliberations. These are our heart and soul constituencies and I pay tribute to those who devote so much of their time to the deliberations of those groups.

Finally may I thank my fellow directors, the Executive Directors of our Member bodies and the staff of our National Secretariat led by Michael Delaney for the work they have done on our behalf over the last year. All of your effort is appreciated.

Ian Field
President

26 September 2002



Motor Trades Association of Australia

The Motor Trades Association of Australia (MTAA) is the national peak body for the whole of the retail, service and repair sectors of the Australian automotive industry. The Association is a federation of the motor trades associations and the automobile chambers of commerce in each state and territory as well as the Service Station Association Ltd (SSA Ltd) and the Australian Automobile Dealers Association (AADA). The Association is an unlisted public company having limited liability.

MEMBERS OF THE MTAA FEDERATION

*The Australian Automobile Dealers Association (AADA)
The Motor Trades Association of the ACT (MTA ACT)
The Motor Traders Association of NSW (MTA NSW)
The Motor Trades Association of the Northern Territory (MTA NT)
The Motor Trade Association of South Australia (MTA SA)
The Motor Trades Association of Queensland (MTA Q)
The Motor Trade Association of Western Australia (MTA WA)
The Service Station Association Limited (SSA Ltd)
The Victorian Automobile Chamber of Commerce (VACC)
[incorporating the Tasmanian Automobile Chamber of Commerce]*

The Association'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 trade's significant contribution to Australia's economy through its more than \$88 billion turnover and its employment of over 230,000 Australians;*
- *convey and promote to governments the interests of the trades;*
- *promote improved working relationships and practices with motor trades' unions;*
- *provide information about the trades on behalf of the Members of the Association, to governments, the public and the trades' employees;*
- *work with governments in planning 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 their customers as well as with the general public.*

Affiliated Trade Associations (ATAs)

Under its Memorandum and Articles of Association, MTAA has a number of Affiliated Trade Associations (ATAs) which represent particular aspects or activities of the retail motor trades. These 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)
Automotive Repairers Association of Australia (ARAA)
Automotive Transmission Association of Australia (ATAA)
Engine Reconditioners Association of Australia (ERA of A)
Farm Machinery Dealers Association of Australia (FMDAA)
National Brake Specialists Association (NBSA)
National Heavy Vehicle Repairers Association (NHVRA)
National Steering and Suspension Association (NSSA)
National Vehicle Airconditioning Association (NVAA)

All of the ATAs referred to are composed of the relevant sections of each of the MTAA Member bodies and are represented nationally, as national entities, by MTAA.

Australian Automobile Dealers Association (AADA)

The Australian Automobile Dealers Association (AADA) is the national peak body for the new vehicle retail sector of the Australian automotive industry and a Member of MTAA. The Association is a federation of the Automobile Dealers Associations in each state and territory. AADA is an unincorporated association. AADA's affairs are directed by a Board on which each of the Member bodies is represented. The role of AADA, in addition to that of MTAA, is to:

- *encourage, promote and protect the interests of the retail motor dealer business in Australia and to preserve the interests of Members;*
- *hold an annual national convention for retail motor dealers and/or their employees;*
- *cultivate and obtain reciprocal relations with like associations, both nationally and internationally;*
- *establish and maintain contact with the legislatures of the Commonwealth and of the states and territories and of the Australian governments to promote, support and protect the interests of the Association; and*
- *conduct seminars, educational programs or other meetings for the purposes of improving the knowledge and understanding of new vehicle franchise dealers of business, economic and related matters.*

Australian Service Station and Convenience Store Association (ASSCSA)

The Australian Service Station and Convenience Store Association (ASSCSA) is an ATA of MTAA, administered by an Executive Committee comprised of representatives from the Service Station and Convenience Store Divisions of the state and territory association Members of the MTAA Federation. The ASSCSA Executive Committee makes recommendations to the MTAA Board of Directors on matters related to the Australian retail petroleum trade; it is the peak trade body representing service station owners and operators at a national level.

ASSCSA has played a pivotal role in the development of petrol-related policies by all levels of Australian government. The Association, in conjunction with MTAA, has made a number of submissions to inquiries into the retail petroleum trade.

ASSCSA also appoints, from time to time, a number of working parties designed to address issues relevant to the interests of service station owners and operators, such as operational and fair trading issues. ASSCSA also co-ordinates a number of advocacy campaigns on petrol matters. These campaigns are undertaken by the MTAA Member bodies.

Australian Motor Body Repairers Association (AMBRA)

The Australian Motor Body Repairers Association (AMBRA) is also an ATA of MTAA. Over the course of the year 2001 AMBRA has met on a number of occasions for the purpose of developing strategies to respond to significant change in the sector and the problems that have arisen since the imposition of the new tax system and in light of the major problems which have arisen following the rationalisation and demutualisation of insurance companies.

Extensive consideration has been given to the drafting of a Code of Conduct to regulate the commercial arrangements between insurers, repairers and consumers.

National Secretariat

The Association's affairs are managed by a small, highly-skilled and united team, led by Executive Director, Michael Delaney. The full-time personnel are as follows:

<i>Executive Director:</i>	<i>Michael Delaney, BA (La Trobe), JP, Adjunct Professor, University of Canberra</i>
<i>Deputy Executive Director:</i>	<i>Geoff Gardner, BA (Melbourne)</i>
<i>Senior Policy Officer:</i>	<i>Sue Scanlan, B Com (Ag) (Lincoln, NZ)</i>
<i>National Manager – Marketing and Business Development</i>	<i>John Jones</i>
<i>Executive Officer (Superannuation):</i>	<i>Paul Watson, Dip FP (Deakin), CD</i>
<i>Executive Officer (Property)</i>	<i>George Kochel</i>
<i>Executive Officer – Trade Practices Reform:</i>	<i>Michael Zorbas BA (ANU)</i>
<i>Executive Officer (Administration/Accounts)</i>	<i>Lea Li (Adv Dip Acctg)</i>
<i>Executive Officer (Minutes Secretary/Meetings)</i>	<i>Susan Mulligan</i>
<i>Administration Officer (Superannuation)</i>	<i>Nirmali Wijayatilake</i>
<i>Administration Officer:</i>	<i>Nikki Brown</i>
<i>Accounts Assistant</i>	<i>Colin Reckord</i>
<i>Administration Assistant</i>	<i>Millie Omonei</i>

<i>MTAA Super Fund, Business Development Manager – New South Wales</i>	<i>Graham Millar</i>
<i>MTAA Super Fund, Business Development Manager – New South Wales</i>	<i>Andrew Gledhill</i>
<i>MTAA Super Fund, Business Development Manager –Victoria</i>	<i>Dianne Chitty</i>
<i>MTAA Super Fund, Business Development Manager –Victoria</i>	<i>Scott Harris</i>
<i>MTAA Super Fund, Business Development Manager – Queensland</i>	<i>Diedre Bell</i>
<i>MTAA Super Fund, Business Development Manager – Queensland</i>	<i>Peter Jones</i>
<i>MTAA Super Fund, Business Development Manager – Western Australia</i>	<i>Richard Stuttard</i>
<i>MTAA Super Fund, Business Development Manager – South Australia</i>	<i>Craig Walker</i>

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National Affairs

MTAA Small Business Charter of Fairness

In the lead to the 2001 Federal election, MTAA prepared the most comprehensive package of materials it has ever done for candidates and their parties. The focus of the material was the MTAA Small Business Charter of Fairness; a 10 point charter designed to promote small business issues and in particular the need to strengthen the Trade Practices Act to address small business concerns about market power, the concentrated nature of many of our markets and the need to strengthen the unconscionable conduct provisions in the Act. Importantly, the Charter also seeks a right for small business to be able to collectively negotiate with its larger suppliers/buyers. The 10 points of the Charter are as follows:

Small Business Charter of Fairness

- 1. Strengthen the Trade Practices Act to give the ACCC greater power to prevent abuse of market power by big business and to allow small business the right of collective negotiation (now restricted to trade unions)*
- 2. The public interest must be the sole determining factor in any decision relating to national competition policy*
- 3. Outlaw 'take it or leave it' contracts*
- 4. Prohibit selling at unreasonably low prices*
- 5. Prohibit unilateral variation of franchise or tenancy agreements by franchisors or landlords*
- 6. Outlaw termination of contracts at will without just cause*
- 7. Create a 'small business as consumers' division of the ACCC*
- 8. Appoint a Small Business Ombudsman*
- 9. Prohibit taxation changes which result in a greater financial burden for small business*
- 10. Reduce red tape for small business*

The Small Business Charter of Fairness was supported by a background paper, Combating the Effects of Concentrated Market Power, which sets out in more detail small business concerns about recent changes in the structure of our economy, the impact that that has had on small business and on the measures proposed in the Charter.

