

Government's response to the Parliamentary Committee's Inquiry into the Process of Development, Adoption, and Implementation of Australian Design Rules.

Introduction

The Australian Design Rules are a nationally agreed set of vehicle regulations with the main objective of achieving uniform vehicle standards to apply to new vehicles when they are supplied to the market in Australia. The Australian Design Rules cover:

- Safety
- Control the emission of gas, particles or noise
- Secure vehicles against theft
- Promoting the saving of energy.

The Australian Design Rules are administered by the Commonwealth Department of Infrastructure, Transport, Regional Development and Local Government (DITRD LG). The Commonwealth Minister for Transport has the ability to declare or alter an Australian Design Rule.

The two key elements that underpin the development and amendment of Australian Design Rules are:

- Harmonisation with international regulations such as United Nations Economic Commission for Europe (UNECE) regulations
- An evidence basis for regulation through the COAG Regulatory Impact Statement process

Australia is a signatory to both the 1958 and 1998 agreements on international technical harmonisation of vehicle standards. It is desirable for the Australian Design Rules to be a harmonised set of regulations with other regulators such as United Nations Economic Commission for Europe regulations. Attempting to impose higher vehicle standards than those set internationally may risk increasing the cost of vehicles and affecting Australia's international trade obligations. In particular, harmonised regulations mean opportunities exist for Australian manufacturers to take advantage of the mutual recognition offered to signatory parties to the 1958 and 1998 agreements.

While harmonised standards are desirable, road safety objectives should not be compromised by a process that does not reflect Australia's needs. New ADRs are in the majority harmonised with the regulations developed in the international vehicle standards development group called Working Party 29. At Working Party 29 significant international resources are pooled to provide research and create technical standards behind regulations. Australia is able to contribute to this work, but does not have the resources or technical capabilities to be able to match the work done at Working Party 29. With the generation of new vehicle standards taking place internationally, it is important Australia be able to influence this process with the research and technical argument that reflects Australia's road safety objectives.

Victoria's leadership in pushing for the accelerated introduction of ESC and HPT has led to strong national support for the fitting of ESC and HPT in all new light vehicles in Australia. As a result Victoria leads the nation in the take up of ESC with 67 percent of vehicles sold fitted with ESC as compared to the national average of 62 percent. In Victoria, 54 percent of new vehicles sold are fitted with side curtain airbags as standard as compared to 49 percent nationally. Victoria's decision to mandate ESC in advance of a national ADR was also instrumental in bringing forward the effective ADR implementation date to 1 November 2011.

The Victorian Government is encouraged by the Commonwealth Government's response to this strong stance on vehicle safety by moving to better engage the states through the Australian Design Rule process.

The Commonwealth Government recently proposed at the March 2010 Standing Committee on Transport (SCOT) meeting to revitalise the Technical Liaison Group. The proposal looked at the ability of the group to be able to strategically set priorities for the development of new ADRs. As part of the new group, the states and territories will be canvassed for new ideas for vehicle safety. While these ideas will be assessed in line with the need to harmonise regulation and provide evidence to justify the regulation, this decision indicates that the Commonwealth is willing to engage with the states to develop ADRs. The Commonwealth has also indicated that it is considering whether the states and territories could participate in the six technical working groups that report to Working Party 29. These groups are responsible for the technical development of new international standards.

The Victorian Government is also encouraged by the Commonwealth Government's response for the need on action on Head Protecting Technology. It is understood that the Commonwealth put forward a case for the development of a Global Technical Regulation on HPT at Working Party 29. The case was recently accepted and Australia has now been given the task of developing the technical detail behind the regulation.

It is important that the Commonwealth commit to continue representing Australia in international forums, reforms to strengthen the ADR process and better engagement of the states and territories in the process.

The Victorian Government believes that the best approach to regulating the safety of new vehicles is to enhance the existing international processes that develop globally harmonised regulations. By bringing together vehicle safety expertise and resources internationally, new vehicle regulations could be developed faster than Victoria acting alone. The Victorian Government welcomes the Commonwealth's reform of the Australian Design Rule process to address these matters.

The Victorian Government supports the regulation of vehicles through the national ADR process. However, the Victorian Government may consider a state based regulation where:

- Australia lags behind the rest of the world in the adoption of that vehicle safety technology;
- timely national adoption and implementation of that ADR is remote; and
- there is a strong net public benefit from doing so.

