
*FCAI Response to the
2013 Review of the
Motor Vehicle
Standards Act*



Federal Chamber of Automotive Industries
Level 1, 59 Wentworth Avenue
KINGSTON ACT 2604
Phone: +61 2 6229 8217
Facsimile: +61 2 6248 7673

Contact: Mr James Hurnall

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1.0 INTRODUCTION

The Federal Chamber of Automotive Industries (FCAI) is the peak industry organisation representing vehicle manufacturers and importers of passenger vehicles, light commercial vehicles and motor cycles in Australia.

The FCAI welcomes the opportunity to provide a response to the Australian Government's Consultation Paper on the 2013 Motor Standards Act Review.

The Government is reviewing the *Motor Vehicle Standards Act 1989* in terms of;

- Whether the objectives of the legislation continue to meet the aims of government and needs of Australia.
- Whether the objects of the Act are appropriate.
- If the legislative framework is best practice in meeting the Act's objectives.

In responding to the Review of the Motor Vehicle Standards Act, the FCAI key messages are:

- Industry requires national vehicle standards regulations and therefore supports the object of the Act *"to achieve uniform vehicle standards to apply to new vehicles in Australia."*
- The FCAI believes that the Act should be strengthened with the appropriate amendments to preclude State/Territory governments from introducing their own additional standards and certification processes to new vehicles.
- The current restrictions on the importation of used vehicles are not adequate as there is the potential for increased consumer risk as the importer does not have the backing of the global brand to provide the full warranty, parts and servicing back-up.
- The FCAI supports harmonisation with UN-ECE Regulations where the case exists for a regulation, i.e. supported by a rigorous process to assess the need, costs and benefits of introducing an ADR.
- Due to the structure and size of the Australian market, introduction of any unique Australian vehicle standard regulation (e.g. ADR) cannot be justified and may be counterproductive and limit the access to new technology.
- As FCAI members supply more than 95 percent of vehicles to the Australian market (and accordingly contribute more than 95 percent of identification plate fees) additional VSSB resources should be allocated to the administration of the certification process (i.e. RVCS) used by vehicle brands supplying new vehicles.
- The existing concessional schemes have the potential to undermine the Government's safety and environmental policy objectives as some schemes require a lesser burden of demonstrating compliance with the national standards (i.e. ADRs).

2.0 RESPONSE TO CONSULTATION PAPER

The Department of Transport and Infrastructure's Consultation Paper poses a number of questions. Following are the FCAI's responses to the questions.

These same questions were also canvassed during a series of consultation workshops held by the Department and the following expands on the responses made by the FCAI and member companies during the workshops.

2.1 OBJECTS AND OBJECTIVES

Section 2.1 of the Consultation Paper seeks stakeholder views on whether the objects of the Act are relevant, meet the broader objectives of the legislation, the government's policy objectives and are still appropriate.

2.1.1 Section 2a The Objects of the Act

The Consultation Paper asks:

- *Have the Act and its Regulations effectively reduced this burden?*

The FCAI considers the Act and its Regulations have reduced the regulatory burden on the industry in general and in particular on FCAI members (i.e. new light vehicles and motorcycle manufacturers and importers) with complying with the ADRs.

The Consultation Paper asks:

- *Considering the range of concessions to the ADRs available through the low volume scheme and other discretionary arrangements for new vehicles (e.g. over length vehicles, special purpose vehicles), is this object still appropriate?*

The FCAI supports the first Object of the Act ("*to achieve uniform vehicle standards to apply to new vehicles in Australia*") to facilitate registration (i.e. first use in transport).

However, the FCAI is concerned that the Act did not preclude the Victorian Government from introducing a unique new vehicle standard for ESC from 2011. The Victorian ESC Regulation added an additional regulatory burden on industry while reducing consumer choice as the number of new model vehicles available to Victorian consumers (especially in the lower cost end of the market) was reduced.

Owing to this, the Act should be strengthened with appropriate amendments that preclude State/Territory governments from introducing their own additional standards and certification processes to new vehicles. The Act and relevant State/Territory legislation should recognise the split in responsibility of:

- The Act sets the standards for new vehicles prior to '*first use in transport.*'
- State/Territory legislation governs the in-service use of vehicles including maintaining compliance with the safety and emission standards that the vehicle was designed and manufactured to meet.