The following excerpts from the Combating the Effects of Concentrated Market Power paper outline the concerns of retail motor traders and many other small business operators about the changes that have occurred in the Australian economy over the last 20 years:

"In the last two decades we have seen the 'opening up' of the Australian economy. Tariffs have been reduced, financial markets have largely been deregulated, labour markets have been deregulated, shopping hours freed up, government businesses have been corporatised or privatised and forced to compete. Many of the what were once core government functions have been out-sourced or simply ended.

All of that has occurred in the name of responding and reacting to the fashion for removing government from the provision of services to the community. Much reliance for these measures has been placed on the increasing globalisation of all capitalist economies. In Australia this has been accompanied by a view that these measures must be taken as part of the introduction of National Competition Policy (NCP).

These policies were introduced, it was said, with the intention of benefiting all consumers. These benefits, lower prices and greater choice of service, would be derived from greater competition through the ending of (government) monopolies and oligopolies. The benefits were to produce an increase in the standard of living for all Australians.

In short, the effect of the structural changes in the Australian economy, which had the stated aim of fostering efficiency and lower consumer prices, have in reality seen a transfer of income from small to big business with little or no net benefit to consumers. Businesses have been allowed and even encouraged to grow large through mergers, deregulation, globalisation and commercial strategies which involve squeezing small competitors and suppliers.’’

The Association has received tremendous support for its Charter from other small business organisations and from politicians from all political parties. The Charter and the Combating the Effects of Concentrated Market Power paper have been the basis for much of the work of the National Secretariat this past year.

In recognition of the fact that some of the different sectors within the retail motor trades have specific concerns and needs which were not able to be articulated within the more general Small Business Charter of Fairness, a number of MTAA's Affiliated Trade Associations, namely the Australian Automobile Dealers' Association, the Australian Service Station and Convenience Store Association, the Australian Motor Body Repairers' Association and the Farm Machinery Dealers' Association of Australia, have developed their own Charters. Those Charters reflect the goals of the MTAA charter, but also include issues of particular relevance to each of the sectors. The focus of the activities of each of those associations for the foreseeable future will be the achievement of the matters listed in their respective charters.

Trade Practices Act Review

The announcement by the Prime Minister during the election campaign that a re-elected Coalition government would review the competition provisions of the Trade Practices Act was generally welcomed by business; large and small alike, albeit for different reasons. Big business appeared to see the proposed review as an opportunity to change the merger laws to ensure that merger proposals would be subject to less scrutiny by the ACCC and also as an opportunity to argue that what Australia really needed was a less powerful regulator. Small business on the other hand saw the review as an opportunity to express its concerns about the imbalance of power between large and small businesses, its frustrations about the current authorisation process for collective bargaining and on the need for both a strengthened Act and a strong and active regulator.

In recognition of the importance of the Review to retail motor traders and to the wider small business community, the Board of MTAA agreed that the National Secretariat should convene a coalition of like minded associations for the purpose of presenting a common small business view to the Review. That coalition, the Fair Trading Coalition, now represents some 20 small business organisations from all sectors of our economy and made a substantial submission to the Review.

The focus of the submission was 10 points set out in the MTAA Small Business Charter of Fairness but the Coalition also commented upon a number of other issues, such as mergers and ACCC governance, which had been raised by other stakeholders. It has become clear as the Review has progressed that the Fair Trading Coalition has some significant allies in the

Consumers Association and the Australian Competition and Consumer Association all support a strengthened Trade Practices Act and a strong regulator. Many also recognise the need for small business to be able to collectively negotiate with their larger suppliers or buyers.

The recommendations contained in the Fair Trading Coalition's submission to the Review are as follows:

- 1. It was the original intention of National Competition Policy that the public interest must be the sole determining factor in any decision relating to national competition policy. The Coalition believes that a formal restatement of that imperative is absolutely essential.*
- 2. It is recommended that the TPA should be amended to include a provision within the Act to allow small business operators and/or their representatives to collectively negotiate with their suppliers/buyers, including the right of small business to collectively refuse to do so (that is, a permissible boycott arrangement for small business).*
- 3. It is recommended that section 46(1) of the Trade Practices Act be amended to add an effects test. It is also recommended that the Act be amended to allow for authorisation of conduct which might otherwise breach s46.*
- 4. It is recommended that section 46 of the Trade Practices Act be specifically amended to proscribe selling at unreasonably low prices.*
- 5. It is recommended that section 46 of the Trade Practices Act be amended to provide the Australian Competition and Consumer Commission with the power to issue a 'cease and desist' order in circumstances where corporations are thought to have misused their market power.*
- 6. It is recommended that the Trade Practices Act be amended to provide the Australian Competition and Consumer Commission with the power to seek a divestiture order where a corporation has misused its market power.*
- 7. It is recommended that:*
 - there be no change to the substantial lessening of competition test in section 50 of the Trade Practices Act;*
 - the merger authorisation process and the subsequent appeal process be amended;*
 - the Trade Practices Act should clearly recognise the voluntary notification system and also provide that where a merger is found to breach the Act and wasn't notified to the Commission additional mandatory penalties should apply in respect of the breach of s50;*
 - the process for accepting s87B undertakings should be made more transparent, with the Commission being required to consult with all interested parties about the nature of the proposed undertakings before those undertakings are accepted by the Courts;*
 - the Federal Minister with responsibility for the ACCC be given the power to refer to the ACCC for an authorisation assessment proposed or possible industry-wide structural reform matters; and*
 - where market concentration has passed a nominated threshold, for example, where the combined market share of the four largest companies is greater than 75 per cent (generally referred to as CR4), the Act should be amended to allow the ACCC to take into consideration previous mergers and acquisitions by an acquirer and to aggregate the effect of previous mergers and assess the resultant state of competition in any relevant market; and*
 - there should also be an amendment to the Trade Practices Act so as to provide that where a company reaches a certain market share, any further acquisition must be notified to ACCC and assessed under the proposed amended merger authorisation test.*
- 8. It is recommended that the Government ensure, if necessary by legislative amendment, that the Trade Practices Act apply to all Government agencies' commercial dealings.*
- 9. It is recommended that the current penalty regime in the Act be amended as follows:*
 - criminal penalties (jail terms) should be available to the Courts to apply to individuals for breaches, by big businesses, of s45 of the Act. The current civil prosecution regime should be maintained, and the ACCC would therefore have the option of commencing legal action under a civil or criminal regime;*
 - corporations should not be able to indemnify their employees in relation to any*