Glossary of acronyms used

ADR	Australian Design Rule
ANCAP	Australasian New Car Assessment Program
ATC	Australian Transport Council
DITRDLG	Department of Infrastructure, Transport, Regional Development & Local Government
ESC	Electronic Stability Control
ECE	Economic Commission for European Regulation
GTR	Global Technical Regulation
IGA	Intergovernmental Agreement
HPT	Head Protecting Technology
NCAP	New Car Assessment Program
NRSC	National Road Safety Council
NRSEG	National Road Safety Executive Group
NTC	National Transport Commission
RIS	Regulatory Impact Statement
SSSC	Safety Standing Sub-Committee
SCOT/TACE	Standing Committee on Transport/Transport Agency Chief Executives
TAC	Transport Accident Commission
TLG	Technical Liaison Group
UNECE	United Nations Economic Commission for Europe

Recommendation 1

1. That the Minister for Roads and Ports, through the Australian Transport Council, seeks the replacement of the existing Inter-governmental Agreement and a redefinition of the roles of the Australian Transport Council and the National Transport Commission with respect to the Australian Design Rules development and adoption process. That, under the new agreement:

a) The National Road Safety Council should replace the role of the National Transport Commission in the Australian Design Rules process. The new agreement should also state that the Australian Transport Council may direct the work program, and must vote on the recommendations of, the National Road Safety Council with respect to the Australian Design Rules.

b) The new agreement should provide for new or amended Australian Design Rules to be proposed by one or more members of the Australian Transport Council and, if not disapproved by a majority by its members, for such new or amended Australian

Design Rules to be implemented by the Commonwealth within a period of two months.

c) Under the new agreement there should be a review of the functions of the Technical Liaison Group with a view to increasing their effectiveness.

This recommendation is supported in part

A key objective of the National Transport Commission (NTC) intergovernmental agreement (IGA) is to foster national cooperation on reform in the road and rail transport areas. Section 19 of the IGA deals with matters relating to the Motor Vehicle Standards Act (including the ADRs) and the respective roles of the NTC and the Department of Infrastructure, Transport, Regional Development and Local Government in this process. While the NTC may recommend the development or implementation of new ADRs, in practice the NTC does not participate in the process. The Commonwealth Minister for Transport and DITRDLG are solely responsible for developing new or amended ADRs.

The Australian Transport Council has stated that the National Road Safety Council's (NRSC) role will be to bring together a high level group of key community leaders and opinion makers to help raise the profile of road safety and forge critical partnerships across relevant government, industry and community sectors. While this body does have representatives from a road safety background, it also comprises community leaders from a range of non road safety areas and has many former sports-people and media personalities on the council. Aside from adding to the debate over the ADRs, the NRSC would not have the expertise to direct the ADR development process.

The TLG comprises vehicle standards representatives from industry, state and territory transport authorities and the Commonwealth. The TLG is the primary forum for discussion of new and amended Australian Design Rules and the Commonwealth Government has committed to undertaking a review of the operation of the TLG with input from jurisdictions and industry and reporting the outcomes to SCOT. VicRoads will recommend at SCOT changes to the terms of reference of the TLG to allow for the better engagement of the states. This would include the development of a template to allow states to put up a well researched and justified case for the development of a new regulation.

Under current arrangements, ATC members can put forward a case for the creation of a new ADR at ATC for consideration by the Commonwealth. These matters are referred to DITRDLG for assessment. Ultimately the Commonwealth has the power through the Motor Vehicle Standards Act to regulate new vehicles without involving the ATC in the process. However, if the process allowed for transport ministers to vote at ATC for new or amended ADRs, these matters should first be referred for consideration by the TLG for reporting back through SCOT to the ATC.

Recommendations 2 & 3

2. That, as a matter of urgency, the Minister for Roads and Ports, through the Australian Transport Council, seeks the replacement of the policy of harmonisation with the requirement that Australia adopt all current and future United Nations Economic Commission for Europe standards relating to vehicle safety.

3. That, the Minister for Roads and Ports, through the Australian Transport Council, seek a clear statement of Australia's willingness to make and amend Australian Design Rules which set different or higher standards than those contained in the United Nations Economic Commission for Europe standards for which there is a compelling and justified case, for example, the mandatory fitment of Side Curtain Airbags.

These recommendations are not supported

Australia is a signatory to the 1958 and 1998 agreements made under the United Nations Economic Commission for Europe (UNECE) with the objective of establishing uniform standards for vehicles. The agreement aims to promote harmonisation of regulations and mutual recognition of vehicle compliance approvals. This means that a vehicle can be tested once and sold in any signatory party state without further regulatory burden.

Since 1989, the Commonwealth Government has undertaken a process of harmonising ADRs with UNECE regulations. Through this process, all significant UNECE standards in relation to safety, crash protection and Electronic Stability Control have been adopted. There is no demonstrated road safety benefit from adopting the remaining UNECE regulations in the Australian Design Rules.

