

Annual Report 2004



*Presented by the President
Mr Bob Allen*

From the President

Mr Bob Allen

Two Thousand and Four

Without dwelling on matters, as we are all aware of the events that have occurred, 2004 has been a difficult and challenging year for the Federation.

Ian Field was elected to the position of President of MTAA for a fourth year at the 2003 Annual General Meeting. The Association was well served and represented by Ian during his tenure as President of MTAA. However, in early March 2004, Ian for his own personal reasons resigned as President and Director of MTAA and I was elected as President for the remainder of his term.

In addition, the Association has recently completed an internal review of its operations. That review concluded with a successful two-day discussion in Sydney at the end of August which I, and I am sure you all did as well, found very productive. The outcomes of our deliberations will allow the Association, both the National Secretariat and all of the Member Associations, to move forward with confidence in pursuit of our policies supporting the growth, competitiveness and profitability of retail motor trade businesses.

This is of course an election year and with the outcome, at this stage at least, too close to call, small business policy issues are likely to be an important part of the various party campaigns. Already the ALP has committed itself to introducing all 10 points in the Fair Trading Coalition's Small Business Charter of Fairness. MTAA of course convenes and chairs the Fair Trading Coalition and the ALP's endorsement of the Charter is a significant recognition of the work of our Association. However, our work on fair trading matters does not stop now and irrespective of whichever party wins the election, there will be considerable further work ahead of us to ensure that our policies are adopted and the necessary legislative changes made.

May I thank all who have served the Association over the last year; many of you do so in a voluntary capacity and your contribution is especially acknowledged. My particular thanks go to Michael Delaney and his staff at the National Secretariat for their valuable contribution over the past 12 months.

BOB ALLEN
President

23 September 2004

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 250,000 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 Rental Vehicle Association (NRVA)
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 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 2003/2004, the focus of AMBRA's deliberations has been the major problems which have arisen following the rationalisation and demutualisation of insurance companies.

The Association has continued to promote the need for a Code of Conduct to regulate the commercial arrangements between insurers, repairers and consumers.

National Secretariat

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

Executive Director	Michael Delaney, BA (La Trobe), JP
Deputy Executive Director (Association)	Sue Scanlan, B Com (Ag) Lincoln College, University of Canterbury, NZ
Deputy Executive Director (Superannuation)	Paul Watson, Dip FP (Deakin), CD
National Manager – Marketing and Business Development	John Jones
Executive Officer (Property & Insurance)	George Kochel
Policy & Research Officer	Sarah Kearney, B. Business, LLB
Policy & Research Officer	Diane Biencyzcka, B. Actuarial Studies, LLB
Policy & Research Officer	Patrick Cottle, BA, LLB (Hons), Grad. Dip. Legal Prac
Compliance Officer (Superannuation)	Rosalie Pilkinton, BA, LLB
Executive Officer (Minutes Secretary/Meetings)	Susan Mulligan
Administration Officer (Superannuation)	Nirmali Wijayatilake
Office Manager	Nikki Brown
Finance Officer	Merinda Woodburn, B. Economics
Accounts Assistant	Colin Reckord
Administration Assistant	Millie Omonei
MTAA Super Fund, Business Development Manager – NSW	Graham Millar
MTAA Super Fund, Business Development Manager – NSW	Andrew Gledhill
MTAA Super Fund, Business Development Manager –Victoria	Dianne Chitty
MTAA Super Fund, Business Development Manager –Victoria	Scott Harris

MTAA Super Fund, Business Development Manager –Victoria	David Grove
MTAA Super Fund, Business Development Manager – Queensland	Diedre Bell
MTAA Super Fund, Business Development Manager – Queensland	Peter Jones
MTAA Super Fund, Business Development Manager – WA	Richard Stuttard
MTAA Super Fund, Business Development Manager – SA	Craig Walker

Directors of the Association 2004

President	Ian Field (24 Sep. 2003 – 1 March 2004) Bob Allen (4 Mar. 2004 – Present)
Director & Treasurer (AADA)	Brian Curmi
Director (MTA NSW)	Michael Tynan
Director (VACC)	Russell Stuckey
Director (MTA SA)	Peter Roberts
Director (SSA)	Richard Halstead
Director (MTA ACT)	John Stark (to 21 June 2004) Graham Gulson (21 Jun. 2004 – Present)
Director (MTA NT)	Allen Carter
Director (MTA WA)	Bob Pearce (to 3 August 2004) Rob Webster (3 August 2004 – Present)
Director (MTA QLD)	Greg Klease

National Affairs

Trade Practices Act Reform

Securing a fair trading environment for retail motor suppliers, particularly in relation to their dealings with their suppliers has been one of the highest aspirations, if not the highest aspiration, of the Association since its establishment in 1988. Over the period since 1988 a significant amount of the National Secretariat's and the Member bodies resources have been employed in seeking to secure changes to the Trade Practices Act.

This past year has been no exception to that. It has to be recognised that governments are not easily persuaded of the need to amend the Trade Practices Act in support of small business and that therefore the process of achieving that outcome is long and often spans election cycles.

That is the situation in which we find ourselves today.

In the 2003 Annual Report the National Secretariat advised that the Senate Economics References Committee was conducting an Inquiry into the Effectiveness of the Trade Practices Act in Protecting Small Business. MTAA and the Fair Trading Coalition (which MTAA has continued to convene and chair during the past year) had both made submissions to that Inquiry.