- of the Trade Practices Act and those penalties must be paid by the individuals concerned;*
- *corporate and individual parole to be available to the Courts as a specific remedy; and*
 - *the Act should also be amended to provide for pecuniary penalties in relation to breaches of Parts IVA and IVB. These are currently not able to be sought by the ACCC in its enforcement of the law.*
10. *It is recommended that section 51AC of the Trade Practices Act should be amended to proscribe as per se offences the following conduct:*
- *unilateral variation of contract or associated documents;*
 - *the termination of contracts by one party without just cause or due process (see earlier comments on repudiation);*
 - *the bringing into existence of documents or policies after the signing of the contract which are then binding and which can also be used to vary the original agreement or contract; and*
 - *the presentation of 'take it or leave it' contracts or agreements.*
- It is also recommended that misuse of market power should be listed as one of the 'allowable' matters under s51AC.*
11. *It is recommended that the Government should make use of the current provisions in the Trade Practices Act relating to codes of conduct to regulate sectors of the economy which have specific problems which cannot, or should not be addressed through generic legislation.*
12. *It is recommended that a joint standing committee of the Parliament be established to oversee the Australian Competition and Consumer Commission. That committee should assume the current review activities of the House of Representatives Standing Committee on Economics, Finance and Public Administration in relation to the ACCC.*
13. *It is recommended that the ACCC's role in relation to small business should be strengthened as follows:*
- *the Trade Practices Act should be amended to specifically provide that the ACCC handle complaints and take action on systemic issues;*
 - *to provide for the appointment of a second small business commissioner to the Commission. It would be appropriate that the Deputy Chairman be one of the two small business Commissioners;*
 - *to establish within the Commission a Small Business as Consumers Division.*
14. *It is recommended that the Government appoint an adequately resourced Small Business Ombudsman.*

Representatives of the Fair Trading Coalition were invited to meet with the Review Committee to discuss the Coalition's submission. That meeting lasted over three hours and while the Coalition was asked to expand on and at times to justify the views expressed in its submission, the Coalition received a very good hearing from the Review Committee and the members of the Review Committee appeared to have particular sympathy for the plight of small business and the views being expressed by the Coalition.

However, it would appear from the Coalition's own discussions with the Committee and the reports that MTAA has had from others who have also met with the Committee, that it is unlikely that the Committee will recommend significant changes to the Trade Practices Act. However, in the end the Government and Parliament will determine what if any changes are to be made to the Trade Practices Act and the completion of this current Review will only be the ending of the first stage of the process of securing amendments to the Trade Practices Act.

The Coalition will have a continuing interest in the Review, the politics surrounding it, the process for consideration of recommendations and the inevitable parliamentary negotiations, debates and pragmatic decisions that will follow. While the Review Committee, chaired by Sir Daryl Dawson, a former High Court judge, is to report to the Government by the end of November 2002, it is clear that the debate on the Trade Practices Act will continue for quite some time and may remain a major issue for the next Federal election.

Taxation Matters

After a further twelve months of the operation of the new tax system it is clear that it has generally been accepted and is working well for the community. Taxation revenue collections by the Federal Government are at an historic high although the revenue from the Goods and Services Tax is passed direct to the states and territories. The continued criticism from those businesses who deal in and are required to account for purchases and sales of used goods remain. The Government and the Treasury and ATO officials who deal with this issue are immovable in their unwillingness to recognise the administrative burden created for many dealers by the requirements to account for input tax credits on items acquired from unregistered (non ABN holding) sellers. MTAA again made a submission to the Government as part of the consultation process for the 2002/2003 Federal Budget seeking to have business purchases of used goods from unregistered sellers for the purpose of resale trigger an actual input tax credit in the same way as a purchase from a registered seller.

MTAA continues to participate in the ATO's Motor Vehicle Taxation Consultative Committee which was established to assist in the smooth introduction of the GST and associated tax changes. The Committee has met twice during the course of 2002 and considered a range of issues largely relating to technical interpretation and clarification of the new tax system. The Committee has also been provided with reports relating to the progress of the ATO's audit of the smash repair sector.

During 2002 both the Federal Government and its advisory body the Board of Taxation continued to give consideration to a number of measures that were recommended by the Ralph Review of Business Taxation (RBT). Although in June 2001 the Government had announced what was widely interpreted as being a decision to abandon its plans to reform entity taxation (chiefly the proposal to tax trusts and companies in a similar manner) and to delay the introduction of the tax value method of accounting for company profits, consideration of these matters continued. In August 2002 it was finally announced that this so-called reform process was being abandoned. This is indeed welcome. The prospect of further taxation measures that would have dramatically and unfairly impacted on small business has now receded.

MTEAC and the 2001 Federal Election

During the course of the 2001 Federal election campaign, MTAA published its Small Business Charter of Fairness and two associated publications, an Issues Brief and a paper titled Combating the Effects of Concentrated Market Power. A set of these documents was provided to all candidates from the major political parties during the course of the election campaign.

During the course of the election campaign MTAA also sought responses to the issues raised in its material from the Coalition parties, from the Australian Labor Party and from the Australian Democrats. All persons elected to the Federal Parliament at the election were provided with further copies of MTAA's election material.

The MTAA election documents made a significant contribution towards setting an agenda for further consideration of fair trading reform in the interests of small business. Those documents continue to provide a comprehensive background to the debate taking place over the review of the Trade Practices Act.

During the course of the election campaign, delegations from the retail motor trades visited virtually all serious candidates for office from all parties. Many candidates were provided with donations in the name of the Motor Trades Electoral Action Committee (MTEAC). MTEAC is the most significant source of funds from the small business sector and continues to operate in a unique fashion. Its contributions are made direct to candidates and not to the major, and minor party, secretariats. In this way each candidate becomes directly aware of the motor trades, gains an understanding of the issues of concerns to those operating businesses in the sector and is provided with funds for a local campaign. The MTEAC model of activity is now replicated in each of the state and territory government elections to considerable effect. Members of the MTAA federation now seek to produce their own

electoral material and to impress upon all candidates issues of concern to a key small business sector.

During the course of the year MTAA has been required to pursue the interests of retail motor traders on a wide range of issues. Pursuit of our interests necessarily involves direct contact with large numbers of Ministers, Opposition spokespersons, and representatives of minor parties and independents holding the balance of power in the Parliament. As well, considerable informal contact with staff members of all parliamentarians and key officials in the administration is a crucial and ongoing part of the daily business of the National Secretariat. Many of the issues about which personal representations have been made are detailed in this report.

Of particular concern over the year have been the effect of the transitional arrangements on the market for new vehicles, as well as the continuing changes occurring in the retail petroleum sector, the policy proposals being considered to deal with the question of imported used motor vehicles, the intense pressures being placed on automotive body repairers by insurance companies and superannuation policy. There has however been a wide range of additional issues about which consultation and discussion have been undertaken. These range from formal avenues of discussion, including attendance at meetings of the Australian Competition and Consumer Commission's various consultative and advisory committees, attendance at the Small Business Forum convened by the Minister for Employment, Workplace Relations and Small Business and appearances before relevant Parliamentary, Government Party and Opposition Caucus Committees.

The MTAA National Secretariat has at all times made known its willingness to respond to questions, to prepare and submit to all sides of politics material relevant to the development of policies of importance to retail motor traders, and to take the opportunity, whenever and wherever it is offered, to inform elected representatives and officials of MTAA's concerns. At all times our concerns have been treated with respect and they have often been the subject of intense and extended discussion. Such discussions have often led to requests for further clarifying material. Where possible all such requests are met as soon as possible.

This process is an integral and central part of the role and duties of MTAA's National Secretariat. It is often, almost inevitably, carried out with discretion and without publicity. Its purpose is to inform and educate and such purpose is often at odds with the seeking of publicity or public debate on the matters under consideration. In this respect the long experience of the Secretariat staff in dealing with Government and the administration serve the National Secretariat well in the pursuit of its interests.