The Consultation Paper asks:

- *Given the global environment of the automotive industry, should there be no or fewer restrictions on the importation of used vehicles?*

Used imported vehicles should meet the same regulatory standards as the new vehicles if the Government is to achieve its safety, environment and vehicle security policy outcomes.

Given the global nature of automotive industry, the FCAI considers that the current restrictions on the importation of used vehicles are not adequate. There is the potential for increased consumer risk as the importer of these used vehicles does not have the backing of the global brand to provide the full warranty, parts and servicing back-up.

Additionally, imported used vehicles are often an older model and therefore may have a lower safety specification than the current model being marketed by the full volume car or motorcycle brand.

2.1.2 Section 2b The Public Policy Objectives

The Consultation Paper asks:

- *Do the objects of the legislation still positively contribute to the identified broad policy objectives?*
- *Should the objects of the Act be amended to increase the legislation's contribution to the broad policy objectives or should the objects be amended to focus on fewer policy objectives?*

The FCAI considers that the objects of the Act contribute to the Government's broad policy objectives of safety, environment and vehicle security and as such do not need to be amended. The current objects, structure of the legislation and legislative review process provides the right framework for the Government to achieve its policy objectives in a balanced and cost-efficient manner.

The structure and relatively small size of the Australian new vehicle market (see Appendix 1 for an overview of the Australian market) means that any new unique Australian vehicle regulations cannot be justified and adopting any unique Australian vehicle regulations may not have the desired effect of 'leading' the world. It may in fact be counter-productive as the increased cost of developing unique model specifications for such a relatively small market will limit Australia's ability to access new state of the art technology.

The Consultation Paper asks:

- *Are there non-regulatory ways of achieving the same policy objectives of road safety, environment, security and consumer choice?*

The Australian Government already contributes to various non-regulatory ways of achieving its policy objectives. For example the Government provides consumer information on vehicle safety through ANCAP, and vehicle environmental performance via the Green Vehicles Guide.

The Consultation Paper asks:

- *What key principles should underpin any changes to the Act?*

The FCAI considers that the key principles to underpin any changes in the Act are the current objectives, i.e. *“to achieve national uniform vehicle standards to apply to new vehicles in Australia”* and *“to regulate the first supply to the market of used imported vehicles”*.

2.2 OBJECT—ACHIEVE UNIFORM VEHICLE STANDARDS TO APPLY TO NEW VEHICLES IN AUSTRALIA

Section 3 of the Consultation Paper recognises the size of the Australian new vehicle market and changes in the market since the introduction of the Act in 1989 and asks if Parts 2, 3, 5, 6 and 7 of the Act continue to support the object to *“achieve uniform vehicle standards to apply to new vehicles in Australia.”*

2.2.1 Section 3a National Standards, Certification and Approval of Road Vehicles

The Consultation Paper asks:

- *In the context of a growing supply market, is the Act sufficiently rigorous to ensure the integrity of the ADRs and compliance of vehicles with the ADRs, including through testing?*
- *What are the arguments for retaining separate ADRs over simply adopting UN-ECE international standards?*
- *Does the Act create barriers to the export of vehicles and automotive parts?*

In the context of the growing supply market, along with Australia signing both the United Nations Economic Commission for Europe (UN-ECE) 1958 Agreement and 1998 Agreement, the Act is sufficiently rigorous to ensure integrity of the ADRs and the broader certification process.

The Act does not create barriers to the export of vehicles and the actions of the Government in signing both the 1958 and 1998 Agreements also facilitates the export of vehicles and components. The FCAI encourages the Government to maintain this approach and continue the policy of harmonizing ADRs with ECE Regulations and also to continue to ‘apply’ as many ECE Regulations as practical.

Harmonisation with UN-ECE regulations does not mean that Australia should adopt any and all ECE Regs or Global Technical Regulations (GTRs). There will be cases where some of the technical requirements of a UN-ECE regulation or GTR may not be appropriate and/or necessary for Australian conditions. Generally, however, there is no case for the retention of unique ADRs which are not aligned with or embodied in international vehicle regulations.

Introduction of any new ADR must be subject to due process that reviews the appropriateness of any regulatory proposal to Australia according to established COAG and OBPR principles and guidelines to ensure that a new ADR is the most appropriate way to address an identified problem and is the best way to deliver the desired outcome. When a

new vehicle regulation is justified, Australia should align any new ADR with the relevant UN-ECE Regulation.