That Committee reported in early March 2004. The Committee in a majority report recommended a number of changes to the Act, in particular to the misuse of market power provision (s46) of the Trade Practices Act and the unconscionable conduct provision (s51AC). The minority report also recommended changes to the Act but they were not as comprehensive as those proposed by the majority. Importantly however, the Committee was unanimous in its endorsement of the earlier Dawson Review of the Trade Practices Act recommendation for the introduction of a small business collective bargaining notification arrangement to the Act. That Dawson recommendation had previously been accepted by the Government. However legislation necessary to amend the Act to introduce that notification arrangement had not been introduced into Parliament.

The National Secretariat believes that a collective bargaining notification arrangement will provide substantial benefits to retail motor traders; particularly in relation to their dealings with suppliers. Those suppliers, particularly in franchise situations, have significant market power. A collective negotiation notification arrangement should provide for some re-balancing of that market power.

In June 2004, the Government announced its response to the Senate Committee Inquiry and introduced into the House of Representatives, legislation to give effect to its response (announced some 12 months prior) to the Dawson Review. The Government announced also that it would introduce further legislation, at a later date, to deal with the amendments proposed in its response to the Senate Committee's report.

The legislation to amend the Trade Practices Act introduced into the House in late June 2004 contained, among other issues, the all important, for small business, collective negotiation notification arrangements. This included a right of collective boycott, a role for trade associations as a bargaining agent and although the legislation contained a monetary threshold in terms of eligibility of small business to access the new arrangements, the Government announced that it would consider higher limits for certain sectors. Motor vehicle dealers, smash repairers and service station operators were all mentioned as being among that group.

The introduction into Parliament of legislation to give effect to the Government's commitment to small business that it would provide a collective bargaining arrangement was a significant policy achievement for the retail motor trades and small business generally. The right for small business to collectively negotiate had of course been part of the Small Business Charter of Fairness prepared by the Association for the 2001 election campaign.

The legislation was passed by the House of Representatives and introduced into the Senate in early August. Unfortunately when Parliament was prorogued at the end of August for the 9 October election the legislation had not been debated by the Senate.

Again, an election period had intervened. The legislation to amend the Trade Practices Act to introduce a collective bargaining notification arrangement for small business has now lapsed and will need to be re-introduced by the incoming Government. Both the Coalition and the ALP support the small business collective bargaining notification arrangement and the National Secretariat is hopeful that this issue will be one of the earliest pieces of legislation addressed by the incoming government.

As mentioned previously MTAA has during the past year continued to support and convene the Fair Trading Coalition (FTC). While the FTC has not met as frequently during this year, the National Secretariat has kept the FTC members fully informed of policy and political developments and has continued to prepare correspondence and papers in the name of the FTC. The Association has received positive responses from the FTC members for the work that it is doing, in relation to the Trade Practices Act matters, on their behalf.

MTAA has, for this election campaign produced a revised and updated Small Business Charter of Fairness. That Charter has also been endorsed and adopted by the Fair Trading Coalition. The 10 points of the Charter form the core elements of the Motor Trades Electoral Action Committee advocacy for the 2004 election.

In the third week of the election campaign the ALP announced that it *'has committed to implementing the ten critical reforms to the Trade Practices Act proposed in the **Small Business Charter of Fairness** issued by the Fair Trading Coalition (FTC)'* and that the *'Charter's ten proposals are designed to promote a business environment which sustains 'a competitive market at home and abroad'.*

The ALP also announced that the *'reforms that have been accepted and will be introduced by a Latham Labor government will ensure that small businesses are able to negotiate collectively with suppliers, are not subject to commercial behaviour that abuses market power, are better able to compete fairly with big business and are not subject to such practices as unilateral variation of contract.'*

At the time of preparing this report, the National Secretariat was writing to the other Parties seeking a similar commitment from them.

Body Repair Issues

In September 2003, the Australian Competition and Consumer Commission (ACCC) released a discussion paper on the relationship between smash repairers and insurance companies. In that paper, the ACCC encouraged both parties to discuss the development of a voluntary code of conduct to regulate their relationship. However, while MTAA is willing and ready to discuss this issue with the Insurance Council of Australia (ICA), there has been no indication on the part of the ICA that it wishes to discuss the development of such a code.

While MTAA acknowledges that the ACCC has investigated a number of complaints regarding the behaviour of insurance companies towards smash repairers and has formed the view that there have been no breaches of the law, MTAA continues to raise smash repair issues, including the question of a voluntary code of conduct, with the ACCC. MTAA's Member bodies also continue to raise smash repair issues at a state level at every available opportunity. In July this year, the Small Business Ministerial Council unanimously supported the adoption of a voluntary code of conduct to regulate the relationship between smash repairers and insurance companies. At the same time, the Minister for Small Business and Tourism, the Hon Joe Hockey MP, met with representatives from AMBRA and Australian Automotive Repairers Association to discuss smash repair issues.

Following that meeting, the Minister had further discussions with insurance companies and MTAA and its Member bodies regarding smash repair issues. Those discussions culminated in the Minister's recent announcement that the Productivity Commission will commence an inquiry into the commercial relationship between the body repair and insurance industries and investigate ways in which transparency, competitiveness and consumer protection can be improved. MTAA believes that the terms of reference described by the Minister for Small Business address the contemporary troubles faced by the industry which need to be addressed. A final report is projected for late January 2005, and MTAA and its Member Bodies will be making firm, well-considered and documented submissions to the Inquiry and will vigorously pursue a resolution of the untoward practices presently occurring in the body repair industry to the disadvantage of those in it and to customers and repairers alike.

