



AUSTRALIAN  
AUTOMOTIVE  
DEALER  
ASSOCIATION

# RESPONSE TO THE EASY AND TRANSPARENT TRADING CONSULTATION PAPER

27 AUGUST 2018



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## FORWARD

The Australian Automotive Dealer Association (AADA) welcomes the opportunity to provide input into the New South Wales' Government consultation paper into the liberalisation of commerce and facilitation of easy and transparent trading.

The AADA is the peak industry advocacy body exclusively representing franchised new car Dealers in Australia. There are around 1,500 new car Dealers in Australia that operate about 3,500 new vehicle outlets. In NSW, new car Dealers employ 22,446 staff and pay \$3.281 billion in wages and other expenses annually. These Dealers contribute \$4.768 billion to the NSW economy.

The AADA is supportive of the NSW Government's intention to make it easier to do business in the State, and of the proposals included in the discussion paper. We have included a small number of additional suggestions intended to further progress the stated aims of the discussion paper.

We stand ready to continue the discussion on these proposals, and to assist the Government in communicating any changes to the licensed Dealers operating conditions to our members.



**David Blackhall**  
Chief Executive Officer



# RESPONSE TO THE EASY AND TRANSPARENT TRADING CONSULTATION PAPER

## 1.10 REDUCING LOCATIONAL RESTRICTIONS ON MOTOR VEHICLE DEALERS

The AADA supports the preferred approach as a minimum.

A more aggressive approach, that would be supported by the AADA, would involve removing all licensing requirements for each specific site.

The digital revolution has increasingly shifted much of the early interaction between customers and Dealers online. This has seen our industry experiment with new approaches to bring customers face-to-face with their potential new car, including for example ‘pop-up dealerships’ in shopping centres. However, it is at yet unclear where the process will eventually lead.

The AADA understands the Government’s concerns regarding the potential for inappropriate or unsafe locations by unscrupulous used-car yards. Consequently, we believe that some oversight is still required on the physical location of motor vehicle Dealers. One possible approach would be to attach conditions to the issue of motor vehicle dealer licences making them subject to cancellation for the wilful breach of planning laws or other council requirements. This would include operating from premises that it either doesn’t own or lease/licence.

## 2.1 NOTICE OF KEY TERMS IN A CONSUMER CONTRACT

The AADA supports the preferred option. The move towards greater transparency and clarity is a welcomed development with respect to any credit-related document. Furthermore, the preferred approach is flexible enough to support changing terminology without requiring ongoing regulatory maintenance.

## 2.3 NON-DISCLOSURE AGREEMENTS

The AADA supports the preferred option. We consider that non-disclosure agreements have a retain a valid role in preventing uninformed or malicious commentary from complainants but note that the public interest would be best served by ensuring that the Fair Trading Commissioner to override their operation in legal proceedings concerning serious breaches of NSW consumer law, and where the need for transparency is the dominant consideration.

## OTHER ITEMS

While beyond the listed scope of the consultation paper, the AADA wishes to put forward some additional suggestions to better achieve the stated intentions of the NSW Government as requested at the stakeholder session of 21 Aug 2018.

### SIGNAGE

Remove requirement for all licences and certificates to be physically displayed at the dealership.

The requirement for licences to be physically displayed on the walls of the dealership is a remnant from a pre-internet era. With all motor vehicle Dealers having a vibrant online presence, greater transparency would be achieved by the requirement being modified to create an option for online display and to ensure that such certificates and licences are available for review by customers on request. Of course, many new car Dealers will continue to display their licences and certificates on their wall as a symbol of credibility and reliability. However, we consider that an option for online display should also be available.

### MARKETING

Remove requirement for dealer licence numbers to be quoted in all marketing material, for example radio advertisements. As with the signage requirement, this is a left-over from pre-internet days. A suitable alternative would be to feature the licence details and number as a prominent feature of the Dealer's online presence and made available to customers on request.

### TAKATA AIRBAGS

The AADA shares the public concern about the lack of urgency by the owners of some vehicles affected by the recall having their vehicles rectified. We consider that an effective avenue to encourage recalcitrant or unengaged vehicle owners would be to make Service NSW responsible for making re-registration or transfer of the vehicle conditional on the Takata airbags being replaced.

## Section 3

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### **FINES FOR DRIVERS USING DEALERSHIP LOAN CARS**

The use of loan cars by customers while their own vehicles are being serviced or repaired is an amenity provided by motor vehicle Dealers at their own cost.

Unfortunately, sometimes customers using those loan cars incur fines or other penalties.

The motor vehicle Dealer then incurs a significant administrative burden by having to prepare statutory declarations to ensure that the correct party is held accountable for those fines or penalties. The AADA believes that a technological solution is feasible to this issue that would allow the Government to gather the fines rightfully imposed without burdening motor vehicle Dealers with onerous manual administration. The AADA would encourage and support the NSW Government to pursue a technological solution on this matter.

## CONCLUSION

We would be happy to meet with you to discuss our submission and participate in the committee's hearings.

If you require further information or clarification in respect of any matters raised please do not hesitate to contact a member of the AADA team.

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