



Motor Trades Association of Australia

MCCA Australian Consumer Law Draft Regulations Consultation
Infrastructure, Competition and Consumer Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: australianconsumerlaw@treasury.gov.au

Dear Sir/Madam

Thank you for the opportunity for MTAA to provide comments on the draft Competition and Consumer (Australian Consumer Law) Amendment Regulations 2010. MTAA understands that the introduction of the ACL on 1 January 2011 will result in some quite significant changes in consumer law; particularly in the areas of warranties/guarantees and product safety.

The introduction of a single national consumer law (ACL) is supported by MTAA. However the Association is anxious to ensure that there are no unintended consequences or onerous compliance obligations for retail motor traders.

Two issues arise then in respect of the draft regulations.

The first is in relation to sections 131 and 132 of the ACL and the mandatory reporting by suppliers (broadly defined) of goods and services that have caused or may have caused death or serious injury or illness. MTAA notes that draft regulation 91 will provide that a supplier is not required to notify under sections 131 and 132 if the supplier or another person is required to make a notification under various named state or territory laws (and their regulations) related to road transport. MTAA believes that regulation 91 as currently drafted will assist in addressing the Association's concerns about the potential compliance burden for retail motor traders in having to notify of motor vehicle accidents which might result in the death or serious injuries of persons involved in those accidents.

However there are also accidents involving off-road vehicles which can involve death and serious injury and it is unclear that those accidents (which may well not involve questions of product safety) would be covered by the proposed regulation 91. The 'vehicles' involved may include farm vehicles and equipment and other vehicles not registered for road use. In many instances such accidents would be required to be reported to the relevant 'worksafe' or 'workcover' authorities. MTAA therefore believes that consideration should be given to the inclusion of the relevant state and territory worksafe or workcover legislation in the proposed regulations 91.

The second issue is in relation to the proposed regulation 90 and the obligation to provide prescribed notices to consumers in certain circumstances relating to the repair of goods which contain user-generated data and or where goods presented for repair may be replaced with refurbished goods. The requirement for a notice to be provided to customers will have an impact on the retail motor trades. MTA believes that if a notice is to be required it should be sufficient for such notice to be prominently displayed in the place of business. Customers will then be alerted to that fact and can then discuss the issue with the repairer.

Both mechanical repairers and body repairers may use reconditioned/refurbished parts in the repair of vehicles. In the case of mechanical repairs that is a matter between the repairer and the customer. In the case of body repairers though, the decision to use reconditioned/refurbished parts may not be theirs, but will often be a decision made by motor vehicle insurers. In such circumstances it is unclear who has the responsibility (under the proposed regulations) for notifying the vehicle owner.

The wording of the prescribed notice (as set out in draft regulation 90) could imply that the whole vehicle is to be replaced by a refurbished good – when clearly it will only be a part of a vehicle. It is suggested that the wording be revised to refer to a ‘part’.

If you would like to discuss these matters further please do not hesitate to contact me.

Yours faithfully

A handwritten signature in cursive script, appearing to read "Sue Scanlan".

SUE SCANLAN
Acting Executive Director

13 October 2010