In the 2003 Annual Report there was reference to a Senate Economics Legislation Committee Inquiry into late payments. The Committee tabled its report on 29 October 2003 and the Committee unanimously supported the views of MTAA and VACC that late payments were a significant problem in the automotive repair industry. However, the Coalition Senators' Majority Report recommended that the *Late Payment of Commercial Debt (Interest) Bill 2003* (Cth) should not proceed.

Petroleum

The past year has been one of tremendous change for the retail petroleum industry. As reported below the entry of supermarkets to fuel retailing and their alliances with two of the refiners has, and will continue to have, a major impact on the structure of the petroleum market and all Members of MTAA have concerns about the ability of the independent operators in the market to remain viable.

In last year's Annual Report, the National Secretariat stated that notwithstanding MTAA's concerns about the Government's proposed oil industry reform package, it expected that the Government would introduce legislation into the Parliament to give effect to that reform package.

As matters have turned out the Government has not proceeded with its reform package and there have been no further discussions with industry stakeholders about the introduction of a code of conduct or for that matter about any proposals to repeal the two petroleum Acts; something which as matters currently stand MTAA could not support.

MTAA is committed to reform of the petroleum industry, but not on terms which would see small service station operators disadvantaged. As the Association has said on a number of occasions the currently retail market regulatory arrangements are dated and inflexible – particularly given the changes that have occurred in the market over the past 10 years. MTAA and its Members remained committed to the introduction of a terminal gate pricing regime, a mandatory code of conduct between suppliers and retailers and the need to address the issue of below cost selling.

MTAA has not made any public comments criticising the Government for the lack of progress on oil industry reform. The Association was therefore dismayed that the Minister for Industry, Tourism and Resources, on an ABC *Lateline* program in August chose to publicly criticise both MTAA and SSA for their opposition to his proposed reform package. MTAA has written to the Minister about, and to rebut, his comments but at the time of preparing this report no reply had been received.

Supermarkets and Fuel Retailing

The entry of Coles and Woolworths into the retail petroleum market continues to have a significant impact on industry participants and the structure of the market. Many small operators, both branded and independent, have experienced very difficult trading conditions over the past twelve months and that situation is unlikely to change markedly in the near future.

Over the course of the past year, MTAA has made a number of submissions to the Australian Competition and Consumer Commission (ACCC) regarding the Caltex/Woolworths and Shell/Coles joint ventures and 'shopper docket' petrol discounts. In those submissions, MTAA

argued that the proposed joint ventures and shopper docket schemes would have a substantial negative impact on the structure of, and level of competition in, the retail petroleum market which would not be in the long-term interests of consumers. MTAA was therefore very disappointed when the ACCC announced in February that it had decided to allow the shopper docket discounts to continue and later in the year when it announced that it would not oppose the Caltex/Woolworths long-term arrangements. MTAA continues to have serious concerns about the impact of the Coles/Shell and Caltex/Woolworths joint venture arrangements and their associated shopper docket discount offers on the level of competition in the retail petroleum industry in the long term.

Members continue to be concerned about a related issue and that is the fuel matter of 'below cost selling'. Many independent operators are concerned that their wholesale buying prices are above the retail prices being posted by some larger competitors. MTAA believes that the combined issues of shopper dockets and wholesale pricing policies pose a significant danger to the long-term viability of independents and thus to competition in the petroleum market. The National Secretariat and MTAA Members are continuing to advocate for changes to current legislation to ensure that competition on both the wholesale and retail petroleum markets remains strong.

The Association has been particularly disappointed that the ACCC has not addressed the concerns expressed by MTAA and others in relation to the impact of the alliances between the two large retailers and the two oil majors. MTAA believes that the Commission has taken a very short-term view of the impact on the market of the changes. In our view the long-term impact on competition and the structure of the market will be much less benign than the Commission has indicated.

MTAA continues to do everything it can to support those operators who wish to remain in the industry and to assist those who wish to exit the industry. MTAA believes it is important that efficient and competitive smaller operators continue to have a place in the industry and the Association will maintain pressure on both the ACCC and the Federal Government to address that issue.

Caltex Ampol National Action Group (CANAG)

Following the announcement in August 2003 by Caltex and Woolworths that they intended to enter into a joint venture arrangement for fuel retailing, including the expansion of the then current Woolworths Petrol Plus shopper docket to participating Caltex and Ampol sites, concerned Caltex and Ampol franchisees formed the Caltex Ampol National Action Group (CANAG). That group was formed because Caltex had refused to include all franchised outlets in its shopper docket arrangements (thus disadvantaging franchisees) and it had refused to negotiate with the Caltex Dealer Line Group about exit arrangements for dealers adversely affected by the alliance with Woolworths or about an improved profitability support arrangement for those franchisees whose sites were not to be co-branded and thus part of the new arrangements.

Franchisees concerns about the alliance were heightened when, in November 2003, the existence of an internal Caltex memorandum came to light which revealed that the Company intended to use the Fear, Uncertainty and Doubt (the 'FUD') factor to destabilise franchisee confidence in future outcomes for their sites. The existence of this Company memorandum received quite some publicity and the Company was forced to issue an apology to all franchisees.

Frustrated at Caltex's refusal to negotiate in relation to exit and profitability support arrangements for franchisees post the alliance, CANAG commenced legal action in the Federal Court against the Company. That action was settled in August following long negotiations between the parties which resulted in agreement between them on an exit package and an improved retail economic model.

