



Australian Automotive Aftermarket Association

Productivity Commission Issues Paper

Relative Costs of Doing Business in Australia: Retail Trade
Industry

The Australian Automotive Aftermarket Association Ltd (AAAA) is the national industry association representing manufacturers, distributors, wholesalers, importers, mechanical repair & modification services and retailers of automotive parts and accessories, tools and equipment in Australia.

The Association has over 1700 member companies in all categories of the Australian automotive aftermarket and includes major national and multi-national corporations as well as a large number of Australian owned small and medium size businesses.

The parts and maintenance sector of the \$108 billion Australian automotive industry represents about \$34 billion. AAAA member companies employ more than 30,000 people and export over \$800 million worth of product a year.

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Overview

The Australian Automotive Aftermarket Association (AAAA) welcomes the opportunity to contribute to the Productivity Commission's Review of Relative Costs of Doing Business in the Retail Trade Industry.

Considering the broad scope of this review, addressing a variety of costs facing the many sectors within the retail trade industry, AAAA will highlight retail sector issues specific to our members.

This submission outlines the issues that are relevant to the automotive aftermarket retail sector including:

- Costs incurred through unnecessary regulation, which have a direct effect on the retail sector of the Australian automotive aftermarket.
- Lack of national harmonisation of regulations for the retailing of automotive parts and accessories.
- The growth of global online retailing and the lack of quality control on imported components.

This is not a submission that calls for reduced or increased regulation in our sector. Our submission call to action is for **intelligent regulation** that takes account of the Australian retail landscape as it is in 2014, and as it will be in the future. Retail regulation for our industry is frequently driven by a lack of real world understanding and an absence of common sense. As this submission will outline, there is over regulation or regulation with out reason and there is under-regulation that compromises both consumer safety and the competitiveness of our members.

In regard to over-regulation the cause is often a lack of national focus: each state and territory seeks to draft and introduce their own unique onerous and unnecessary regulations. In regard to under regulation – our complaint in this submission is one that will be made by many and has certainly been made in the past: online sales create product safety issues and create an unfair competitive environment for Australian retailers.

Automotive Aftermarket Retail Products and Services

The term 'Independent Aftermarket' refers to replacement/enhancement parts as opposed to Original Equipment (OE) parts that are used by motor vehicle manufacturers. End users in the independent aftermarket are specialist retailers, mechanics and households, who use these parts for repair, replacement and performance enhancement purposes.

Parts manufacturers and distributors supply the domestic and global market with components for use in new vehicles as well as for replacement and vehicle enhancement/customisation purposes. The independent aftermarket is predominately Australian owned and operated, with companies operating in specialist markets i.e. performance improvement, emissions control, stability, safety, replacement parts, and collision repair and 4WD component parts. This industry, providing specialist replacement and enhancement products (the independent aftermarket) is expanding, particularly in the four-wheel drive, sport utility and light commercial vehicle segments. In the context of the recent announcements by local car manufacturers, there is every expectation that the automotive aftermarket will increase in size and significance due to the proliferation of global platforms that will require customisation to suit local conditions.

Motor vehicles tend to be held longer during periods of slow growth and second-hand parts are sought after. As more people look to keep their existing vehicles instead of trading them in for new ones, demand for replacement car parts increases.

Regulatory Compliance Costs

The Australian Automotive Aftermarket Association wishes to draw the attention of the Commission to regulatory costs of doing business in the Australian retail industry that are adding costs, compliance burden, and therefore adversely affecting competitiveness. The one area of concern we wish to highlight is the regulation of the automotive parts and accessories retail sector that effectively prohibit retailers from offering a **fitment service**.

This is a relevant issue for the Commission because the commercial offering of a fitment or an assembly service is a growing area of the retail supply market and this service is a key differentiator to the service offering of online retailers. Flat pack furniture, hardware stores and automotive accessory retail stores all offer a fitment service as a value-add or a competitive advantage that is highly valued by consumers in certain demographics. The DIY: do it yourself demographic is relatively stable compared to the growing category that we would refer to as DIFM: the '*do it for me*' demand is growing. These customers, either through lack of time, skill or confidence would seek their retailer to fit or assemble their purchase. This might be straight forward in the furniture assembly service industry, but it get a little more complicated in the automotive industry because the regulators confuse or interchange the terms automotive accessory with automotive repair and replacement. As a result, automotive accessory fitment in the retail sector is over-regulated because it is often confused or caught up with automotive part fitment that requires a licenced and accredited fitter (generally an automotive mechanic or electrician).

It would be reasonable to assume that unnecessary regulations which mandate that qualified mechanics are required to fit automotive accessories such as seat covers, dash mats and bike racks might be simply the old and out-dated regulations that remain on the statute books but are redundant - not so. There is a current proposal in New South Wales: the *draft Motor Dealers and Repairers Regulation 2014* that effectively regulates a requirement for a licenced mechanic to fit dash mats.