Given the range of issues and their importance to the automotive sector this aspect of MTAA's work is at the heart of the National Secretariat's activities and in the past year it has again continued the detailed and intensive liaison activities which have been a high priority of the Association, since its establishment in 1988.

Matters Arising from the 2002/2003 Budget

The key features of the Budget from an economic and business standpoint were:

- *the 2001/02 Budget resulted in a deficit being recorded on both an accrual and a cash basis;*
- *the 2002/03 Budget promises a small surplus with significant increases forecast in business investment and continued strong economic growth;*
- *new spending and saving measures producing a net increase in spending of \$1.2 billion in 2002/03 and a further \$4.8 billion over the ensuing three years were announced;*
- *inflation remains under control and unemployment will continue to trend down; and*
- *greatest concern would appear to be that there is forecast to be a significant increase in the current account deficit from \$22.5 billion or 2.25 per cent of*

GDP to \$29 billion or 4 per cent of GDP. The current account deficit as a percentage of GDP is still well below the peak of 6 per cent recorded in the mid-80s which prefigured the recession of the early 90s.

The 2002/03 Budget did not take the opportunity to make significant cuts to Government spending. In that sense it squandered the unique opportunity presented early in a Government's new term. On the other hand, a number of measures, including measures that were committed to in the Federal election, such as the lowering of the superannuation tax surcharge, have been stalled in or not passed by the Senate. This behaviour by the Opposition and minor parties, while typical of the way that business has been conducted in the Senate for the last two decades, is a most contentious feature of our system of Government. The uncertainty created by these actions does not help businesses or individuals plan for their tax liabilities.

Federal Industrial Council (FIC)

The FIC dealt with a number of major industrial relations matters during the reporting period. The most significant being our submissions on behalf of the Industry to the National Wage Bench. Our submissions were a major part of the successful employer case which saw the Bench reject an ACTU claim for a \$25.00 per week wage increase.

Preparation of submissions to the Senate on a range of Bills relating to Workplace Reform were also a major activity for FIC; in addition to our submission to the Inquiry on Paid Maternity Leave.

A Federation conference that was held in Adelaide in July this year again addressed the increasingly important issues of entry level wages and skill shortages. The Conference, hosted by FIC, was attended by senior delegates from the state and territory Associations.

Key activities for the remainder of the reporting period, will encompass FIC preparing a rebuttal of the pending ACTU claim for increased redundancy payments and the preparation of further submissions to the Commonwealth on workplace reform particularly as it affects small business.

FIC will continue to pursue the securing of employer rights.

National Retail Motor Industry Training Taskforce

This Task Force was established in August 2000 as a bilateral, government/trade initiative designed to address critical skills shortage issues present in the retail motor trade in Australia. This was a two year task.

The Retail Motor Industry Task Force was one of a series of trade based action groups that were established as a focal point through which a broader understanding of labour and training issues in various industry sectors could be achieved.

These objectives primarily focused on researching current views and expectations of youth seeking to enter automotive apprenticeships. In addition the Task Force was committed to seeking ways in which schools, industry and local communities could become further engaged in the promotion, support and facilitation of industry based career development amongst young people to counteract growing skills and labour shortages in the industry.

Representation on the Task Force was provided by various of the Member bodies of the MTAA Federation and other industry bodies. The Chair of the Task Force (Brian Curmi) was at the time the President of the Victorian Automobile Chamber of Commerce.

The main findings of the Task Force project were:

- 1. a shrinking youth base in Australia will lead to increased activities from employer and trade organisations designed to attract school leavers into their ranks;*

2. *the trades need to market themselves in new and dynamic ways; they need to appeal to youth and their families and in particular mothers;*
3. *significant in transitions between school and work are the depth and breath of local connections between schools and trades and industry; employers need to be more deeply engaged in these activities;*
4. *employers need to clearly articulate what it is that they have to offer to apprentices and trainees, they need to recognize that they are competing with a diverse range of attractions in the job market;*
5. *vocational education and training in schools is imperative to the supply of appropriate labour to the trades and industry in the future. Without practical exposure to technology it is unlikely that young people will explore the potential in the trades sector;*
6. *school teachers and career advisors have outdated views of the trades and industry. Unless these groups can gain a realistic understanding of the trades and industry it is unlikely that they will promote the trades to their pupils as a viable career option;*
7. *it is unlikely that the current training models will meet the emerging needs of the trades and industry; new models will need to be explored and tested; and*
8. *the trades and industry will need to find ways in which to hold and continually retrain and appropriately reward its existing and ageing workforce.*

Small Business Coalition and Small Business Forum

MTAA was instrumental in the establishment of the Small Business Coalition in 1991. When first established it was a source of robust discussion and considerable policy advice to the Government of the day. Its utility and effectiveness in this regard has diminished over the years, not the least because there are now many issues about which no consensus emerges. The introduction of the GST, particularly the form it eventually took, and the approach to the review of the Trade Practices Act are two examples where the SBC could not reach any consensus and thus left its members to handle these matters individually.

In the case of the GST, there was no voice speaking for small business to alert Government to the dangers of the new tax system and the adverse impact it was likely to have on small business. A similar thing happened in relation to the current review of the Trade Practices Act. As a result MTAA took the initiative to form the Fair Trading Coalition with a view to ensuring that small business spoke with an effective voice on a key issue.

Another matter of concern where no consensus has been reached is the question of reform of the unfair dismissal laws.

The Small Business Coalition is now, regrettably, rarely a place for the expression to Government of strong views.

The Small Business Forum, established in the early 90s by the first Federal Minister for Small Business, the Hon David Beddall, is, somewhat similarly, no longer a vehicle for robust discussion of Government policy for small business. Meetings are now confined to a very short time, occur less frequently and make no provision for agenda items to be submitted by small business representatives. The attendance at the Forum is now almost entirely confined to Association executives. Few small business operators are present.

There is a serious need for the activities and operation of both of these bodies to be reviewed.

National Motor Vehicle Theft Reduction Council

The National Motor Vehicle Theft Reduction Council (NMVTRC) has been particularly active in its third year of operation to bring about the completion of one of the major recommendations of the original Task Force, that is the creation of a national Written Off Vehicles Register.

The Council rotates its meetings to all capital cities to ensure participation of all key stakeholders including the MTAA and its Member associations, which leads to valuable dialogue between the parties.

As part of the original agreement on the formation of the Council an external independent review as to its performance is being conducted and this report will be forwarded to the Council of Police Ministers in due course.

MTAA continues to be represented on the NMVTRC by Tony Selmes, Executive Director of MTA-Q.

MTAA Liaison Activities

The period immediately following a Federal election is among the most crucial times in the work of a national Association. This year has been no exception and the MTAA National Secretariat has spent considerable time in making personal representations on a range of issues relating to the affairs of the retail motor trades. Key among these have been the representations made relating to the review of the Trade Practices Act, but other matters which have been the subject of direct and personal representations have been the new legislation relating to the importation of used motor vehicles, reform of the petroleum industry and issues relating to insurance and repair.

It needs to be re-iterated that this work is carried out without publicity or the promotion of public debate on the matters under consideration. The MTAA National Secretariat has never sought to publicly broadcast its views while in the process of discussing issues with elected representatives. Media statements are issued only on the most important of occasions when views need to be put on the record. The views of small business and its representatives are rarely reported by the mainstream media and it is important that there be no confusion arise that the frequency of public statements and the even less frequent reporting of them equates with representational activity. In this respect the long experience of the Secretariat staff in dealing with Government and the administration serve the National Secretariat well in the pursuit of its interests.



