21 June, 2013

Ms Donna Weiland and Mr Robert Hogan
The Department of Infrastructure and Transport
Canberra ACT

Via email: MVSAreview@infrastructure.gov.au

Cc: Mr Tony McMullan, Truck Industry Council

Dear Ms Weiland and Mr Hogan,

Subject: TIC Comments for the 2013 Review of the *Motor Vehicle Standards Act 1989*

The Truck Industry Council (TIC) is the peak industry body representing manufacturers and distributors of heavy commercial vehicles (that is, with Gross Vehicle Mass above 3,500 kg) in Australia. All TIC full members are either manufacturers or importers of heavy vehicles on a full volume basis. TIC welcomes the current review of the Motor Vehicle Standards Act 1989 (The Act) as there are a few sections for which an amendment is required to reflect the current state of the vehicle market and technologies involved.

Key Messages from TIC:

- National vehicle standards and regulations are essential to ensure high levels of safety and environmental performance are maintained and improved upon in Australia
- Harmonisation with UN ECE standards is supported, however Australian operating conditions may dictate acceptance of alternative standards from recognised vehicle-manufacturing regions such as North America and Japan.
- Unique Australian regulations should only be adopted when absolutely necessary due to unique operating conditions or configurations that apply (e.g. Heavy Vehicle braking systems)
- TIC members strongly support a regular review and update of the low-volume RAWS and SEVS programs which allow the importation of new and used heavy vehicles that do not have to comply with all applicable ADRs. TIC believes that the vast majority of ADRs should apply to all vehicles imported for commercial sale and on-road use, regardless of volume considerations. In short, full volume importers and low volume suppliers should be subject to a "level playing field".

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- The Act in its current form poses problems with the preparation of vehicles prior to first sale, especially when they are modified prior to first sale. In some state jurisdictions, The Act presents a particular procedural problem when vehicles rated at or below 4.5 tonnes are being modified prior to first sale. TIC considers that this review of The Act is the best opportunity to address this matter.

2a The Objects of the Act

- The Act and its Regulations have reduced the regulatory burden on the motor vehicle industry, including TIC members, with complying with the ADRs.

- The first Object of the Act is “to achieve uniform vehicle standards to apply to new vehicles in Australia” to facilitate registration (i.e. first use in transport). TIC fully supports this object of the Act and believes it is still appropriate. TIC believes that the Act should be amended to preclude State/Territory governments from introducing their own additional standards to new 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, any reduction in the current restrictions on the importation of vehicles has the potential to increase consumer risk if the importer does not have the backing of the global brand to provide the full warranty, parts and servicing back-up.

2b The Public Policy Objectives

- The objects of the Act contribute to the Government’s broad policy objectives of safety, environment and vehicle security.

- The objects of the Act 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 small size of the Australian new heavy vehicle market means that most 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. It is acknowledged that the unique nature of large heavy vehicle combinations in Australia require similarly unique heavy vehicle braking ADRs (ADRs 35 and 38), providing compliance to international standards is still acceptable, especially for those heavy vehicles (Light, Medium and heavy rigid trucks, for example) which are similar to those sold overseas.

- 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*".

3a National Standards, Certification and Approval of Road Vehicles.

- 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.

- 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 separate 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.

3b Administration, Court Proceedings and Miscellaneous

- 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 that any shortcomings in the legislation.

- The administration process for the certification system (RVCS) requires substantial updating. RVCS was developed in the 1990s 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.

- The administration procedures in The Act fail to recognise the process many new heavy vehicles are subject to prior to first registration. Cab-chassis configured heavy vehicles often require modifications to their chassis length, lighting, wheels and tyres prior to body fitment. To enable this work to be performed, driving on public roads is inevitable. While an administrator's circular provides guidelines as to how this can be achieved without falling foul of The Act, the better option is to take the opportunity during this review to modify The Act.

- The process above is identical for new cab-chassis configuration trucks whether they have a Gross Vehicle Mass of up to 4,500 kg (NB1 category) or above 4,500 kg (NB2 and NC). Unfortunately, The Act distinguishes between "light" and "heavy" vehicles at 4,500 kg. TIC (and most other nations) considers that "heavy vehicles" begin at 3,501 kg GVM. Accordingly, some states treat cab-chassis vehicles up to 4,500 kg in a different manner to those above 4,500 kg, causing problems for truck dealers and operators. Please note that this inequity is a major problem for vehicles being modified prior to first registration only; the modification codes and engineering signatory system for in-service vehicles is sufficient.

4 Object – regulate first supply to market of used imported vehicles.

- TIC is aware of up to 400 "used" trucks that were imported by an unauthorised importer from a European country over the past 4 years (Mid-2009 to mid-2013). These trucks were new cab-chassis from Japan with European-built truck bodies, registered very briefly and then re-exported to Australia. The vehicles were not fully compliant with all ADRs at the date of their manufacture (including exhaust emissions), yet were considered to be acceptable under SEVS. RAWS and SEVS were not designed for such instances, and the existence of such a "loophole" in the current regulations needs to be addressed.

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.

- The Motor Vehicle Standards Act currently applies to 'road vehicles.' The key principle, 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.

4a Registered Automotive Workshops

- 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.

- The RAWS scheme is cross-subsidised by TIC and FCAI members for the certification, compliance and auditing functions undertaken by the VSSB staff. 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.

- RAWS does not require demonstration of heavy vehicle exhaust emissions compliance beyond ADR80/01, which is well below the current standard (ADR80/03) applicable to new heavy vehicles. This requires an urgent update to ensure a “level playing field” between RAWS and full-volume vehicles produced or imported by TIC members.

4b Other Concessional Options

- 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. It is FCAI’s opinion that 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.

- Regulation 11 and 20, covering Special Purpose Vehicles, lacks definition and a consistent process for determining concessions (if any) that should be permitted. State jurisdictions are often presented with a “unique” vehicle that someone wants to import, while being unaware that a functionally similar vehicle can be built on a fully ADR-compliant truck chassis. The definition of a Special Purpose Vehicle requires much more detailed explanation and guidance.

- Regulations 17, covering “enthusiast, classic or historic” vehicles. This regulation allows those built before 1 January 1989 to be imported without requiring compliance to many ADRs. While this principle is valid for collectible cars, there are few “collectible” heavy vehicles that could be justified to be imported under this regulation. The vast majority of heavy vehicles are operated for commercial reasons; this regulation should not apply to heavy vehicles.

I trust that you find these comments worthy of further consideration in the Review of The Act, and a useful basis for further discussion. The strong relationship and open dialogue between your department and TIC is appreciated and I trust that it will continue. Please contact the undersigned, on 0427 554 775 or shumphries@truck-industry-council.org for any questions about these comments.

Yours sincerely,

Simon Humphries
Chief Technical Officer