ADR harmonization with UN-ECE Regulations does not mean that Australia has to mandate compliance with all UN-ECE Regulations or the latest level of UN-ECE Regulations. It simply means that UN-ECE Regulations must be allowed as alternative standards for existing ADRs and that all future ADRs must be based on UN-ECE regulations supported by a proper Regulatory Impact Statement.

The Consultation Paper asks:

- *While the Act facilitates the first supply to the Australian market of road vehicles and automotive parts complying with ADRs, are there any gaps in legislation with regard to testing and evidence requirements?*

One of the operational issues arising from the administration of the Act is replacement identification labels/plates. Currently, Administrators Circular 0-3-2 requires the manufacturer to replace a defective label and also allows a manufacturer to provide a replacement label if the original label is lost or accidentally damaged.

The FCAI considers it is opportune to review the current policy of providing a replacement label, when the original label is lost or damaged as:

- With the advancing technology in anti-counterfeiting labels, many more brands are now using secure adhesive labels.
- All state/territory registration authorities have access to vehicle data via NEVDIS and there are processes in place to inspect written-off vehicles (e.g. Written-off Vehicles Register).

2.2.2 Section 3b Administration, Court Proceedings and Miscellaneous

The Consultation Paper Asks:

- *Do these Parts of the Act effectively support the primary objective of road safety through the compliance and audit process, legislated powers and penalties of could they be enhanced? Should legislative powers for recall of vehicles be vested in the Act or remain with Australian Consumer Law?*

The FCAI considers that the Act effectively supports the Government's policy objectives and has sufficient powers for compliance and auditing. Any shortcoming in this area is due to lack of resources rather than any shortcomings in the legislation.

The Australian Consumer Law (ACL) provides FCAI members with a nationally consistent approach to vehicle recalls and clearly outlines the responsibilities of parties where a recall is considered or undertaken (voluntary or otherwise). The ACL also provides guidance where individual states and the Commonwealth may take action on the same issue, again providing some clarity (similar to the Act in this respect). Given the links to consumer needs the FCAI considers that it is appropriate that the recall provisions for vehicles remain in the ACL, guided as necessary by technical advice from the Department.

The Consultation Paper Asks:

- *Are the links with other legislation clear and effective? Are there any jurisdictional gaps that need to be addressed in the Act?*

Linkages to other legislation could be improved, especially where a whole of government approach is required to effectively deliver on the Governments policy agenda for safety or the environment. While the need for a systems approach to safety is well documented and the necessary linkages to various State/Territory legislation (e.g. driver licensing) is well understood, a similar integrated or systems approach to vehicle environmental issues is not adopted.

For example, it is not recognised in Australia that to fully deliver the expected reduction in pollutant emissions with the introduction of Euro 5/6 and also a continued reduction in CO₂ emissions in-service, the market fuel must be consistent with the certification fuel (i.e. 10 ppm sulphur, 95RON). Otherwise, Australians will not receive the full benefit of the additional cost for improved emission technology in new cars.

Vehicles are designed and developed to meet CO₂ targets and/or air pollutant emission standards with an expectation of fuel quality in a particular market. While air pollution emission standards (ADR 79/03 which is equivalent to Euro 5) have been introduced into Australian legislation and CO₂ targets are being considered, the Government has not introduced the concomitant fuel quality standards, i.e. 95RON, 10 ppm sulphur, via the Fuel Quality Standards Act.

The Consultation Paper Asks:

- *Any other comments on the effectiveness of the administrative provisions of the Act in supporting the road safety policy objects of the Act?*

Clause 24 of the Act allows the Regulations to prescribe fees, which are commonly known as compliance (or identification) plate fees in respect of the Commonwealth undertaking activities in relation to the vehicle certification process (e.g. approval of applications, carrying out tests, import approvals and supply of the ADRs). These are currently \$6.50 per vehicle. As the fees are on a 'per vehicle' the FCAI members pay the substantial amount of compliance plate fees collected by the Commonwealth as FCAI members supply >95% of new vehicles to the market (based on 2012 Vfacts). As such, a similar level of resources from VSSB should be reflected in the administration of FCAI member certification activities.

A recent example of the lack of resources available to certification activities was the time taken to complete the Summary of Evidence (SE) Form for the updated ADR 4/05. ADR 4/05 was published on 23 February 2012 to come into effect from 1 July 2013. The SE Form was not published until 14 July 2013 which is after the implementation date of ADR 4/05 and as such added administrative burden to both the industry and government. The industry requires all certification processes for a new ADR completed at least 6 months prior to the ADR implementation timing to allow vehicle brands to begin the certification process.