Petroleum Matters

Petroleum Industry Reform

The Minister for Industry, Tourism and Resources, the Hon Ian Macfarlane MP, convened an oil industry forum in April. Each of the parties attending was invited to raise three issues which they believed required to be addressed as part of the petroleum reform process. The three issues raised by MTAA/ASSCSA were that the Association sought to:

- 1. secure acknowledgment by government that vertical integration of the oil industry is neither desirable in the national interest, nor desirable for consumers. Government also needs to acknowledge that the interests of resellers are not the same as refiners and that there needs to be a “whole of government” approach to policy development for the retail sector;*
- 2. secure protection of the rights and independence of resellers; and*
- 3. promote the need to address structural issues in the market, including at the refining and wholesale levels.*

While there has been no obvious progress on the reform process since that April forum, there have actually been some important ‘behind the scenes’ developments. The first is an acknowledgement by the Minister and his officials that any serious reform process must include addressing concerns about the structure of the refining sector. The second is that the outcome of the Dawson Review of the Trade Practices Act and the Government’s response to it, particularly in relation to the issue of market power, will have a significant influence on the Association’s views on the content of a code, the future of the petroleum Acts and other matters.

Because of that it is most likely that a ‘reform’ package for the petroleum industry will not be tabled until after the Government has announced its response to the Dawson Review; and that may not be until as late as mid-2003. It is possible however that the Minister may convene another Forum later this year.

In relation to the issues placed on the table at the Forum it is important to record that ASSCSA offered a significant concession in relation to the Sites Act. The ASSCSA position put to the Forum was as follows:

‘We do firmly believe that there should be a place in the petroleum industry for small business operators and that the oil majors should not be allowed free reign in the market; there should be some constraint on vertical integration. This is a matter that we believe, is in the national interest as much as in the interests of those who seek small business opportunities in the sector.

We believe that it could be possible to address the question of vertical integration in the petroleum market and our concerns about that in the mandated code of conduct mentioned before which would mean that the current legislative prohibitions or restrictions against vertical integration, which don’t really work, could be removed!’

Whether in the end other parties in the industry, and the Government, are prepared to accept that concession, which is a significant one, is something that will be determined in the next 12 months.

Policy Framework for the Downstream Petroleum Industry

Over the past 12 months the Association has been consulted by the Department of Industry, Tourism and Resources on its development of a policy framework for the downstream petroleum industry. In commenting on two drafts of the framework and in discussions with the Department, MTAA has been concerned to ensure that service station operators interests are recognised as being separate from the interests of the refiners. Early drafts of the framework appeared to suggest that there was a commonality of interests between service station operators and refiners. The Association and its Members have during consultations with the Department advised officials that in relation to issues such as the imbalance of market power, transparency in pricing, access to terminals, tenure and service station operators' rights, resellers interests are quite different from those of their suppliers. The policy framework is expected to be finalised by the Department shortly.

Temperature Correction

Regulations are currently being developed, under the auspices of the Ministerial Council on Consumer Affairs and the national uniform trade measurement legislation, which should see within the next three months, the introduction of wholesale temperature correction of fuel. However, the new arrangements are to apply only to fuel deliveries direct from terminals; thus not all service station operators will benefit from the new arrangements and that is disappointing from MTAA's perspective. Separate legislation will also need to be introduced in Western Australia as it has not adopted the national uniform trade measurement legislation.

However, the new arrangements, once in force, will represent a significant achievement for service station operators. There is, unfortunately, nothing in the proposed regulation to prevent the oil majors from adjusting their wholesale prices to compensate for any revenue that they might lose as a result of the introduction of temperature correction. Thus service station operators will need to carefully monitor changes in wholesale prices once the regulation comes into effect for any unjustified increases in those prices.

Service station operators have for many years been arguing that they should not have to pay for fuel at wholesale which they do not have available for retail sale. For many service station operators the introduction of these new regulations should significantly reduce their overall fuel losses and thus represents a significant achievement for the Association and its Members.

Terminal Gate Pricing

The introduction of a true terminal gate pricing regime remains one of ASSCSA's priorities. In the past 12 months or so all four of the oil majors have separately announced that they have introduced a 'terminal gate pricing' arrangement. However, given that all four majors appear to exclude franchisees and any operator with a supply contract from their respective 'terminal gate pricing' arrangements, it is clear that ASSCSA's quest for open access, a true wholesale price and genuine competition at the wholesale level is yet to be achieved.

The issue of terminal gate pricing is also being considered as part of the petroleum industry reform process and the Minister has indicated that transparency in pricing is an important matter. Whether, and if so to what extent, that means that the Government will be prepared to mandate a national terminal gate pricing regime which allow access for all retailers is again something that will no doubt be discussed over the next 12 months.

A maximum wholesale price arrangement continues to apply in Western Australia, but as yet there have no spot sales at any of the terminals. In Victoria a mandated terminal gate pricing arrangement came into effect on 1 August last year. However, the new arrangements apply only to contracts entered into after 1 November 2000. Discounting after the terminal gate is permitted by the legislation.

MTAA/ASSCSA will continue to pursue the introduction of a terminal gate pricing regime which will apply to all wholesale sales and which allows for access to terminals for all buyers.

National Fuel Standards

The first phase of the national fuel standards came into effect on 1 January 2002. The standards will be progressively 'tightened' over the next few years. One of the outcomes of that process will be cleaner burning fuel, which will of course benefit all of society. However, one non-environmental benefit of the introduction of national fuel standards is that there is for the first time, a definition of fuel against which illegal fuel blends can be assessed and where necessary prosecutions commenced.

In mandating fuel standards the Government has had to consider some difficult issues. It has decided to ban the use of MTBE from 1 January 2004 (MTBE contamination leaves drinking water with an unpleasant taste and smell) and as this report is prepared the Government is also considering the issue of how much ethanol should be permitted in fuel and whether it should in fact be compulsory to have a certain minimum level of ethanol in fuel. The ethanol issue in particular is a very complex one with a number of stakeholders' interests to consider; including those of vehicle manufacturers, oil companies, the ethanol producer and sugar cane growers to name a few. There is as well, as the Federal Treasurer, the Hon Peter Costello MP, has pointed out the question of a fair tax regime on a product whose use is mandated.

From an environmental perspective the introduction of fuel standards will over time benefit our society. However, there are costs associated with those benefits and those costs are of course the investment that the refiners will have to make in order for them to produce fuel of the required standard. Some of the questions that raises are whether the refiners will believe it cost effective to upgrade all of their refineries in Australia or would it be more effective to rationalise the refineries and then upgrade as appropriate? Thus the issue of the need for structural reform becomes important and if mergers are to be considered then the outcome of the Review of the Trade Practices Act becomes relevant.

The Government is continuing its work on fuel standards. Standards relating to operability parameters are expected to come into effect later this year and discussions are continuing on the development of a national standard for LPG. The Association continues to support and assist the Government in the development of these fuel standards.

Credit Card Reforms

The Reserve Bank of Australia in late August announced its long awaited reform of credit card arrangements. The reforms announced by the Bank will allow:

- *merchants to recover the costs from cardholders of accepting credit cards – that is retailers will be able to pass on merchant service fee costs if they wish, from 1 January 2003;*
- *the adoption of an objective, transparent and cost-based benchmark which will be used as a basis for determining inter-change fees in credit card schemes – this should lead to lower overall merchant service fees and will apply from 1 July 2003; and*
- *for an opening of credit card schemes to allow for new entrants.*

ASSCSA and MTAA have, for many years now, campaigned for retailers to have the rights to pass on to customers the merchant service fees. The issue has been raised at many ASSCSA meetings over the last decade and with more regularity in recent times as the use of credit cards has increased significantly. The Reserve Bank's reforms are welcome and important ones in the overall process of introducing transparency and competition into our, broadly defined, banking system. For our members, achieving the right to pass on to

customers, if they so choose, what to date has been a significant cost to our businesses, or to reduce a price where there is no such cost, is a real break-through.

