

26 February 2019

Submission - Mandatory Motor Vehicles Scheme Consumer and Corporations Policy Division

First considered at the Federal level in USA in 2001 and then acted in some States in the USA in 2012 with a Referendum returning 86% support for the Right to repair Bill.

The coalition for Automotive After Market Industry Association Auto Repair Quality, Alliance of Auto mobile Manufacturers, and the Association of Global Auto Makers signed a memorandum of understanding based on State Law to cover all 50 States of the USA, this is also under review again in 2019.

Australia is now almost a decade behind this legislation, and it is making the Australian Repair Industry less competitive to the detriment of thousands of small to medium Australian businesses and consumers.

1. The ACCC has found the Australian Heads of Agreement on access to service and repair information for motor vehicles was ineffective and damaging to consumers.
 - (a) The Federal Government needs to act now to implement a Mandatory Code.
2. Principals of the Mandatory Code
 - (a) A Code needs to be in place as soon as possible eg. Mid 2019 so the industry can commence to understand the pitfalls and errors of such a code. A mandatory code should then be able to be implemented by January 1st 2020, this will highlight to the industry that the Government takes this matter seriously.
3. Scope:
 - (a) The scope of the Code should be fair and reasonable so that qualified mechanics can access reasonable information to service vehicles. This is extremely important in a State as large and diverse as Queensland that has qualified repairers spread much wider than Car Dealers. A lot of these repairers are Small Businesses that support Regional and Remote areas in Queensland.
 - (b) The Code should recognise some trade secrets and commercially sensitive information, but not to the extent that major manufacturers can use these

matters as a way of still containing their grasp over the servicing of vehicles **(no big loop holes that can be used to subvert the Code)**

4. Safety Security or Environment (SSE) Information:
 - (a) This is an extremely important element of the Code that needs to be fair and reasonable so that small operators understand the risks of working on certain aspects of car repair (refrigerant gases, electric vehicles, etc.
 - (b) But as stated in 3(b) this should not be used as an excuse by the manufacturers not to provide information to independent repairers.
 - (c) Criteria for the purchase of access to SSE information should be on a fair basis similar to **what manufacturers/dealers would have to pay.**
 - (d) In 3.26 of the Consultation Paper February 2019 it is stated that the Government would review definitions regularly to ensure that it remains fit for purpose. In our option the **review should be on a yearly basis.**

5. Obligations for all parties to act in good faith and independently resolving disputations with mediation would be acceptable if the penalties for not doing any of the above are severe enough to ensure that all parties do try to resolve disputes in a fastest simplest form.

6. Enforcement:
 - (a) As this has been discussed at all levels of Industry for almost 2 decades it is important that the Government on introducing the Bill advise the Industry that a 3-6 month settling in period is all that is required because of the above-mentioned history.
 - (b) In our opinion the Industry has had more than enough time to understand what is forth coming and the settling period should commence when the Bill is introduced to Parliament.
 - (c) On the commencement of fines for the major manufacturers these should be able to be extremely large so that the industry can fully understand the severity of trying to not be fair to the Australian consumers (***the VW Organisation managed to wrought the World Car Industry***)
 - (d) Penalties up to \$50 million would seem to be logical.

7. Membership: Advisory Committee
 - (a) 3-year terms with a maximum of 2 terms per Committee member, small repairers to have consultation and representation.

Luke Rickuss, Director