As it does not appear that sufficient resources are allocated to FCAI certification activities, a conclusion is that FCAI members are cross-subsidising other certification activities (e.g. direct competitors importing vehicles in low volumes). If this is the case, and will remain the

Government's policy, a review of the method of payment of compliance plate fees need to be undertaken.

The administration process for the certification system (RVCS) requires substantial updating. RVCS was developed in the 1990's and uses electronic forms that are no longer supported and are substantially outdated and does not take advantage of modern technology thereby adding additional administration costs to both industry and the government. The update of RVCS should include (at least);

- Web based application and submission of certification evidence.
- Acceptance of ECE type approval for ADRs where ECE Regs have been 'applied' without the need for additional evidence.
- Automatic (email or web based) notification of responses and monitoring of applications.

2.3 OBJECT—REGULATE FIRST SUPPLY TO THE MARKET OF USED IMPORTED VEHICLES

Section 4 of the Consultation Paper relates to used imported vehicles with a focus on the increasing numbers of non-compliant or non-standard vehicles that are imported into Australia through the concession schemes allowed under the Act.

2.3.1 Regulate First Supply to the Market of Used Imported Vehicles

The Consultation Paper Asks:

- *Is there a case for extension of the coverage of the Act to include safety of non-road vehicles or those that cross over between on-road and off road?*

When considering the extension of cover of the Act to off road vehicles it must be recognised that the Motor Vehicle Standards Act currently applies to 'road vehicles' and the object, i.e. *"to achieve national uniform vehicle standards to apply to new vehicles in Australia"* then allows any vehicle that meets the national standards (as demonstrated via certification approval) is then able to be registered and used on the public road system throughout Australia.

ATVs are not designed for un-restricted use on open roads. Therefore, include ATVs and other off-road vehicles in the Act, will require significant changes to the Act and also to State/Territory legislation.

The FCAI questions the perception that safety standards are required for All-terrain vehicles (ATVs) and in particular the statement in the Consultation Paper;

"All-terrain vehicles (ATV), particularly quad bikes, are increasingly involved in accidents and deaths."

This quote is from a newspaper article and is not supported by the facts from the March 2013 Safe Work Australia publication, Work-related injuries and fatalities on Australian farms, also quoted in the Consultation Paper. In this report, Safe Work Australia reported

that during the eight years from 1 Jul 2003 to 30 June 2011, 356 workers died while working on a farming property. Vehicles were involved in 71% (256 fatalities) of incidents;

- Tractors were involved in 26% (93 fatalities).
- Aircraft were involved in 13% (48 fatalities)
- Light vehicles were involved in 8% (28 fatalities)
- ATVs (quad bikes) were involved in 8% (27 fatalities).

It must be stressed that the FCAI and our members strongly support road safety and that actions to address all vehicle related fatality modes should be implemented where possible. For example, there are many things which can immediately be done to reduce the current level of injury associated with ATV usage:

- Choose the right vehicle for the task.
- Ensure all users complete an accredited ATV specific training course.
- Always wear an approved helmet.
- Never allow a child under 16 to ride an adult sized ATV.
- Never carry passengers on single seat ATVs.
- Don't overload an ATV or use inappropriate attachments.
- Never ride an ATV under the influence of alcohol or drugs.

In the event that the Government considers that standards for ATVs need to be introduced, the industry considers that the Government should adopt the leading international standards for ATVs developed by ANSI/SVIA.

As noted above, ATVs are not designed for un-restricted use on public roads and the FCAI would not support any proposals to change the Act that would result in the un-restricted use of ATVs.

2.3.2 Section 4a Registered Automotive Workshops

The Consultation Paper asks:

- *Do the RAWS provisions undermine, support or enhance the main policy objective of road safety and in what way?*
- *Any other comments on the purpose and effectiveness of RAWS?*

The FCAI remains concerned that the RAWS provisions have the potential to undermine the Government's safety and environmental policy objectives as the RAWS has a lower burden of demonstrating compliance with ADRs.

In addition to concerns about undermining the Government's safety objective, the FCAI considers that the RAWS scheme is cross-subsidised by the FCAI members for the certification, compliance and auditing functions undertaken by the VSSB staff (as noted above in our response the Consultation Paper Questions from Section 3a). For purposes of equity, the FCAI considers that the certification costs for RAWS should cover the full cost of certification, compliance and auditing.