However, for service station operators there is a serious gap in the reforms announced by the Reserve Bank and that is that they will not apply, at least at this stage, directly to the fuel cards (oil company and others such as Motorcharge and Motorpass) that are on issue and on which merchant service fees are also charged to retailers. Despite having raised the issue of fuel cards with the Reserve Bank earlier in the year, it appears that there has in reality been little focus on them in respect of the Bank's consideration of credit card schemes. The Association will be raising the issue of fuel card merchant service fees and 'no surcharge' rule with the Reserve Bank in an attempt to secure similar outcomes in relation to those cards as are to be applied to credit cards.

Government Inquiries into Fuel Taxation and Fuel Price Variability

On Budget night (14 May) the Treasurer released the reports of two inquiries into petrol that the Government had commissioned in March 2001. Those inquiries were the Fuel Taxation Inquiry and the ACCC's inquiry into Reducing Fuel Price Variability. The Government also announced its response to the Reports. Briefly the Government announced that it would not be accepting any of the recommendations of the Fuel Taxation Inquiry, while at the same time it announced that it would accept all of the recommendations of the ACCC in relation to fuel price variability.

Thus public money is to be spent by the ACCC in educating consumers about oil company price cycles, but nothing apparently is to be done about the unequal treatment of different fuels under the current excise regime; nor is fuel excise indexation to be reinstated.

Just as the inquiries themselves were politically motivated in the first instance, so was the Government's handling of them at the end; irrespective of the merits of the two reports and any issues that were raised.



Automotive Body Repair Matters

NRMA/SGIO/SGIC Developments

The actions of NRMA Insurance and its subsidiaries continues to present problems for the MTAA Federation. In the past 12 months the following issues have been raised with the National Secretariat:

New South Wales

In NSW concern has been registered at the introduction of a new, small and select tier of repairers into a preferred repairers scheme. Those repairers who did not meet the criteria for selection were placed into various categories below this level. Some of those categories would be offered IAG work but many repairers were effectively removed from the IAG repairer network.

In late 2001 the Executive Director of MTA-NSW sought the assistance of the MTAA National Secretariat in examining the various IAG contracts being offered to repairers. However the difficulty in obtaining additional contract documents from affected repairers has forestalled further action on this matter by the National Secretariat.

South Australia

In SA, SGIC proposed to invite repairers to tender for its work. After objections were raised by MTA-SA and MTAA, including as to the suggested hourly rate, SGIC agreed to reconsider a number of matters. However, despite that the tender proceeded and a number of long term SGIC repairers have been advised that they will no longer be given work.

Since this tender was conducted a further separate tender document has been issued to “Regional Repairers” in South Australia. Part of that document requires that “SGIC network repairers are to provide lifetime guarantee on all workmanship”. This has raised an issue of considerable importance and as noted below the MTAA National Secretariat has taken the opportunity presented by the tender document to draw the issue of such guarantees to the attention of the ACCC.

Western Australia

In WA a tender process similar to that embarked upon in SA was undertaken and similar objections raised. MTA-WA entered into discussions with officials of SGIO; however as in South Australia, the tender process was completed. MTA-WA has also raised with insurance companies the issue of paint rates. This matter is most likely to be pursued on a national basis as part of the insurance and repair sector discussions being convened by the ACCC.

ACCC Insurance Sector Round Table

After much agitation by MTAA, AMBRA, the Member Bodies and repairers themselves for the ACCC to support the development of a mandatory code of conduct for the repair sector, the Commission finally agreed to convene an insurance sector round table in July. The round table was attended by representatives of the various insurers, state and Federal Government agencies, consumers and the MTAA Federation.

Issues raised at that round table by the MTAA Federation included choice of repairer and disclosure of insured rights to choice and full disclosure of their rights, preferred repairers schemes, the cost of doing business, late payments by insurance companies, lifetime

warranties and the erosion of repairers' client base. While the consumer representative at the round table supported the views expressed by MTAA about the need for greater disclosure of insured rights by insurance companies and the need for an effective dispute resolution procedure for body repairers, the general attitude of the insurance companies was that there was no problem with their current practices or indeed in their relations with repairers. The companies denied there was a need for an industry code and maintained that there were too many repairers and that MTAA was only seeking to prevent rationalisation of the sector.

At the close of the discussions it was clear that there were significant differences between the views held by repairers and those of the insurance companies. The ACCC has subsequently advised that it will be preparing an issues paper which it will distribute to all stakeholders prior to convening a second round table in October. The National Secretariat has requested that the following matters be included in the issues paper:

- disclosure;
- erosion of client base;
- dispute resolution – particularly in relation to quotation/assessment disputes;
- preferred repairer schemes;
- labour and paint rates;
- tender processes for repairer selection;
- rationalisation;
- late payments; and
- the treatment of total loss and write-offs.

At the time of preparing this report, the issues paper had not been released by the Commission. A second meeting of the round table is to be convened at the end of October 2002.

Further Developments on a Crash Code

Throughout the past year AMBRA has continued to promote the need for a mandatory code of conduct between repairers, consumers and insurance companies. AMBRA believes that at a minimum a mandatory code must allow for the following:

- greater disclosure to people buying insurance policies so that they realise that the insurance companies are removing their rights to choose a repairer;
- a better system of dispute resolution in relation to quotation and assessment disputes;
- more open and transparent arrangements when companies wish to introduce preferred and accredited repair arrangements;
- a wholesale review of labour and paint rates; and
- a better payment systems to remove from our sector the plight of late payments which puts so much financial pressure on repairers' businesses, especially now that GST liabilities come round so quickly.

AMBRA believes that it is essential that these matters are addressed in order to protect the interests of consumers and to provide an environment in which relations between repairers and insurers can be significantly improved.

The Victorian Automobile Chamber of Commerce has been actively encouraging the Victorian Government to adopt a code of conduct for the repair industry in its State and AMBRA has recently adopted the VACC draft code as the document that is to be pursued and promoted on a national basis.

Lifetime Warranties

Following concerns expressed by repairers regarding the practice of insurers offering so-called 'lifetime warranties' and the cost of providing those warranties being remitted to repairers, the MTAA National Secretariat took legal advice on the matter and as a result was provided with a draft Waiver document; which was subsequently provided to Members. The Waiver document informed consumers that 'lifetime warranties' offered by insurers were the responsibility of insurers, not repairers.

More recently MTAA has been provided with a copy of documents which appear to explicitly require the repairer to bear responsibility for a lifetime warranty provided by an insurance company. The National Secretariat has advised the ACCC of its concerns in relation to that arrangement. At time of preparing this report the ACCC was still considering the issues raised by MTAA.

ATO Audit of Smash Repair Sector

Towards the end of 2001, MTAA was advised that the Australian Taxation Office (ATO) intended to commence tax compliance audits of the smash repair industry. MTAA sought advice as to how individual body repairers should respond if the ATO sought access to their books or their businesses. That advice was obtained from professional legal and accounting advisers and was circulated to the Member bodies. It was expected that the ATO would have completed its report of its audit activities by the end of August and at that time it was hoped an edited version of its report would have been provided to the National Secretariat; to date, however no report has been provided. Preliminary advice from the ATO suggests that the problems found by the audit team fall into three categories:

- *the first were the "common BAS errors", made across the board by small business and generally involving making claims for input tax credit without having a tax invoice, claiming for input tax credits where there was no GST in the price of the good or service and claiming of input tax credits for articles of private expenditure. Nothing in this group of matters was "unique to crash repairers' and the pattern was "similar to all small business";*
- *the second matter was the GST treatment of debt factoring and the confusion that arose as to the liability and the quantum of the liability. It appeared in the course of the conversation that the main errors in this regard were being made by the companies involved in the provision of the debt factoring service but it remains to be seen whether that view is shared by the ATO when its final report is submitted; and*
- *the question of the treatment of excess payments, the GST liability and whether this should be claimed from the payment made by the customer is still causing concern. It was made clear that the ATO's view is that the excess does include a component of GST and is not GST free. There was still "significant confusion" between repairers and insurers as to their relative liability to collect and pay GST on this part of the transaction.*

It is understood that the ATO project team would be recommending that the ATO should introduce an "education program" to clarify the correct position regarding factoring. It is not clear what is in mind regarding the GST on the excess as there is already a considerable amount of instructional and educational material available about this matter.