In MTAA's view the approach taken by Caltex in relation to its dealings with its franchisees following the announcement of its alliance with Woolworths has been less than satisfactory and many would suggest less than entirely inappropriate. The fact that franchisees were left with no option but to commence legal action in order to get Caltex to agree to negotiate with the franchisees in relation to a situation which effectively saw their franchisor establish a competitive

retail network is indicative of why significant reform of the Trade Practices Act is required to address small business concerns about market power and unilateral behaviour.

Access for Disabled Motorists

MTAA continues to work with the Australian Institute of Petroleum (AIP) in preparing a guideline for service station operators to assist them address the issue of service station access for motorists with a disability. The Association is conscious of the needs of motorists with disabilities and is attempting to address those needs while also ensuring that service station operators can continue to meet their health and safety obligations and their duty of care to their employees. MTAA has also encouraged its Member bodies to compile lists of their service station members who are able to provide driveway service and to make those lists available on their respective websites.

State of the Automotive Market

The strength of the new vehicle market has continued in 2004; as shown in the table below.

NEW MOTOR VEHICLE SALES IN 2004 COMPARED WITH SAME MONTHS OF 2003									
2004									
	NSW	VIC	QLD	SA	WA	TAS	NT	ACT	TOTAL
Jan-04	21,216	16,857	13,403	4,334	6,249	1,193	498	1,047	64,797
Feb-04	24,955	19,727	15,901	5,059	7,113	1,297	686	1,139	75,877
Mar-04	28,118	22,137	18,611	5,561	8,086	1,343	912	1,278	86,046
Apr-04	23,033	19,083	14,831	4,670	6,529	1,229	812	1,118	71,305
May-04	25,649	20,106	16,373	5,215	7,296	1,513	918	1,209	78,279
Jun-04	31,438	23,929	22,026	6,436	8,969	1,982	958	1,474	97,212
Jul-04	25,031	19,410	17,141	4,949	7,228	1,449	646	1,181	77,035
TOTAL	179,440	141,249	118,286	36,224	51,470	10,006	5,430	8,446	550,551
Annual difference 2003/04	1.87%	1.00%	16.44%	3.33%	8.24%	12.44%	10.75%	-3.21%	5.32%
Monthly difference 2003/04	-7.23%	-8.65%	9.07%	-6.59%	3.66%	2.99%	1.73%	-6.34%	-3.13%
2003									
	NSW	VIC	QLD	SA	WA	TAS	NT	ACT	TOTAL
Jan-03	20,648	16,490	11,632	3,988	5,762	1,025	534	1,091	61,170
Feb-03	21,965	18,152	12,956	4,754	6,164	1,069	582	1,093	66,735
Mar-03	25,541	20,408	14,843	5,147	6,917	1,218	769	1,270	76,113
Apr-03	23,588	18,368	13,386	4,507	5,948	1,177	728	1,163	68,865
May-03	26,259	21,053	14,967	5,273	7,127	1,454	789	1,340	78,262
Jun-03	31,168	24,132	18,084	6,089	8,662	1,549	866	1,508	92,058
Jul-03	26,983	21,248	15,716	5,298	6,973	1,407	635	1,261	79,521
TOTAL	176,152	139,851	101,584	35,056	47,553	8,899	4,903	8,726	522,724

The market is in fact up by 5.32 per cent on last year's figure for the same time. The Federal Chamber of Automotive Industries' prediction for the year is new vehicle sales of 960,000 units. In June 2004 the Australian Bureau of Statistics reported that finance commitments for motor

vehicles reached in excess of \$2 billion. Competition in the new vehicle market remains intense. Regrettably however, the used vehicle market has continued to be sluggish.

National Motor Vehicle Theft Reduction Council

The National Motor Vehicle Theft Reduction Council (NMVTRC) has continued its post-implementation review of written-off vehicle registers (WOVRs). During the year the Association considered a report from NMVTRC which recommended policy positions for achieving national consistency on WOVR practices and sought the agreement of stakeholder organisations to those recommendations. Those recommendations included a national notification form, guidelines for assessing statutory write-offs to encourage more consistent assessment across jurisdictions, guidelines for the future management of statutory write-offs that were legally registered by some jurisdictions prior to them establishing a written-off vehicle register, actions to facilitate the mutual recognition of vehicle identity inspections and the treatment of third party vehicles assessed by insurers. Following consultation with Members, MTAA was pleased to endorse the Council's approach to this important issue.

Another initiative pursued by the NMVTRC to assist in the reduction of motor vehicle theft and vehicle rebirthing has been a voluntary Code of Practice for auto parts recyclers. MTAA was one of the stakeholders consulted by NMVTRC about such a code. The NMVTRC has agreed to underwrite the Year 1 implementation costs associated with the introduction of the Code.

MTAA remains involved in the excellent work of the Council and is in the process of seeking further changes to the national rules governing WOVRs to enable a permanent record to be placed on the WOVRs once a vehicle has been written-off.

Tony Selmes, Executive Director of MTA-Q continues to represent MTAA on the Council.

GM Daewoo

On 1 June 2004, Holden Ltd publicly announced the winding down of GM Daewoo Australia Pty Ltd (GM Daewoo) and its total withdrawal from the local market by Friday, 31 December 2004. Holden's announcement was accompanied by a conditional offer to dealers to repurchase their parts and vehicle stock in the event that they met two distinct performance targets over the remainder of the year.