The RAWs scheme also increases consumer risk and damage to the vehicle brand image if the RAWs importer does not have the backing of the global brand to provide the full warranty, parts and servicing back-up.

2.3.3 Section 4b Other Concessional Options

The Consultation Paper asks:

- *Should the Act continue to provide regulation of used vehicles through concessional schemes? If no, what other mechanisms should be considered to control importation and supply to the market of used vehicles?*

The FCAI considers that expansion of the current concessional schemes has the potential to increase the consumer risk and brand damage risks that are already current. For example, consumers may not be able to receive full support (i.e. parts, warranty) that is delivered to the market by the mainstream or full volume importer of the particular brand.

Australia's motor vehicle market is the most open market globally (see Appendix A) and this already leads to access to a broader range of vehicles to consumers than is available anywhere else in the world without compromising road safety, environment and security outcomes. Concessional options for commercial operations are not justified and should be removed from the legislation.

3.0 CONCLUSION

The FCAI welcomes the opportunity to provide a response to the Australian Government's Consultation Paper on the 2013 Review of the Motor Standards Act. The FCAI key messages are:

- Industry requires national vehicle standards regulations and therefore supports the object of the Act *"to achieve uniform vehicle standards to apply to new vehicles in Australia."*
- The FCAI believes that the Act should be strengthened with the appropriate amendments to preclude State/Territory governments from introducing their own additional standards and certification processes to new vehicles.
- The current restrictions on the importation of used vehicles are not adequate as there is the potential for increased consumer risk as the importer does not have the backing of the global brand to provide the full warranty, parts and servicing back-up.
- The FCAI supports harmonisation with UN-ECE Regulations where the case exists for a regulation, i.e. supported by a rigorous process to assess the need, costs and benefits of introducing an ADR.
- Due to the structure and size of the Australian market, introduction of any unique Australian vehicle standard regulation (e.g. ADR) cannot be justified and may be counterproductive and limit the access to new technology.
- As FCAI members supply more than 95 percent of vehicles to the Australian market (and accordingly contribute more than 95 percent of identification plate fees) additional VSSB resources should be allocated to the administration of the certification process (i.e. RVCS) used by vehicle brands supplying new vehicles.
- The existing concessional schemes have the potential to undermine the Government's safety and environmental policy objectives as some schemes require a lesser burden of demonstrating compliance with the national standards (i.e. ADRs).

APPENDIX A THE AUSTRALIAN AUTOMOTIVE INDUSTRY

The FCAI is the peak industry organisation representing vehicle manufacturers and importers of passenger vehicles, light commercial vehicles and motor cycles in Australia.

The automotive industry is a major contributor to Australia's lifestyle, economy and community and is Australia's largest manufacturing industry. The industry is wide-ranging – it incorporates importers, manufacturers, component manufacture and distribution, retailers, servicing, logistics and transport, including activity through Australian ports and transport hubs.

The Australian automotive sector exported around \$3.3 billion in vehicles and components in 2011 and annual turnover in the industry exceeds \$160 billion. The industry directly employs almost 52,000 people through Australia's three vehicle manufacturers, dozens of importers and thousands of related component manufacturers. Further, the automotive industry employs nearly 280,000 people directly and indirectly throughout Australia. Around \$470,000 worth of product is generated per employee, a significant contribution to the Australian economy. The industry paid around \$3 billion in wages and salary in 2009/10 and since 2007 the industry has invested more than \$4.5 billion on research and development¹.

As the tariff barriers on automotive products have reduced from 57.5 percent in the 1980's to between 3 and 4 percent the number of vehicle brands and models in the Australian market has increased.

There are now over 67 brands in the Australian market, with just over 1.1 million new vehicle sales per year. That is a lot of brands to service a market of our size equating to only 16,597 new vehicles sold per brand. The following table provides a comparison of the competitiveness of global markets with double the number of new vehicles sold per brand in Canada, almost three times as many in the UK and more the 255,000 new vehicles sold per brand in the USA.

Table A.1 Competitiveness of Global Vehicle Markets²

	Australia	Canada	UK	USA
No. of brands in market	67	49	53	51
Sales	1,112,032	1,620,221	2,249,483	13,040,632
Market size per brand	16,597	33,066	42,443	255,699

¹ Australian Government, Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, Key Automotive Statistics 2011.