MTAA sought information from the ATO as to the extent of over or underpayment of GST and advice was given that it was not yet possible to advise the extent of these that had been detected and that the figures for "adjustments" could not yet be supplied.

It appears that the audit has discovered that the crash repair sector is genuinely seeking to comply with the new requirements of the GST and the associated BAS. There are a number of technical issues to be resolved and the ATO will be seeking to inform MTAA and its Members of these matters in the near future.

More recently, the ATO has notified the National Secretariat of concerns it has about repairers who rebuild and then sell motor vehicles without charging GST.

Other AMBRA Issues

A number of other issues relevant to automotive body repairers are under active consideration by the MTAA National Secretariat and AMBRA. These include the possible development by Automotive Training Australia of a training package for loss adjusters and the issue of late payments to repairers by insurance companies.



Automotive Matters

State of the Market

At the end of August 2002, new motor vehicle registrations for the year to date had risen 7.7 per cent to 546,395 vehicles, an increase of 39,136 vehicles over the same period in 2001.

The figures for sales in each state and territory are made available through the Australian Bureau of Statistics and at the time of writing this report are available only up to the month of July 2002. Sales of vehicles in New South Wales rose by 7.63 per cent over the year to date, from 154,958 vehicles in 2001 to 166,775 in 2002. Sales rose in the Northern Territory by 6.29 per cent, from 4,248 vehicles in 2001 to 4515 in 2002 and in the ACT by 2.33 per cent (7,930 to 8,115). Year-to-date sales grew in Victoria by 3.5 per cent, from 122,837 vehicles in 2001 to 127,131 in 2002; in Queensland by 15.28 per cent, from 77,512 vehicles in 2001 to 89,358 vehicles in 2002; in South Australia by 11.58 per cent, from 27,203 vehicles in 2001 to 30,352 vehicles in 2002; in Western Australia by 8.54 per cent, from 39,077 vehicles in 2001 to 42,416 vehicles in 2002 and in Tasmania by 7.87 per cent, from 7,496 vehicles in 2001 to 8,086 vehicles in 2002. The Federal Chamber of Automotive Industries which issues Vfacts, the industry statistical collection service, has recently revised its forecast of sales for the calendar year of 2002 to a total of 810,000 vehicles. If achieved this would be a new annual sales record.

Imported Used Vehicles

In August 2002 the Senate of the Federal Parliament assented to Regulations made under the Motor Vehicle Standards Act which introduced two new regulatory arrangements to deal with imported used vehicles.

This was the final act in the many steps needed to end the unregulated importation of used motor vehicles, in which MTAA has been engaged for the past twelve years. Only one Senator formally voted to disallow the Regulations.

MTAA particularly welcomed the passionate speech in support of the introduction of SEVS and RAWS made by Senator Ron Boswell (National Party, Queensland). Senator Boswell was in close contact with the MTAA National Secretariat while preparing his very spirited defence of the new arrangements. We thank him for his support.

Right to the last MTAA lobbied all political parties for their support of our position. We succeeded with the Government and the Labor Party, secured the non-voting of the Democrats and obviously failed with One Nation. We should remember especially the effort of Senator Boswell.

Franchising Study Group

During the course of 2002 a study group was established to examine developments in Franchising and seek to develop strategies to assist dealers in their relations with their suppliers. The Group is convened by VACC and a work program has begun. The program included the commissioning of a comprehensive report on conditions in the local market by Sirius Consulting. Their report was included with the submission lodged by AADA with the Dawson Review which is currently examining certain aspects of the Trade Practices Act.

The Group is also considering a number of related matters including state franchising laws in the United States and the changes being introduced by the European Union to dramatically change the current relations between manufacturers, distributors and dealers in Europe. MTAA has also sought to interest the ACCC in examining these changes and their

effect on the market with a view to the Australian competition regulator giving more widespread and thorough consideration to our local market.

There have been a number of dealer specific issues addressed by AADA at its meetings over the last 12 months and extensive reports on those discussions will be provided in AADA's own annual report which will be published in December 2002.



Other Activities

Affiliated Trade Associations

MTAA continued to support and assist its Affiliated Trade Associations throughout 2001. From a network of small business operators working through their local associations, and related collectives, important matters of public policy and concern are directed through the state and territory motor trades associations and automobile chambers of commerce so that they may be considered by MTAA.

This process is an essential element in ensuring that MTAA continues to represent the interests of retail motor traders at a national level. In 2001 the National Secretariat introduced a regular program of meetings or telephone conferences for the various ATAs to increase awareness and understanding at the national level of the particular issues affecting those sectors of the trades.

That program of meetings continued in 2002, with the majority of ATAs holding at least one meeting during the year. Some of the larger Associations, ASSCSA, AMBRA and AMIA, meet at least twice a year. The National Secretariat will continue to encourage all ATAs to meet or to hold a telephone conference once a year.

Once again the Australian Service Station and Convenience Store Association and the Australian Motor Body Repairers Association were the most active of the Associations in this process and, given the seriousness of the issues confronting those two sectors, it seems likely that this will continue.

Training Matters

Throughout 2002, Automotive Training Australia Limited (ATA), of which MTAA is a founding shareholder, continued to address the skill shortages in the retail motor trades and the image of the industry as perceived by parents and teachers.

ATA has had a successful year financially and is continuing to expand and increase quality relationships with enterprises and associations. A national body relies heavily on relationships with states and territories and, as such, ATA has continued to improve on interaction with its network. Given the cut in government funds for this activity, ATA will look to new ways of building networks for input into national planning and local governance and administration. A recently signed Memorandum of Understanding between the state and territory Industry Training Advisory Boards (ITABs) has formalised the level of co-operation and understanding.

One important part of ATA's role is to develop training packages which reflect the current and future needs of the industry. The first stage of the redevelopment of the Automotive Retail, Service & Repair (RS&R) Training Package, conducted during late 2001/02, has identified areas in need of urgent redevelopment and future trends. These include technological change, increased customer focus/service, environmental impact and changing work practices. The redevelopment during 2002/03 will be a major focus for ATA.

ATA continued to produce valuable support materials including a CD-ROM based diagnostic training package, the "Crash Video Course" to assist New Apprenticeship

Centres and Registered Training Organisations and a program to increase computer literacy and usage of computers amongst production workers in the manufacturing sector, which has valuable application possibilities in the RS&R sector.

An important part of the effort to address skills shortages in 2001 was the Department of Education, Training and Youth Affairs funded Career Industry Information Partnership Programme (CIIPP). Although additional funding has not been provided, ATA and associations have continued to build on outcomes by:

- *improving the perceptions of students, their parents, teachers and career advisers in the educational system regarding the image of the industry;*
- *developing and distributing better careers information; and*
- *promoting automotive employment, training and career options.*

The latter functions have been supported through a number of industry-funded initiatives.

The Careers web site, www.autocareers.com.au, continues to attract positive comment and usage. It is currently being enhanced to cover more occupations and linkages to training opportunities.

