

Motor Vehicle Industry Review
Department of Commerce (Consumer Protection Division)
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Cloisters Square PO
Perth WA 6850

Email: consultations@commerce.wa.gov.au

15 November 2013

Dear Sir/Madam

Consultation Discussion Paper: Review of the Motor Vehicle Dealers Act 1973 and Motor Vehicle Repairers Act 2003.

The Insurance Council of Australia (ICA) is pleased to make this submission to WA Department of Commerce, Consumer Protection on the issue of motor vehicle regulation. The ICA supports any initiative that will increase clarity and efficiency in the regulation governing the trade in motor vehicles, and motor vehicle repair.

In addition to providing feedback on the matters raised in the Consultation Discussion Paper, the ICA would like to take this opportunity of raising the issue of towing regulation with you. The ICA worked closely with the government on this issue in 2009 and sat on the Roadside Vehicle Removal Advisory Committee. As part of this process we commissioned a report in 2009 titled: "A review & comparison of tow truck operations in a number of Australian jurisdictions". We would be happy to provide you with a copy of the report. We look forward to discussing the issue with you further.

The purpose of this submission is to provide feedback to WA Department of Commerce, Consumer Protection on the Consultation Discussion Paper, from the perspective of the Australian general insurance industry. As a number of ICA members may provide individual submissions to this Review, the ICA will comment broadly on some of the topics raised.

Section 2.3 Consumer Protection Snapshot

As the discussion paper notes, during 2011-12, the WA Department of Commerce, Consumer Protection dealt with 600 matters in relation to motor vehicle repairers. Of the 210 motor vehicle repairer compliance and investigation matters dealt with, the main outcome was:

- *In 2% of cases, prosecution action was approved; and*
- *In 1% of cases, an infringement was imposed.¹*

¹ Consultation Discussion Paper, p15

We also note that that “in 45% of cases, there was no action taken due to insufficient evidence, no offence detected or other reason.”² The ICA submits that the WA Department of Commerce, Consumer Protection should be provided with greater inspection and enforcement powers to improve this statistic. Such powers would include, in our view, the right to issue rectification orders.

In NSW the industry has supported the Fair Trading consolidation of motor dealer and repairer Acts, with particular reference to equipping trade qualified inspectors with the ability to issue rectification orders and increased powers of entry and inspection to allow appropriate action when investigating complaints or breaches of the law.

For consumers whose vehicles are being repaired outside the insurance framework, remedies for rectification of faulty repairs are of particular importance. It would make sense to allow the WA Department of Commerce, Consumer Protection to issue rectification notices following inspection.

Issue 5.1 - Repairer Licensing

The ICA supports appropriate red-tape reduction and self-regulation where there are other adequate safeguards in place to protect consumers. However we submit that removing all licensing requirements would pose a level of risk for consumers, and we support the issues highlighted in the Consultation Discussion Paper:

- *there are a high number of transactions as repair services are used by many consumers each year;*
- *the quality of repair work (including parts used) is difficult for most consumers to assess; and*
- *dishonest conduct or inadequate repairs can have significant consequences, both financially and in terms of safety.*³

In addition we submit that continued repairer licensing will enhance the consistency of the degree of skills, equipment, technology and expertise within the WA smash repair industry. As such we support the retention of the licensing of motor vehicle repair businesses in WA that delivers consumer protection, is outcomes focussed and includes appropriate provisions and sanctions for the enforcement and cancellation of licenses as required.

We do however agree that that there are a number of duties for which a repair licence need not be required. Such duties would include the fitting of non-safety related accessories including audio systems and wheel trims which do not affect the performance, safety or security of a vehicle.

2 ibid

³ Consultation Discussion Paper, p 51

Issue 5.2 Classes of Repair Work

In light of our views concerning repairer licensing above, the ICA also supports the retention of the classes of repair work currently provided for under the *Motor Vehicle Repairers Act 2003*. We also do not support the amalgamation of repair classes as motor vehicles are increasing in technical complexity. Currently there is no distinction between licenses held for repair work to light passenger vehicles, commercial vehicles and heavy transport vehicles. We submit that consideration be given to identifying those classes particularly applicable to various types of vehicle requiring repair.

In the event that the WA Department of Commerce, Consumer Protection wishes to reduce the scope of licensing, the ICA believes that the retention of classes which represent structural repairs should remain subject to licensing requirements for the same reasons noted above.

Issue 5.8 Impact of the Australian Consumer Law

The ICA agrees that there should be greater education of the relevant provisions within the Australian Consumer Law (ACL), in terms of how they apply to motor dealers and repairers. This could be provided by the WA Department of Commerce, Consumer Protection via relevant internet sites and other web-based applications.

In relation to where ACL and State legislation intersect on consumer guarantees for services, it is the view of the ICA that ACL provides sufficient protection for consumers, and there is no need for these provisions to be replicated in a consolidated Act. This will also reduce any confusion which may arise through the interaction of the state and federal legislation.

We would, however, suggest that the WA Department of Commerce, Consumer Protection consider implementing an appropriate education campaign focussing on uninsured consumers to ensure that they are aware of their rights under the ACL.

Issue 6.1 - Consolidation of the *Motor Vehicle Dealers Act 1973* and *Motor Vehicle Repairers Act 2003*

The ICA supports the consolidation of the *Motor Vehicle Dealers Act 1973* and *Motor Vehicle Repairers Act 2003*. We expect that this will enhance clarity and efficiency in the regulation of motor vehicles in Western Australia.

We would however recommend that, where this consolidation would potentially see regulation extend from the motor dealer to the motor repair sector, or from the motor repair sector to the motor dealer sector, these instances should be identified and opened up to stakeholders for specific consideration and comment.

The ICA also suggests that WA Department of Commerce, Consumer Protection undertakes a targeted program of education in the event that the two acts are consolidated to ensure that any changes made are well understood by small businesses that are simultaneously complying with many other regulations.

Conclusion

The ICA wishes the WA Department of Commerce, Consumer Protection every success for the conduct of the current Review of motor vehicle legislation in WA.

We see value in consolidating the *Motor Vehicle Dealers Act 1973* and *Motor Vehicle Repairers Act 2003* for efficiency purposes, and are pleased to be able to make a contribution to the Review. We look forward to receiving the outcome of the Review in due course.

If you have any questions in relation to this submission, please don't hesitate to contact Justine Hall, Senior Policy Advisor within the Consumer Relations and Market Development Directorate via email on jhall@insurancecouncil.com.au or phone (02) 9253 5122.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R Whelan', with a long horizontal flourish extending to the right.

Robert Whelan
Executive Director and CEO