² Australian Government, Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, March 2013 Automotive Update.

Australia is one of the most open and competitive light vehicle markets in the world with more than 60 brands, 350 models and 20 source countries. In 2012, only 13 percent of new vehicles sold were manufactured locally with the remaining 87 percent of new vehicles imported from many countries and regions of the world including Asia (more than 60 percent), Europe (14 percent), North and South America (3 percent), and South Africa (3 percent) (see Table A.2).

Table A.2 Country/Region of Origin for New Vehicle Sales in 2012³

Country/Region of Origin	% of New Vehicle Sales
Japan	35%
Thailand	15%
Europe	14%
Korea	13%
Australia	13%
Americas	3%
Other Asia (incl China and India)	3%
Other (incl South Africa)	3%

The motor vehicle is increasingly a global product and one of the most comprehensively regulated products. In considering regulations, the government's role is to balance social and economic benefits with safety and environmental performance.

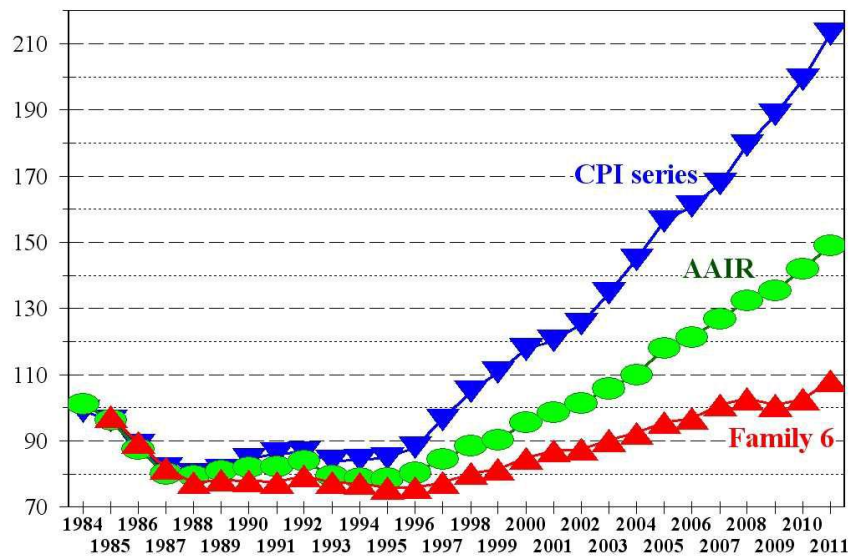
As economies of scale are critical in the automotive industry all manufacturers have tended to limit the number of locations any one model is produced and that model is then cross-shipped to markets where there is demand. This approach initially benefits the manufacturer through reducing costs and ultimately benefits the consumer by improving quality, affordability and increasing product choice.

Australia is a small player with less than 1.5 percent of the global build sold in this market. Consequently, Australia's ability to influence global design and investment is limited and as individual states are even a smaller proportion of the market and their ability to influence multi-national companies is correspondingly very limited.

It has become much easier to afford a new car since the mid-1990s, as earnings growth has exceeded the movements in motor vehicles prices. Figure A.1 shows the affordability of new passenger cars on three separate indices, CPI motor vehicle index, Australian Automotive Intelligence Report index and an index based on a 'Family 6' car.

³ FCAI, VFACTS National Report, New Vehicle Sales, December 2012.

Figure A.1 - Car Affordability Indexes⁴



Motor vehicles are more technologically advanced today than ever before. While the structural changes in the Australian market, in terms of lower tariffs and more brands, has resulted in significant consumer benefits with improved affordability and choice it has also greatly increased the knowledge base required of repairers. The repair industry has had to change to compete in this global market place and cannot slow the rate of adoption of these technologies, or limit consumer choice.

The expansion of new and global brands and models into the market has led to the introduction of advanced security, safety and environmental features in motor vehicles. The introduction of these features is in response to increasingly strict environmental regulations and growing demands from consumers for advanced security and safety features.

Vehicle brands face a range of de-facto regulations in the form of safety and environmental star ratings and buyer requirements. They face a range of competitive pressures to continually improve environmental performance and safety standards. For example, around 30-50 percent of vehicle sales are sold to governments and fleets that frequently require a 5 star ANCAP rating and/or 4 star GVG rating.

⁴ Johns R, 2012, Australian Automotive intelligence 2012 Yearbook.