Unfortunately, MTAA has not been successful to date in attracting funds to further the work of the regional partnerships. Ongoing industry support needs to be considered to ensure the industry attracts the best young talent available.

ATA held its annual conference at the Ford Motor Company in November 2001. The success of this initiative, together with the inaugural training awards, was such that the conference will continue and be enhanced in 2002. It provides an ideal opportunity for the industry to network around training agendas, as training becomes a significant investment decision within enterprises

MTAA Super Fund

In a year most economic commentators are calling the worst in quarter of a century for market investment, and when most superannuation funds are posting significantly negative investment performance returns, MTAA Super was able to credit a positive return of 2.67 per cent and 2.00 per cent respectively for members in both the Secure and Balanced investment options. The rate credited for members invested in the Growth option is minus 0.12 per cent.

Over three years the average crediting rate for the Secure option has been 4.72 per cent, for the Balanced option 6.52 per cent and the Growth option 6.30 per cent per annum. Over five years, the average crediting rate for the Balanced option has been 8.00 per cent per annum.

According to independent research companies Rainmaker Information and Intech Research, MTAA Super's investment performance ranks it in the top decile of all superannuation funds in Australia for the past year and is ranked in the top quartile over three and five years.

Membership of the Fund grew with some 14,000 employers making contributions on behalf of more than 200,000 members Australia-wide. Assets under management grew to in excess of \$1.4 billion despite the volatile investment markets within Australia and internationally.

During the year the Fund reviewed and improved its administration services to members and employers including developing updated call centre technology, improving staff training and refreshing all of MTAA Super's communications material.

A major review of MTAA Super's group life insurance arrangements will deliver increases in benefits for death and total and permanent disability cover from October 2002. It is expected that the premium per unit of death cover will remain at \$1.00 per week but that the sums insured will increase substantially for both manual and non-manual occupations with a

maximum death cover available of \$2 million. Income protection of \$630 per unit is available at \$1.00 per unit and total and permanent disability at \$0.75 per unit.

Currently the Fund offers a choice of three investment options with most members in the Balanced option. In early 2003 MTAA Super is introducing enhanced Member Investment Choice (MIC) to enable members to choose between a combination of design-your-own strategies and pre-mixed options. From the introduction of enhanced MIC, members will no longer have to have an account balance of \$1,000 before making an investment choice, new members will be able to opt for choice from their first contribution and members can periodically change their investment choice - at no cost.

MTAA Super continues to provide to its members and their employer-sponsors tangible membership benefits and services, such as access to:

- *competitive home and business loans;*
- *affordable, professional financial planning advice and related services;*
- *fee-free banking services; and*
- *the IRIS allocated pension.*

After considerable deliberation the Trustee has decided that after maintaining administration fees at \$52 per year for more than eight years, during which the general costs of goods and services has increased 30 per cent, it is necessary to make a small increase to the Fund's administration charge to members. From 1 January 2003 the administration fee will rise to a still very modest \$60 per year. The Fund believes that as members evaluate the additional services and benefits MTAA Super is offering they will consider it an acceptable decision.

In the major research project the Fund undertook last year, members told MTAA Super their priorities were to have a value for money fund which delivers competitive investment performance at low cost, and that they wanted easy to read and understand communications material and improved customer service. The Fund has acknowledged the members requirements and has delivered the results in 2002.

MTAA House

MTAA House remained fully tenanted during 2002 and should remain so for the foreseeable future. The Office of Parliamentary Counsel's (OPC) lease expires in October 2002. OPC has recently agreed to terms for a new ten year lease plus a five year option over its existing accommodation in the Building.

The Department of Communications, Information Technology and the Arts which occupies Level One has advised that it will be moving out in September 2002 even though it has two years remaining on its lease. The Department is currently looking for prospective tenants to sub-lease part or all of its accommodation space. This could be beneficial to MTAA in assisting to relocate Access Economics (AE) down to Level One as it has out-grown its current accommodation needs on Level Three. There has been positive interest from prospective tenants already shown through the current Access Economics tenancy. Therefore, even as a result of the relocations, the outlook for MTAA House looks positive and it is expected that it will remain fully tenanted.

D-Auction

After extensive consideration of the issues involved at meetings of MTAA, AADA, Motor Trades Services and the MTAA House Unit Trust, an investment was made to acquire 25% of the company D-Auction Internet Pty Ltd by the MTAA House Unit Trust. The remaining shareholding in the company is held by Macquarie Bank which is among the largest financiers of fleet vehicles in the country. The President of MTAA, Mr Ian Field, has been appointed a Director of D-Auction Internet Pty Ltd. Mr Field is also a Director of MTAA House. An extensive report on the company's activities since its commencement was sent to MTAA Members by the Chairman of the MTAA House Unit trust, Mr George Altomonte

appointed by Macquarie Bank remain firm in the belief that it will succeed in providing a new and more efficient method for the disposal of ex-fleet vehicles into the market in a way which allows dealers an initial opportunity to acquire these for stock.

Motor Trade Services

This company is owned by the Members of MTAA and at present its activities are confined to conducting the annual AADA Convention and the annual study tour to the annual Dealer Convention organised in the United States by our sister organisation, the National Automobile Dealers Association. The AADA Convention was again held on the Gold Coast and although income and delegate numbers were lower than hoped for, the Convention was generally regarded as a success. However, in the light of changes taking place in the marketplace, consideration is now being given to moving the Convention from the Gold Coast and broadening its focus by including activities directed at other motor trades. A proposal is being developed for consideration by the directors of MTS and the MTAA Federation.

The tour to the NADA Convention was cancelled after the events of September 11, 2001. Little interest was shown in participating in the tour, which was to take place early in 2002. As a result, management and promotion costs were incurred which could not be recouped. A tour to the 2003 event is now being marketed and the response thus far is promising.

The Presidents of the Motor Trades Association of Australia Awards

The President of the Motor Trades Association of Australia Awards are intended to celebrate academic excellence and to secure for the MTAA Federation original works of scholarship and research of direct relevance to the Australian motor trades in the broad areas of public policy with which it is concerned.

Under a Memorandum of Understanding signed by the Presidents and the Australian National University (ANU), the following prizes are awarded by the MTAA;

- The Presidents of the Motor Trades Association of Australia Prize for Policy Consultancy in the Master of Public Policy Program was awarded in 2002 to Janet Martin;*
- The Presidents of the Motor Trades Association of Australia Bursary in the Public Policy Program was awarded in 2002 to Bruce Cohen;*
- The Presidents of the Motor Trades Association of Australia Prize for Internship Reporting in the Australian National Internships Program was awarded in 2002 to Mathew Burston; and*
- The Presidents of the Motor Trades Association of Australia Bursary in the Australian National Internships Program was awarded in 2002 to Christopher Roberts;*

The names of the prize winners for the President's of the Motor Trades Association of Australia Prizes for Australian Public Policy and for Policy Studies will be decided following the examinations at the end of the Second Semester 2002.

Assistance from Member Bodies

MTAA could not operate without the co-operation, assistance and enormous support of its founding Member bodies. It is through this co-ordinated effort that the retail motor trades have secured excellent representation at the national level.

Member Associations and Chambers of Commerce have continued to provide the National Secretariat with both resources and advice at the highest levels, often at short notice, on major issues which affect our trades. Additionally, the Member bodies have generously hosted a wide range of national meetings and provided the management and administrative

resources to service the large number of Allied Trade Associations which MTAA represents at the national level.

MTAA thanks its Executive Director and the Directors, Executive Directors and all staff of each of the Member Associations and Chambers. Without their efforts and support, the national Association would not have been able to establish its reputation for excellence and credibility which it has achieved and intends to maintain.



Financial Statements

FINANCIAL STATEMENTS TO BE INCLUDED
ONCE ADOPTED