MTAA reviewed the arrangements and was concerned about the legality of GM Daewoo's actions under the *Trade Practices Act 1974*. As a result of those concerns, MTAA made representations on behalf of the affected dealers to both the ACCC and to the Minister for Small Business, the Honourable Joe Hockey MP. A meeting was subsequently held between MTAA and representatives from the ACCC and as a result of that discussion, the ACCC sought further details from MTAA, especially in relation to the impact that the announcement of GM Daewoo's withdrawal had had on dealers.

MTAA, in consultation with its Members, sought further information from GM Daewoo dealers about the impact on their businesses of the ending of the franchise relationship. In general the response from dealers was not sufficient to put forward any further case to the ACCC. This low response rate is in many ways unsurprising, as a number of Daewoo franchisees also hold Holden franchises and their need to preserve that relationship would have acted as a disincentive to pursuing any concerns that they may have had about the ending of their GM Daewoo franchises.

While MTAA acknowledges that markets change and that suppliers at times need to alter their business arrangements, it is always disappointing when those changes impact somewhat unfairly on our Members.

Environmental Issues

Environmental issues are becoming an increasingly important focus of the Association's work. As society demands more environmental responsibility from both producers and consumers so the

extent of governments involvement in aspects of retail motor traders businesses has increased. That in turn has led to a greater involvement over the last few years by the Association in the development of environment related policies; ranging from cleaner fuels and lower vehicle emissions, the regulation of air conditioning gases, various product stewardship arrangements to the monitoring of underground fuel storage tanks. The focus of the National Secretariat over the past 12 months has been on air-conditioning regulatory and administrative arrangements and discussions on a waste tyre levy benefit scheme.

Air Conditioning

Automotive air-conditioning has continued to be an important issue for MTAA over the past year. In January, the Department of the Environment and Heritage released a Discussion Paper on the management of ozone depleting substances and synthetic greenhouse gases following the passage of the *Ozone Protection and Synthetic Greenhouse Gas Management Act* in 2003. MTAA and its Members have for some time held the view that the interests of retail motor traders would be best served by the Government establishing separate secretariats (one each for the automotive air-conditioning sector and the stationary air-conditioning sector) for the proposed Industry Board overseeing the new regulatory arrangements. In its submission, MTAA expressed that view, but did however acknowledge that it would be willing to enter into discussions with other industry parties regarding a joint secretariat if that was the Government's preference.

In the interim, the activities of the National Air-conditioning and Refrigeration Council (NRAC) caused a significant degree of concern and confusion among MTAA's Member bodies. MTAA wrote to the Department expressing concern about NRAC's behaviour and requesting that the Department address those concerns. In June, representatives from the National Secretariat met with officials from the Department to discuss those issues and the Department subsequently agreed to ensure that the information being provided to industry participants by NRAC was accurate.

In July, the Department invited four groups, including MTAA and NRAC, to tender for the provision of secretariat services to the proposed industry board. MTAA, with the assistance of VACC, considered a number of options in response to that invitation, including lodging a tender by itself (for the automotive air-conditioning sector only) or lodging a joint tender with NRAC. The Department's stated preference was for a single body to provide secretariat services to a single industry board, which would cover both the automotive and stationary air-conditioning sectors. The Department made it clear that it would not accept a tender which only addressed one of those sectors. In light of the Department's stance, MTAA, in consultation with VACC, determined that it would not be possible for MTAA to lodge a complying tender on its own.

Legal advice obtained by VACC raised a number of issues regarding the potential exposure and liabilities of MTAA and its Member bodies should such a joint venture tender be successful and it became evident that those issues would not be able to be resolved within the limited time available. NRAC ultimately decided to submit a tender in its own right. With MTAA unable to lodge a complying tender on its own or to reach agreement with NRAC on a joint tender, MTAA was not able to participate in the tender process.

In August, the Department also released draft *Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulation 2004* for public comment. MTAA, in consultation with its Members, provided the Department with some brief comments on those regulations. At the time of writing this report, the Department had not yet announced the outcome of the tender process or provided any feedback regarding the draft regulations.

Waste Tyres

For some time now MTAA and ATDRA have been participating in Round Table discussions on the issue of waste tyres. Those discussions have been convened by the Commonwealth Department of the Environment and Heritage (DEH) and follows various industry and government considerations of waste tyre issues over the past three or four years. The waste tyre management issues under consideration are that there is a need; to reduce tyres entering landfill, to reduce the illegal dumping of tyres and to recover the resource value inherent in tyres.

The particular 'product stewardship' arrangement under consideration by the Round Table participants is a levy-benefit scheme. That is a scheme under which a levy (of an amount to be determined) would be imposed on all tyres entering the Australian market for the first time and where a benefit would be paid for particular qualifying uses of waste tyres.

After much discussion about whether the scheme should be mandatory or voluntary, it is agreed, in principle, now by the Government and Round Table participants that what is likely to be formally put forward is an industry-sponsored (that is by the manufacturers and importers) voluntary scheme which is underpinned by some form of Government regulation to address the question of free-riders. The exact nature of any proposed regulation is yet to be finalised, however the fact that the Government is now prepared to consider regulation to address 'free-riders' is an important step forward.

The position taken by MTAA/ATDRA in all of the discussions to date is that if there is to be a scheme which imposes a levy on tyres then:

- that levy should be collected at the point of manufacture or import. That was agreed by the manufacturers and importers and seen as a sensible approach;
- any levy should be able to be passed through to consumers; and
- that the scheme should be a mandatory one, not a voluntary one. If a voluntary scheme is introduced then there is potential for 'free-rider' issues to arise which will distort the market at the retail end.