New Global Technical Regulations (GTRs) developed under the 1998 agreement at the international vehicle regulatory forum, Working Party 29 are dealt with by the Australian Design Rule process within one year of their release so that the Commonwealth can report back to Working Party 29 on whether the standard will be adopted.

It is Commonwealth Government policy that all new regulations should be submitted for justification through the Council of Australian Governments (COAG) Regulatory Impact Statement process. Each signatory to the 1958 and 1998 agreements is also required to submit each new UNECE regulation to local rule making processes.

While the principle of harmonising Australia's regulations with those developed within the UNECE is supported, it is not necessary for Australia to automatically accept new UNECE regulations. The Victorian Government supports a process whereby Australia is able to select vehicle standards that are appropriate for Australia's needs and conditions.

The Victorian Government believes that the most appropriate approach to expediting vehicle safety initiatives through the Australian Design Rule process is to work through the existing international processes that creates harmonised

regulations. The Victorian Government will work with the Commonwealth Government on identifying priority vehicle safety improvements that could be pursued at Working Party 29 and developed into global regulations.

Recommendations 4 & 5

4. That the Minister for Roads and Ports seeks to strengthen Australia's international voice and to increase Australia's contribution to the United Nations Economic Commission for Europe's Working Party 29.

5. That the Minister for Roads and Ports, through the Australian Transport Council, encourages the more active contribution of Australia to international vehicle safety research programs in order to accelerate the development of international regulations.

These recommendations are supported

The Victorian Government believes that a key enabler in delivering strengthened vehicle standards is to work with and effectively influence Working Party 29, the international group that creates globally harmonised regulations. The Commonwealth's ability would be enhanced by improved state and territory engagement and support.

The Victorian Government will offer support to the Commonwealth Government to help foster the research and technical arguments that can lead to the development of new globally harmonised regulations. The Minister for Roads and Ports will also raise the need to improve engagement with the Commonwealth at ATC.

Recommendation 6

6. That the Minister for Roads and Ports, through the Australian Transport Council, seeks the imposition of a time limit of six months on the Regulatory Impact Statement and cost-benefit analysis process.

This recommendation is supported in part

The Victorian Government agrees that the work plan and RISs should be delivered in a timely manner. Through the National Road Safety Executive Group, DITRDLG reports on progress with the Australian Design Rules. Progress reports are channelled to meetings of the Standing Committee on Transport and are noted at the Australian Transport Council. Monitoring the performance of ADR development including RISs by SCOT and ATC ensures that appropriate resources are dedicated to RIS development and that timelines are being met.

While monitoring the RIS process is supported, it is not appropriate to put fixed time limits on the RIS development process. The consultative process that goes with a RIS can vary depending on the complexity of the particular regulation, and restricting this process could adversely affect the quality of regulation that is developed.

Recommendation 7

7. That as part of the review of the Australian Design Rules consultative arrangements, consideration be given to the Japanese consultative model, particularly the greater voice provided to road safety experts through the Accident Analysis Subcommittee and the Safety Standard Working Group, under the Japanese system.

This recommendation is supported in principle

Because of its relatively large vehicle market and manufacturing power, Japan is able to unilaterally set vehicle standards that are not harmonised with UNECE requirements. However, as Australia represents approximately one percent of global vehicle sales this model is not considered viable or appropriate for Australia.

Increasing Australia's contribution to the international standards development process would require an increased focus on internationally coordinated crash research and greater representation at the international regulatory forum, Working Party 29. Through a new TLG process, road safety experts from the states will be able to contribute to the case for new or amended standards based on road safety evidence for further development internationally.

The ADR process currently has links to research and policy making through the ATC's Safety Standing Sub-Committee (SSSC), TLG and the National Road Safety Executive Group (NRSEG). Through these existing processes, road safety experts and key opinion makers are able to lobby for new or amended Australian Design Rules.

Recommendations 8, 9, 11 and 12

8. That the Minister for Roads and Ports, through the Australian Transport Council, seeks to revise the Australian Design Rules to ensure that all light commercial vehicles and all four-wheel-drive vehicles are subject to the same Australian Design Rules as those that apply to passenger vehicles.

9. That the Minister for Roads and Ports, through the Australian Transport Council, seeks the establishment of new or amended Australian Design Rules:

- a) to require the fitment in passenger and light commercial vehicles of:
- Rear seat safety features equivalent to those of front seats, including the banning of lap only seat belts in rear seats;
 - A rear seat child ride height line marking;
 - A minimum roof strength-to-weight ratio of four and satisfactory performance in a dynamic rollover crash test;
 - Pedestrian protection features modelled on the more stringent performance established by the Australasian New Car Assessment Program; and
 - Proven next generation active safety technologies, including intelligent speed assist (ISA), fatigue monitoring devices and lane departure warning systems; and

b) to require the fitment of Daytime Running Lights to passenger vehicles, commercial vehicles and motorcycles.

