



## Motor Trades Association of Australia

Ms Maggie Eibisch  
Secretary  
Regulatory Burdens: Business and Consumer Services  
Productivity Commission  
GPO Box 1428  
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Via email: [regulatoryburdens@pc.gov.au](mailto:regulatoryburdens@pc.gov.au)

Dear Ms Eibisch

I am writing to you on behalf of the Motor Trades Association of Australia (MTAA). MTAA is a federation of various state and territory motor trades associations and the Australian Automobile Dealers Association (AADA). MTAA also has a number of Affiliated Trade Associations (ATAs), which represent particular sub-sectors of the retail motor trades, ranging from motor vehicle body repair to automotive parts recycling. The retail motor trades in Australia are comprised of some 100,000 businesses, employing over 308,000 people and which generates an annual turnover of approximately \$160 billion.

I am writing to you with regard to the Commission's recent Draft Research Report arising from its annual review of regulatory burdens on business. In particular, I refer to the discussions in that Report concerning the Trade Practices Act 'Clarity in Pricing' Amendments and the Commission's recommendation in that context with respect to restaurant and café menus.

I note with interest the Commission's Draft Recommendation 3.3, which states that:

*The Australian Government should amend the Trade Practices Act 1974 to have restaurant and café menu surcharges for specific days placed outside the scope of the component pricing provisions of that legislation.*

I also note that Recommendation is underpinned by a concluding view of the discussion preceding it that the application of those amendments has, ". . . imposed costs on these businesses without providing any significant additional benefit to consumers."

At the time of those amendment's development, both MTAA and AADA were involved in consultations with the Treasury. In those consultations, both associations sought to raise with Treasury their concerns with respect to the burden those amendment's adoption would place upon, not just the retail motor trades generally, but new vehicle dealers specifically.

The basis of the arguments advanced by the MTAA at that time were to do with, for example, differing registration and stamp duty rates payable in the various jurisdictions; uncertainties as to the final specification of vehicles depending on any options fitted (and if those options were either factory or dealer fitted), and; if the vehicle was purchased privately, as part of a fleet, or for other business purposes. These characteristics each represent factors that are not easily quantifiable in the first instance in the case of a vehicle price enquiry which, when combined, add to the complexity in arrival at a 'drive away price'. Certainly, it is unreasonable for factors such as those to be countenanced with any accuracy when any given motor vehicle is the object of a proposed advertising campaign.

Nevertheless, the selling of new motor vehicles became subject to the operation of the amendments, which caused considerable upheaval in the vehicle sales sector of economy with respect to the various procedures that needed to be adopted by dealers. Those procedures varied depending on the dealer's supplier and / or the state and territory in which they operated. Difficulties were – and still are – encountered when a manufacturer / supplier conducted national sales initiatives. This has led to the development and publication of extensive guidelines for motor vehicle dealers to assist them with their compliance obligations: a situation hardly analogous or comparable to a requirement for a café proprietor to simply maintain a 'parallel' menu for Sundays or public holidays.

In the final analysis, the outcome of the amendment's adoption is that, for a consumer to be certain of a 'drive away price' for a vehicle they intend to purchase, they ultimately need to visit a dealership in person and have the various 'components' of the vehicle's price detailed, explained and quantified to them in accordance with the desired specification of that vehicle as delivered in the jurisdiction of purchase. This represents a process that, in any event, has been the natural order of motor vehicle retailing for some decades past.

It would appear as if the Commission has accepted the Australian Hotels Association view that: “. . . consumers in food and beverage areas were fully able to understand the price they were to be charged as any surcharges were presented in a clear and unambiguous manner.” I would be surprised, therefore, if the Commission would not accept the consonant view of MTAA and AADA that purchasers of a motor vehicle – undertaking a considerably larger capital outlay than that for a meal – also fully understand charges such as stamp duty, or registration fees, or freight-related dealer-delivery charges that are also, “. . . presented in a clear and unambiguous manner.”

I am aware that, in the earlier times leading to the development of the amendments in 2005, there was much media commentary about the practices of certain sectors within the economy. This is discussed to some extent in Pyburne 2008 as referenced in the Commission's Report. Indeed, Pyburne makes it reasonable to conclude that the amendments were – in many respects – a response to media reports rather than any empirical evidence.

I would contend, therefore, that the outcome of any analysis of the impacts upon the new vehicle sales sector of the Clarity in Pricing amendments, in terms of imposed extra costs and complications and, in turn, in the overall benefit to consumers of that imposition, would reveal to the Commission a gain of no real measurable public benefit. Rather, I suggest it would present as an unnecessary cost and compliance burden upon dealers and suppliers, who pass on the costs incurred.

I would argue, therefore, that the same logic employed by the Commission to recommend an exemption from the operation of the Clarity in Pricing provisions of the TPA for cafés and restaurants is equally applicable to the circumstances of motor vehicle dealers. Resultantly, my Members seek the equitable application of that logic such that the new vehicle sales sector of the

economy is able to divest itself of an onerous – and, in some respects, superfluous – layer of regulation through the enjoyment of a similar exemption (or the recommendation for such by the Commission).

I thank you for the opportunity to raise these matters with you.

Yours sincerely

**SUE SCANLAN**  
**A/g Executive Director**

9 August 2010