The question of how any benefit payment is to be structured is to be further discussed by the Round Table participants. The quantum of a proposed levy and benefit that might be payable is the subject of current economic modelling being undertaken by both the Department of Environment and Heritage and the producers. It is proposed that the scheme will cover all tyres. However, it is acknowledged that tyres in rural and remote areas (in terms of collection) and the larger tyres used in earthmoving and mining activity pose a particular challenge and will require further consideration and a separate Government sub-committee has been established to consider those issues.

It should be noted that while significant progress has been made in terms of the outline of any levy-benefit scheme and how it should be operated and administered there is a considerable amount of work yet to be done before any scheme is finalised and the necessary Government processes completed. It is also very likely that the whole arrangement will need to be authorised by the ACCC and that process in itself could take some time.

Drought Assistance

Despite the breaking of the drought in a number of regions, many in Australia's rural community continue to struggle with the extensive and devastating consequences of drought. MTAA and the Farm Machinery Dealers Association of Australia (FMDAA), have continued to pursue the Government in relation to the impact of drought on farm machinery dealers. Farm machinery dealers are an integral part of rural communities throughout Australia, providing a source of employment and skills training in regional areas. The inextricable linking of farm machinery dealers to farmers has resulted in a mixing of fortunes which of late have been severe and unfortunate.

Over the past year, MTAA and FMDAA have continued to press the case for assistance to farm machinery dealers, specifically in their attempts to retain qualified and appropriately-skilled staff. The loss of trained staff during times of drought makes the maintenance of rural and regional enterprises difficult, if not impossible, especially when staff fail to return following the easing of a drought. MTAA and FMDAA have pressed the Government to:

- subsidise technician's wages whilst idle during extended drought and attending further accreditation;
- subsidise the wages for technical and other dealership staff undertaking product and other training not readily available through local institutions; and

- subsidise technical staff wages, cover travel, accommodation and training costs while attending specialised training courses.

In light of the Minister for Agriculture, Fisheries and Forestry's concession at the National Drought Round Table Meeting held in April that Government assistance to farmers had not been far-reaching enough to support regional business communities, MTAA and FMDAA will continue to seek Government assistance and action on behalf of our rural and regional dealers.

Training Issues

The Australian National Training Authority (ANTA) has been in the process of rationalising the training advisory network and, as alluded to in the 2003 Annual Report, had proposed that Automotive Training Australia (ATA) should be amalgamated into the Manufacturing Industry Skills Council. MTAA, along with the other major shareholder in ATA, the Federal Chamber of Automotive Industries (FCAI), has not welcomed this proposal and believes that it is not in the best interests of the automotive industry. MTAA and FCAI have also been concerned that ANTA's proposal would see the automotive industry lose control over its training arrangements. Both MTAA and FCAI therefore remain of the view that there should be a stand-alone automotive industry training body and that that body should be funded by the Federal Government. MTAA has advised the Working Party convened to establish the Manufacturing Industry Skills Council that it would not be joining that Council.

Following ATA's refusal to join the new Manufacturing Industry Skills Council, ANTA has indicated that it will not recognise or fund ATA from July 2004. At the time of writing this report, discussions were continuing with the Federal Government about the future funding and recognition of ATA and FCAI has recently advised that it is hopeful of securing funding and recognition for ATA from the Federal Government. MTAA is grateful for the work that FCAI has done in relation to this issue.

MTAA is also mindful that the past few months will have been particularly unsettling and difficult for the staff of ATA and it is appropriate to recognise in this report that they have continued to carry out their work in a very professional manner during this difficult period.

Competition and Regulatory Activity

The vast array of matters affecting key sectors of the motor trades has continued to necessitate MTAA's involvement in discussions with Australia's competition and regulatory agencies. The Australian Competition and Consumer Commission has been the main focus of that activity. That said however, MTAA has had valuable consultations with a number of other Government departments and statutory authorities during the year in developing policy and responding to the various matters that arise for small business and the retail motor trades.

ACCC Authorisations and Notifications

As it has since its inception, the MTAA National Secretariat continued to monitor matters which have been the subject of applications to the ACCC for authorisation of possibly anti-competitive conduct and of notifications of such matters as third-line forcing. This monitoring involves constant observation of the ACCC website, consideration of details submitted to the ACCC by notifiers and submissions to the ACCC where applications appear to have a real and damaging impact upon the retail motor trades.

Over the past few years the National Secretariat has noticed an increasing number of Notifications being made to the ACCC. A large number of those have been in relation to shopper docket arrangements with petrol retailers. However, third line forcing notifications associated with motor vehicle retailing have also been increasing. Both the National Secretariat and its Members have concerns about this, as it seems that in some cases the effect of the notification is to introduce, unilaterally, changes to the franchise agreements.

For that reason, MTAA has not hesitated to consult with Members about the actual impact of various notifications and to convey any concerns to the ACCC. As always, the ACCC's cooperation in granting MTAA the opportunity to examine and comment upon these matters is greatly appreciated.

Codes of Conduct

MTAA has long recognised the value and supported the development of Codes of Conduct. The Association has, since its inception, been involved in extensive and protracted discussions with various parties and government bodies on the question of Codes of Conduct. MTAA was one of the major parties responsible for the introduction of the mandatory Franchising Code of Conduct and has over many years been involved in discussions regarding an Oil Code, an Insurance and Body Repair Industry Code and more recently in consultations with the ACCC in its deliberations on voluntary Codes of Conduct.