11. In the event that the Department of Infrastructure, Transport, Regional Development and Local Government fails to commit to a work-plan within twelve months of the Government Response, in relation to recommendations 9 and 10, the Victorian Government, preferably in consultation with the Council for the Australian Federation, progressively require the mandatory fitment of those technologies as a condition of future registration.

12. That the Minister for Roads and Ports seeks, through the Australian Transport Council, the development of a mechanism for linking the new car ratings of the Australasian New Car Assessment Program with the Australian Design Rules:

a) The primary aim of establishing such a mechanism is to ensure a minimum four star Australasian New Car Assessment Program rating as a requirement under the Australian Design Rules for passenger and light commercial vehicles; and

b) That, both as an interim measure and in the event that Australian Design Rules are not so amended, VicRoads makes a minimum four star Australasian New Car Assessment Program rating a future condition of registration for passenger and light commercial vehicles.

These recommendations are supported in principle

The Victorian Government will continue to explore specific vehicle safety improvements with DITRDLG through the TLG that could be pursued internationally or if appropriate, adopted into the ADRs. In this process the recommended new vehicle safety initiatives will be submitted to DITRDLG for consideration.

The Commonwealth Government has indicated that the highest priority work areas for creating new Australian Design Rules are:

- Pedestrian protection systems;
- Heavy vehicle braking; and
- Seatbelt reminder systems.

The Victorian Government supports the regulation of vehicles through the national ADR process. However, the Victorian Government may consider a state based regulation where:

- Australia lags behind the rest of the world in the adoption of that vehicle safety technology;
- timely national adoption and implementation of that ADR is remote; and
- there is a strong net public benefit from doing so.

The Australasian New Car Assessment Program (ANCAP) gives consumers with consistent information to consumers on the level of occupant protection provided by

vehicles in serious front and side crashes. The ANCAP board continually changes the criteria for five star ratings to pick up on new and emerging safety features.

Regulation of ANCAP is not considered appropriate for the following reasons:

- The majority of vehicles imported in Australia already achieve a 4 star ANCAP rating, so it is highly unlikely that a regulation could be justified as the market has already responded; and
- Regulation of ANCAP would create a unique Australian standard (non-harmonised) that could potentially create a barrier to trade and reduce Australia's ability to take advantage of the mutual recognition provisions under the UNECE 1958 and 1998 agreements.
- Regulating ANCAP would reduce its ability to remain flexible and push ahead of the regulatory environment.

Recommendation 10

10. That the Minister for Roads and Ports, through the Australian Transport Council, seek to create or amend an Australian Design Rule which mandates rear under-run protection for all heavy vehicles where a load carrying tray overhangs the rear suspension.

This recommendation is not supported

ADR 84 which mandates compulsory front under-run protection on heavy vehicles was released by the Commonwealth Minister for Transport in September 2009. As part of the RIS development process on this issue, rear and side under-run could not be justified on a cost-benefit basis. In addition, DITRDLG's current work plan includes consideration of tilt tray tow trucks to investigate how rear under-run protection could be enhanced on these vehicles.

The Victorian Government considers rear and side under-run protection an important road safety feature on heavy vehicles. While the rear and side under-run protection have not been mandated through the ADRs, the Victorian Government does consider making these factors a requirement as an operating condition where a case for increased risk to other road users can be made. For example, under the current requirements for the High Productivity Freight Vehicles (HPFVs) trial, vehicles are required to be fitted with front, side and rear under-run protection due to their length and reduced turning capability. Operating condition requirements for higher risk vehicles are considered where they are justified on a case-by-case basis.

Recommendations 13 & 14

13. That the Minister for Roads and Ports, through the Australian Transport Council, seeks the creation of legislation to implement the Stars on Cars program on a national basis.

14. In the interim, and in the event that the above recommendation is not implemented, the Victorian Government implements the display of a Stars on Cars

sticker, and associated explanatory information, at the point of sale as a condition of registration for all new passenger and light commercial vehicles in Victoria.

These recommendations are supported in principle

As identified in the ATC's Stars – on – Cars reform, vehicle manufacturers are increasingly using ANCAP ratings in their marketing strategies. At the November 2009 meeting of ATC, it was agreed that Governments would continue to monitor vehicle manufacturers' use of ANCAP ratings in advertising. If the uptake of ANCAP star ratings by vehicle manufacturers is unsatisfactory, ATC may decide to take a regulatory approach to Stars – on – Cars.