These regulations proposed in NSW and in existence in other forms in other states of Australia **inflict burdensome costs upon the automotive aftermarket retail sector**. We use the NSW regulations here in this submission as a live and active case of irrational, unnecessary over-regulation, though other states also regulate in this manner.

The context and history is relevant here. Prior to new proposed regulations, the NSW Government asked for an **appropriate definition for accessory fitting in the NSW motor vehicle industry**. Following consultation with members of the automotive parts retail sector, the automotive industry and industry bodies, the following definition was proposed for automotive accessories:

Automotive accessories are products suitable for fitment to motor vehicles that are not essential to the basic operation of the vehicle. An automotive accessory is an addition to the vehicle that does not alter the performance, handling or standard safety equipment of a vehicle but is designed to better equip it for the operator's purposes.

Automotive accessories include products that:

- Cosmetically customise the vehicle;
- Provide enhanced entertainment options;
- Inform the driver on vehicle functions;
- Assist the driver in navigation or communication; and/or
- Equip the vehicle for occupational tasks.

These products are not designed to repair the vehicle or otherwise restore it to basic operational condition, but to enhance its appearance, driver information, entertainment, and/or occupational functionality.

It is the industry's view that where accessories are sold with end-user installation instructions, and fitment does not affect the performance, handling or safety levels of the vehicle, impact the Australian Design Rule compliance, or require disarming or dismantling of original fitment devices, **there is no reasonable requirement for fitment by a qualified automotive tradesperson**.

We also agree that where these parameters are affected, the fitment should only be performed by an appropriately qualified automotive tradesperson in appropriately licensed premises to ensure the continued safe operational capability of the accessorised vehicle. But this definition

of accessory fitting, specifically drafted by a panel of industry experts tasked to provide advice on these matters, was not used in the NSW regulation.

There are a range of accessories that are regularly **fitted by retailers as a customer service** and clear anomalies arise when regulators confuse automotive accessories with replacement and repair.

Once again, using NSW as an obvious example, if their new proposed regulations are implemented, the result will be that:

- Retail fitters will not need to be licensed to fit windscreen wiper blades, but will for seat covers.
- Retail fitters will not need to be licensed to fit weather shields, but will for dash mats.
- Retailers can fit number plate frames, but not bike racks.
- Fitters will not need to be licensed to fit roof racks, but will for roof boxes
- Fitters will not need to be licensed to fit mud flaps, but will for seat belt buddies

In addition, under this proposed regulation a licensed fitter is not required if a battery replacement is performed by a roadside assistance provider. But if the same item is sold and fitted by an automotive **aftermarket retailer** it requires a licenced fitter. It is important to note that there is no restriction on car owners fitting a battery themselves.

All the above items are frequently fitted by consumers, none of these items affect vehicle systems and all come with instructions if required.

An increased tendency to regulate the fitment of automotive accessories will see this service diminish or result in extensive cost of training and licencing to be borne by automotive retailers and service/repair groups. If NSW continues with these regulations, our national automotive parts and accessories retailers will have accessories that can be fitted for the consumer in Victoria but not in NSW. Lack of national harmonisation has a significant effect on the operation of national retailers.

It is also very difficult to see how the implementation of this and other state-by-state automotive accessory regulations do not add to the consumer's cost, because they certainly add to the cost of compliance. The *NSW Motor Dealers and Repairers Regulation 2014* perfectly illustrates the Section 6 scenario contained within the Productivity Commission Issues Paper; it details the ever-changing regulatory landscape and the associated costs which can burden the Australian retail sector.

It is the recommendation of the AAAA that to ensure a continually flourishing retail industry, the regulation of fitment services by the retail sector should be minimised, particularly in cases where the consumer normally undertakes the fitment of these accessories. Automotive retailers that are affected by this type of regulation do not in fact see their role as being one of vehicle repair: most are retailers that install simple items and accessories as a **customer service**.

This example that we have provided is a clear case of the changing regulatory landscape that the Commission is seeking to investigate; and represents an unnecessary and unfair burden upon the retail sector.

In many cases, and certainly in the case of the NSW draft Regulation; there is no clear and full justification for these regulations and no technical assessment. In this age of regulatory scrutiny, we are constantly surprised by the degree to which government agencies seek to design and implement regulations that do not add value, where the costs outweigh the benefits, result in consumer detriment and finally, are not subject to true regulatory impact assessments.

The fundamental principle of industry regulation is that it should only be introduced where the imposed burden on the economy does not outweigh the perceived benefit; in the instance outlined above, this is not the case. The Aftermarket is the heart of the Australian automotive industry, an industry, which has faced great challenges of late, but with the right regulatory framework, can continue to flourish.