In October 2003, the ACCC released for public comment a discussion paper and draft Guidelines for its proposal to assist industry to develop voluntary codes of conduct and for its endorsement of those codes that prove effective. The ACCC received a very mixed reaction to that discussion paper and subsequently hosted a roundtable in February 2004, where interested parties were able to express their concerns. Comments on the guidelines included that they were too proscriptive to be of generic applicability, that existing voluntary codes had been far from successful and that consumer perception in relation to the validity of codes may be skewed by the terms 'endorsed' and 'unendorsed'. A representative from the National Secretariat attended that roundtable.

The ACCC is now revising the Guidelines to take account of issues raised during the roundtable and following further consultations proposes to launch the Guidelines in late 2004. While the ACCC continues to enjoy the full support of MTAA in its pursuit of more equitable business conduct, experience has shown that voluntary codes are often ineffective in curbing unconscionable big business practices and as such MTAA remains firmly committed to the development of mandatory codes of conduct between big and small business.

ACCC Consultative Committees

MTAA continues to be an active participant in a number of advisory committees convened by the Australian Competition and Consumer Commission. The Association is a regular participant in the ACCC Consultative Committee, the ACCC Small Business Advisory Group and the ACCC Franchising Consultative Committee. The Association welcomes the opportunity to participate in those Committees and considers them valuable occasions to raise and discuss Association policy matters and compliance activity with various Members of the Commission and its senior staff. The National Secretariat considers its participation to be important and valuable.

MTEAC Activity

With the calling of a Federal election for 9 October 2004, retail motor traders will once again be involved in seeking to ensure that candidates in the election understand the issues of importance to the motor trades and that they are aware of retail policy interests and concerns to retail motor traders. This activity is of course coordinated through the Motor Trades Electoral Action Committee (MTEAC).

MTEAC is one of the most significant political action committees in Australian politics. As the political arm of the retail motor trades, MTEAC acts according to the instructions of the Executive of the Committee as an essentially political, but non-partisan Committee supporting candidates across all parts of the political spectrum. Upon the advice of MTAA and its Member bodies, MTEAC aims to continually create, maintain and influence the awareness of all political parties and politicians on motor trades matters. The primary role of MTEAC is to assist the MTAA Federation in achieving its objectives for all retail motor traders by promoting the Federation's views in the political arena.

Through this process MTEAC endeavours during the election campaign to have individual politicians better informed on motor trade matters in the belief that better informed politicians must influence party politics and, in turn, government policy.

Housekeeping

Taxation

Taxation and tax administration issues continue to be a burden on retail motor trades. The Australian Taxation Office (ATO) has notified of its intent to place greater focus on record-keeping by businesses. The ATO also recently released its compliance program in which it announced that it will be examining high-risk cash economy industries such as motor vehicle retailing and wholesaling and will focus on compliance situations where the reporting of some aspects of employer obligations does not correspond with other reporting. The ATO also reports that it will be investigating all cases where an employee claims that their employer has not paid the proper amount of superannuation on their behalf.

In addition to these issues the ATO is considering a number of specific issues which impact on the retail motor trades, including the superannuation guarantee charge, the operation of the luxury car tax, the taxation treatment of 'hold-back' and other incentive payments and the operation of the Goods and Services Tax in relation to charities and other GST free sellers of vehicles.

The Association is to convene in the near future a 'tax forum' where these matters will be discussed and outcomes proposed that could be sought on behalf of the trades in a co-ordinated manner with the ATO.

D-Auction

In early to mid June the National Secretariat received advice from the Chief Operating Officer of D-Auction Internet Pty Ltd that Macquarie Bank (MBL) had received a formal offer from the Fowles Auction Group to purchase all of the issued shares in D-Auction. Macquarie had previously indicated to the D-Auction Board that it was considering selling its interest in D-Auction.

After a great deal of negotiation between MTAA House Pty Ltd and Macquarie Bank as to the terms of the sale to Fowles, ownership of the D-Auction business transferred to Fowles in early September 2004. MTAA House Pty Ltd is now a party to a Consultancy Fee Sharing Agreement with Macquarie Bank Limited. The agreement provides that MBL has the primary obligation to provide consultancy services to D-Auction and Fowles. MBL engages MTAA House Pty Ltd to assist in the provision of Consultancy Services as may be requested from time to time for the period to the end of the subsequent term; that is until the earlier of 1 April 2008 or the date upon which the NSW Government contract terminates.

MTAA Super

For the third successive financial year MTAA Super's investment performance has been independently ranked in the "top 10" of Australian superannuation funds. To further top this excellent result, independent researcher SuperRatings ranked MTAA Super's most popular investment option, the Balanced option, as No. 1 in Australia in its benchmark survey for the last one and three years as at June 2004.

For the 2003/04 financial year all of MTAA Super's investment options produced positive returns. Crediting rates for the 'pre-mixed', diversified options, were:

- **Conservative** **10.30%**
- **Balanced (the Fund's default option), and 17.00%**
- **Growth** **17.00%**

For the individual asset classes (the Fund's "My Choice" options) the rates for the period that these options have been available to members were:

○ Cash	3.69%
○ Diversified fixed interest	2.08%
○ Australian shares, and	19.24%
○ International shares	17.84%

Total funds under management (FUM) are currently in excess of \$2.2 billion having increased more than 24% in the last financial year due to excellent investment returns and new contributions. Total membership is more than 219,000 members, up by more than 1.5%; and employer-sponsors total 16,035, an increase from 14,274 last year. In a very competitive financial services market and an environment of contraction/rationalisation within many segments of the retail motor trades, these growth figures are pleasing.