The Victorian Government is working nationally to develop a low cost marketing and communications approach to achieve greater recognition of the ANCAP brand amongst new vehicle consumers. This is considered to be the fastest method of increasing manufacturer use of ANCAP ratings and will help to strengthen vehicle manufacturers' use of ANCAP ratings in advertising.

In December 2009, the TAC along with road safety partners, VicRoads and the RACV announced a pilot program of Stars – on – Cars in 35 dealerships in the Melbourne and Geelong metropolitan areas. This program builds upon the approach to Stars – on – Cars taken in Western Australia. VicRoads is encouraging other jurisdictions to take up this approach.

Recommendation 15

15. That, the Minister for Roads and Ports, through the Australian Transport Council, initiate a review of the current level of funding provided to the Australasian New Car Assessment Program by each of the State and Territory transport departments with the aim of ensuring that the Australasian New Car Assessment Program is sufficiently funded to meet its current and future priorities.

This recommendation is supported in principle

ANCAP is currently working with DITRD LG and the Commonwealth Government to gain increased financial support. The Commonwealth Government has recently committed to providing \$4.95 million to ANCAP over the next five years. This will significantly increase the amount of crash testing results available for new makes and models of vehicles in Australia. Consumers will be able to access increased safety information regarding new vehicles when making purchasing decisions.

The Victorian Government through its agencies, VicRoads and TAC have provided funds in the past and will continue to maintain an appropriate level of funding. VicRoads also provides considerable in-kind support to ANCAP.

Recommendation 16

16. That the Minister for Roads and Ports, through the Australian Transport Council, requests Australia's representatives at the United Nations Economic Commission for Europe meetings to advocate the publication of manufacturers' crash testing data following the launch of a new vehicle model.

This recommendation is supported in principle.

Increasing the amount of crash test information available to ANCAP is supported by the Victorian Government. However, vehicle manufacturers' test results would be of limited value as they are not necessarily derived from a consistent crash test protocol such as ANCAP. The Victorian Government supports the use of the ANCAP to rate new vehicles for safety.

It should be noted that the Commonwealth Government has committed to provide \$4.95 million to ANCAP over the next five years. This should help increase the amount of crash testing results available in Australia. Part of the Commonwealth's funding will contribute to research into the harmonisation of NCAP standards from around the world. ANCAP is also working to harmonise test results with NCAP agencies from around the world including EuroNCAP, US, China, Japan and Korea.

Recommendations 17, 18

17. That the Victorian Treasurer abolish stamp duty tax on the additional price paid for vehicles that is due to the inclusion of leading-edge safety features.

18. That the Minister for Roads and Ports, through the Australian Transport Council, advocate the abolition of fringe benefits tax on the additional price paid for vehicles that are due to the inclusion of leading-edge safety features.

These recommendations are not supported.

Abolishing stamp duty or fringe benefits tax on the additional price paid for vehicles that is due to the inclusion of leading edge safety features would require a highly complicated administrative system to:

- define the specifications for the safety features, and adjudicate whether the vehicle manufacturer complied with these requirements;
- estimate the marginal costs of the safety feature, noting that the costs are often imbedded as part of a system upgrade of the vehicle, rather than a one-off part cost; and
- provide the correct stamp duty or fringe benefits tax rate on a vehicle by vehicle basis.

Such a system would be excessively difficult and costly to administer, and may make Government revenue vulnerable to erosion due to dealers manipulating the breakdown of total purchase price to minimise duty. Other incentive schemes should be investigated in preference.

Recommendations 19, 20 and 21

19. That the Victorian Treasurer investigate the development of State tax incentive schemes, such as the direct tax reduction incentives that operate in the United States, to encourage the purchase of vehicles with leading-edge safety features.

20. That the Victorian Government, through the Australian Transport Council, requests the Commonwealth Government to investigate the development of such tax incentives.

21. That the Minister for Roads and Ports introduce a subsidy scheme to encourage the purchase of vehicles with a five star rating under the Australasian New Car Assessment Program.

These recommendations are supported in principle.

Subsidies can come in many forms including direct stamp duty or registration subsidies, low interest loans, lower insurance premiums, and fleet discounts. Any incentive must be perceived by consumers as being significant enough to encourage a change in purchasing behaviour. Incentive schemes would also need to take into account the environmental, social and safety impacts of any changes to premiums.

The Victorian Government supports the concept of incentives to improve adoption of vehicle safety features and will investigate a broad range of measures to this end.