The impact of unnecessary and burdensome regulatory compliance costs upon the automotive aftermarket retail sector is not to be underestimated; absence of national harmonisation, increased training requirements and customisation limitations, all work to diminish the contribution retailers and service/repair chains make to the Australian economy.

Globalisation and Increasing Online Trading

Sixty per cent of sales in the independent aftermarket sector in the United States are now undertaken online. With online traders able to offer cut-price deals due to better economies of scale rates and cheap freight deals, Australian retailers are feeling the impact, particularly with a strong Australian dollar. Mass email campaigns from online traders coupled with low cost alternative product are seeing local traders struggling to compete after spending great amounts on marketing and promotions. Profit margins for local traders are declining as they try to remain price competitive with the online market and consequently retail jobs are in jeopardy.

Competitiveness is extremely difficult, with opportunities limited to when a manufacturer will only supply via a distributor agreement that has a strict no Internet selling policy. They are then subject to competition via parallel imports from overseas-based distributors taking advantage of the high Australian dollar. Manufacturers of diagnostic equipment are trying to address this issue by programing software that will only run in the local Oceania region.

Not unlike some DVD players, this means the localised software will only run after recognising a specific serial number. Other options being pursued by local retailers to remain competitive are embedding Australian only data into products and offering bonus extra time periods. However, this is all undermined by the fact local retailers have significantly higher expenses including wage and premises costs.

Taxes and Fees

Private importers are not subject to the same taxes and fees and local retailers, creating an uneven playing field in which the domestic businesses struggle to exist. Import fees which online retailers are exempt from include; quarantine inspection fees, customs inspection fees and security fees. The current GST threshold of \$1000 sees online traders able to avoid paying GST and offer their goods at a minimum costs, meanwhile local retailers are forced to pass on costs of up to 15% in charges, tax and duties onto the consumer. Already, retailers are noticing a drop in sales of products valued at under \$1000 due to the online tax exemption. In order to level the playing field, and enable Australian retailers to remain competitive with online traders, a lowering of the GST threshold to \$100 is, in our view an option for addressing the issue.

Safety

A key issue of concern to the Industry is safety, both physical and economic. The increase in online retailing limits the ability to monitor the quality of products being brought into the Australian market. Australian manufacturers pride themselves on being world leaders in product quality and safety, with Australian design and product standards being some of the most stringent in the world.

While local traders are subject to these strict product safety standards, imported online goods are not bound by the same regulations, and thus we are left with a distorted market containing a mix of both safe and unsafe products. When considered alongside the fact that unlike local traders, online importers do not carry liability insurance; consumers are left at great risk of buying defective and sometimes dangerous product without any warranty protection.

The great influx of unregulated, overseas products leads to a DIY culture where consumers are placed at risk from poor quality, non-conforming products, some of which are critical safety components.

The Australian *Consumer Law* has imposed a new, extensive set of consumer guarantees on the sale of goods; guarantees which are not necessarily afforded to buyers of cheap online imports. The consumer guarantees require that in all transactions, goods are of acceptable quality, be fit for purpose, match their description and be rendered with due care and skill. Consumers purchasing goods through back-door online retailers will not be protected by the *Australian Consumer Law* and therefore, may be placed at risk. The law was introduced in order to ensure that only the highest quality of goods are sold in Australia, and whilst local distributors comply, the online boom will all but leave the law impotent.

Simply put, the current situation places lives in jeopardy. Our local manufacturers have spent exponential amounts of money and time in research and development to ensure that lives are never put at risk. It is important to note that not all online traders operate in this reckless manner. There are numerous genuine online operators with registered businesses who are subject to tax, and trade according to Australian rules and regulations. Nevertheless, there is also a rapidly increasing culture of unreliable, dishonest sellers operating without proper authorisation and not adhering to vital Australian safety standards. It is these fly-by-night traders who need to be regulated and held to account for their dubious dealings.

In an increasingly technological world, AAAA understands and embraces the increased role of online trading. However, as has been done with every advance in trading throughout history, this is a step that must be made with proper caution. Allowing free reign on a market

where products are unsafe, unregulated and untrustworthy is simply not a path our country can afford to take, especially when it is at the expense of local traders, means a loss of jobs at home, and may jeopardize the safety of road users. The realm of online trading is a positive but dangerous one, and one that though it might be inevitable, should be diligently addressed and properly regulated for the good of both Australian retailers and consumers.

Conclusion

On behalf of our member companies, The Australian Automotive Aftermarket Association is pleased to contribute to the Productivity Commission's Review of Relative Costs of Doing Business in the Retail Trade Industry and eagerly anticipates the publishing of the final report which we hope will outline the measures necessary to ensure the future success and longevity of the Australian retail sector.

Stuart Charity
Executive Director
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