As well as achieving a top ten per cent ranking for the last year, the Fund's performance continues to rank it in the top quartile over 1, 3 and 5 years, out-performing 47 other funds in the SuperRatings Investment Survey Balanced Option category for 2003/04 over one and three years, and outperforming 44 funds over five years;

This translates into the MTAA Super Fund being placed as No.1 for its balanced option for 1 and 3 years, and number 4 over a 5 year period. MTAA Super Fund also performed exceptionally well in its growth option, ranking number 5, 2 and 4 for 1, 3 and 5 years respectively. Additionally, the MTAA Super Fund's conservative option produced excellent results, with a ranking of 1, 2 and 6 over 1, 3, and 5 years respectively.

The Fund has continued to focus on providing membership benefits to both employer and employee members; including access to competitive home and business loans and other financial services.

The passage of the 'choice of fund' legislation, effective from 1 July 2005 presents a number of challenges and opportunities for the Fund and retail motor trade employers. The Fund will, in the coming weeks, be consulting with the Federal Industrial Council and Member bodies about how the Fund and the Federation might assist current employer members to maintain their and their employees support for the Fund.

MTAA House

Until early September 2004, MTAA House was fully tenanted during the past year. However, the Defence Housing Authority recently advised of its intention not to exercise its lease option to renew for a further term. MTAA House is currently negotiating with an existing tenant to take up a portion of that space and the remainder will be available in late September for tenancy.

Regular financial reports on MTAA House are provided to shareholders. The most recent valuation carried out on the building values it at \$17.5 million as at 1 July 2003.

MTAA Events

As part of its activities MTAA supports its Member body the Australian Automobile Dealers Association (AADA) in the convening of AADA's Annual Dealer Convention and hosting a tour to the Convention organised by the United States National Automobile Dealers Association. The AADA Convention, the premier event on the automotive calendar, presents dealers with the opportunity to hear high quality speakers, both Australian and international, discover a wide range of new products for dealerships and enjoy some of the nation's finest entertainers. Each year AADA presents a truly unique event, and this year was no different. From this year organisation of the National Dealer Convention and the NADA Study Tour has been outsourced to Salefest Advertising & Marketing under the guidance of Patrick Tessier. The 2004 Convention took place over four successful days at Star City in Sydney. The Organising Committee has decided that the 2005 Convention is to be held on the Gold Coast.

Federal Industrial Council (FIC)

The Federal Industrial Council, a forum in which individual motor trade organisations meet to co-ordinate the industrial relations interests of the retail motor industry employers, addressed a number of issues during 2004. These included

- working closely with the Australian Chamber of Commerce and Industry in relation to the Federal Redundancy Case and ACTU Work and Family Case;
- pursuing in the relevant jurisdictions, reforms to unfair dismissal legislation, OH&S and seeking reforms to industrial manslaughter legislation;
- in conjunction with the Member Associations the preparation and adoption of a policy position and national approach in response to union award claims concerning casual rates of pay and other award conditions; particularly in relation to service station operators; and
- co-ordinating a national survey of the retail motor industry which formed part of submissions to the national wage case

MTAA Liaison Activity

One of the most important roles undertaken by the National Secretariat of the MTAA is in making personal representations on a wide range of issues relating to the affairs of the motor trades. Over the last twelve months, the National Secretariat has fulfilled this capacity in seeking amendments to the review of the *Trade Practices Act*, in pressing for reform of the petroleum industry, in continuing discussions on issues relating to insurance and body repair and in its continued opposition to changes to training advisory arrangements.

MTAA's mandate continues to be apolitical. Its operations have always been non-partisan and will remain so. MTAA seeks to establish lines of communication and cooperation with all parties at all levels, relying upon the quality of its arguments and the influence of over 40,000 business proprietors, 250,000 employees and 215,000 contributors to the MTAA Superannuation Fund. MTAA's success in attracting government attention and drawing favourable policy decisions across a wide range of issues is a result of its formidable ability to define agendas and promote valuable discourse.

Indeed, as the election approaches it seems clear that the views and interests of small business have developed into a critical battleground between both major political parties and in its representative capacity MTAA continues to press for the equitable recognition of this significant sector of the economy and community.

Assistance from Member Bodies

As always, MTAA gratefully acknowledges the generous support, cooperation and assistance provided by its founding Member bodies. It is through the co-ordinated endeavours of all MTAA stakeholders that the retail motor trades have secured the level of recognition and respect they enjoy today at the national level.

As the number and frequency of issues affecting our trades multiples year by year, the resources and advice supplied by the Member Associations and Automobile Chambers of Commerce to the National Secretariat provides the invaluable base upon which we strive to cultivate recognition of the contributions to our economy made by the Australian automotive industry. Additionally, the provision of management and administrative resources for the Allied Trade Associations which MTAA represents at the national level is greatly appreciated, as is the hosting of numerous national meetings.

MTAA extends its deepest thanks to its Executive Director and the Directors, Executive Directors and all staff of each of the Member Associations and Chambers. After 16 years in operation, this national Association has never been more highly regarded, and it is through your enduring efforts that we will continue to build upon this legacy now and into the foreseeable future.

MTAA NATIONAL SECRETARIAT

Canberra

23 September 2004