



17th January 2014

The Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

Email: lacsc@parliament.qld.gov.au

Dear Sir/Madam

Re: Proposed *Motor Dealers and Chattel Auctioneers Bill 2013*

The Motor Trades Association Queensland (MTA Queensland) responds to the Legal Affairs and Community Safety Committee's call for submissions on the proposed *Motor Dealers and Chattel Auctioneers Bill 2013* (The Bill). We do so from the purview of the MTA Queensland membership.

As indicated in previous submissions, the split of the *Property Agents and Motor Dealers Act 2000* (PAMD Act) into separate industry specific Acts has long been the goal and policy of the MTA Queensland. We congratulate the Newman Government on the proposed repeal of the PAMD Act and the proposed new specific legislative measures.

The Bill's proposed policy measures, with the necessary regulatory Act, will provide the legislation for the used motor vehicle industry's activities, licensing and conduct of motor dealers and their employees and to protect consumers against undesirable practices. We support the proposed red tape reduction and look forward to the anticipated reduction.

Comment - Licensing

We note the following statement in the Department of Justice and Attorney General's briefing provided to the Legal Affairs and Community Safety Parliamentary Committee:

Some stakeholders (particularly in the used motor vehicle industry) are disappointed that their proposals for increasing regulation in particular areas have not been incorporated into the Bills. However, as explained above, a key policy objective of the Bill is to significantly decrease the regulatory burden currently imposed on industries regulated under the PAMD Act. As a result, proposals to increase regulation and legislative restrictions are generally contrary to the policy intentions of the Bill, as well as broader Government commitments to reduce regulation and red tape across the Queensland economy. For this reason, stakeholder proposals for new

Motor Trades Association Of Queensland

Address Building 8, 2728 Logan Road
Eight Mile Plains Qld 4113
Postal PO Box 4530 Eight Mile Plains Qld 4113
Email info@mtaq.com.au
Website www.mtaq.com.au
Tel (07) 3237 8777 **Toll Free** 1800 177 951

restrictions of regulatory obligations have generally not been supported for inclusion in the Bills.

That disappointment remains. We remain of the view that The Bill should include:

- a legislative requirement for individuals or businesses selling new or used motor vehicles to operate from a Council-approved business premises
- a requirement for Dealers to include their License numbers with car advertisements in order to identify 'dealer' sales from 'private' sales and allow consumers to check the dealer's legitimacy against the Office of Fair Trading
- a requirement for motor dealers registering for Auctions to produce photographic identification with their dealer's license to advance transparency

MTA Queensland members regularly have 'to pick up the pieces' for an unwary consumer caught with a defective motor vehicle by purchasing from an unscrupulous 'backyard' used motor vehicle trader. The view of members is that in this instance the Department has erred on the noble side of red tape reduction rather than the consumer.

The private to private used motor vehicle and motorcycle sales is by private treaty. In these arrangements consumer protection is limited and dependent on either the details in the verbal or written contract and privately obtained warranty. Generally, more than half of the monthly motor vehicle and motor cycle sales in Queensland are private to private sales, therefore outnumbering dealer to private sales. This is not to say that these sales are inappropriate, but the consumer may be left exposed if the used car trader is unlicensed or not operating from approved premises. As said above, our Members have had to deal with consumers caught with a 'lemon' purchased from 'fly-by-night-backyard traders'.

The Bill puts emphasis on preventing "identified participants of criminal organisations from holding or obtaining motor dealer licences or registration certificates including the introduction of the ability for the Commissioner of Police to notify the chief executive of changes in criminal histories of licensees, substitute licensees and motor salespersons. This is done through Suitability, Checking, Reporting and Monitoring Reports (SCRAM)." This is supported but it is nigh impossible to find the unscrupulous backyard trader when they are no longer at the address.

Comment - statutory warranty requirements

The MTA Queensland is supportive of the proposed policy measures pertaining to statutory warranties for vehicles that have travelled less than 160,000 kilometres and less than 10 years old. Conceptually, this is similar to that proposed in separate documents to the Department on this matter.

We do however have reservations about the sale of motor vehicles that have travelled more than 160,000 kilometres and are more than 10 years of age. It is the Department's expectation "that the removal of statutory warranty requirements for older vehicles will increase the viability of their legitimate sale by motor dealers, which will result in fewer illegal sales, broader application of cooling-off periods, and fewer irregularities in ownership transfer." Our Members with practical experience hold a different view. It is their expectation that the 'low value vehicles' may be a target for unlicensed backyard traders to the detriment of the consumer.

We have resolved with this proposed specific policy measure to reserve our support and to adopt a 'wait and see' approach.

Conclusion

The priority for the MTA Queensland is for The Bill and the accompanying regulations to become law. We welcome the policy work of the Newman Government on the split of the PAMD Act into separate industry specific Acts and the proposed reduction in red tape.

Thank you for your consideration.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'K. Dewar', with a stylized, cursive script.

Kellie Dewar
General Manager
MTA Queensland