

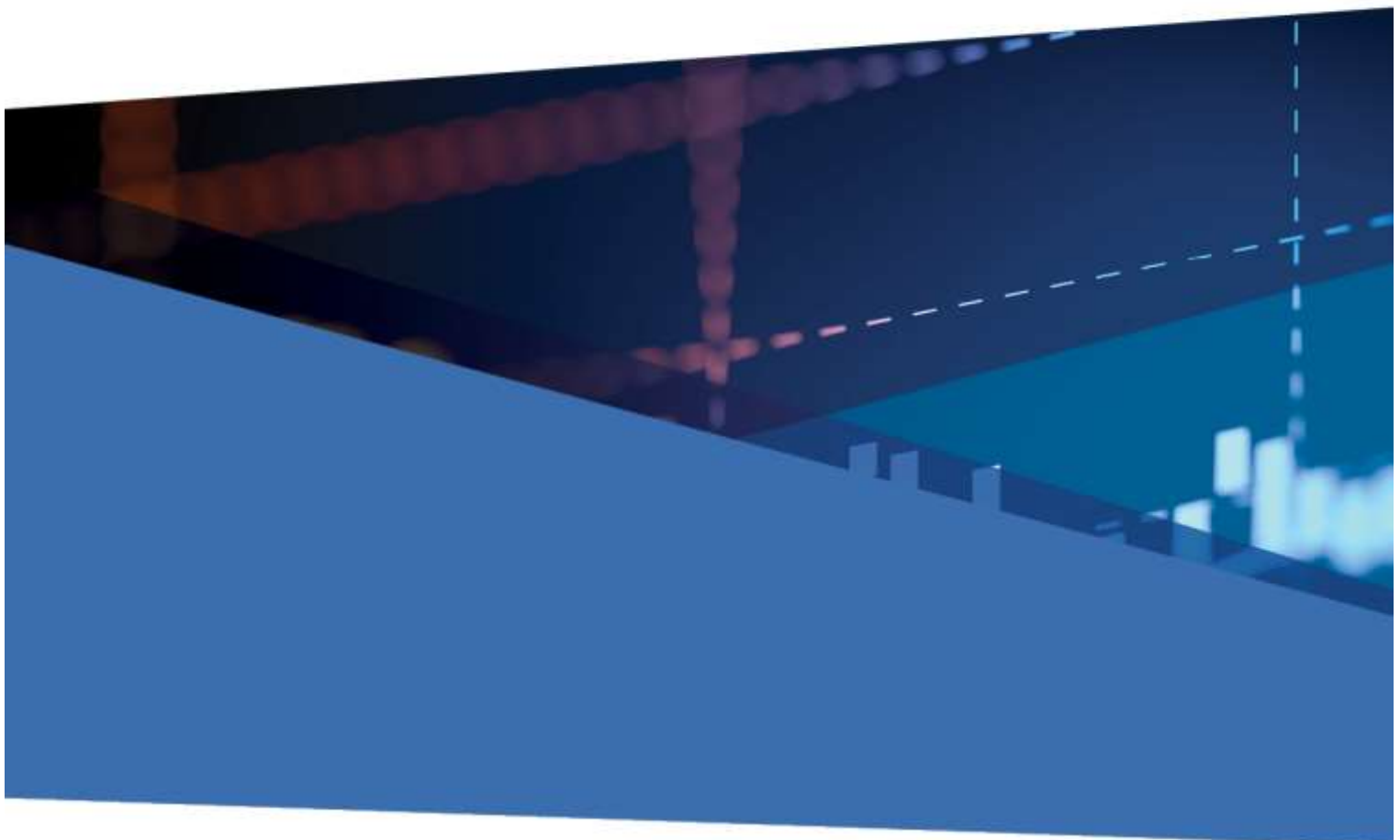


Australian Government  
The Treasury

**TSY/AU**

# MANDATORY SCHEME FOR THE SHARING OF MOTOR VEHICLE SERVICE AND REPAIR INFORMATION CONSULTATION UPDATE

October 2019



## BACKGROUND

- 1.1. The Australian Government has is committed to supporting appropriate commercial dealings and competition in the automotive sector for the benefit of both small businesses and consumers. This includes designing a mandatory scheme for access to motor vehicle service and repair information (the scheme). This scheme would provide a level playing field in the sector and allow consumers to have their vehicles safely repaired by the repairer of their choice.
- 1.2. On 12 February 2019, Treasury, on behalf of the then Assistant Minister for Treasury and Finance, Senator the Hon. Zed Seselja, released a consultation paper to allow interested parties to provide views on general principles of a possible model for the scheme. The consultation paper formed part of Treasury’s broader public consultation on the scheme during February and March 2019. This paper provides a high-level summary of feedback received and key outcomes from the consultation process.

## PRINCIPLES AND FEATURES OF THE PROPOSED SCHEME

- 1.3. Treasury received 53 submissions as part of the first round of formal public consultations. Overall stakeholders were largely in favour of the scheme and its key elements. In particular, there was general acceptance of a simple and clear requirement that independent repairers should be able to access all information provided to dealerships.

### Implementation method

- 1.4. The consultation paper sought stakeholder feedback on implementing the scheme through a mandatory code of conduct under the *Competition and Consumer Act 2010* (CCA) and outlined a series of high level objectives for the scheme.
- 1.5. During consultations stakeholders generally supported the use of a code to implement the scheme. Some stakeholders noted there are some limitations to using a code in comparison to primary legislation, but acknowledged a code could be quicker to implement.
- 1.6. Based on consultation feedback, the Government has decided to progress the scheme using primary legislation as it allows greater flexibility for the scheme’s design.
- 1.7. The scheme would not mandate a method of information sharing. Manufacturers would be able to elect to provide service and repair information using the mechanism that best suits their needs — whether that be through existing or newly created systems. This reflects feedback that manufactures require flexibility in how they share information, especially in areas where they already have systems in place.

**Outcome:** The Government will progress the scheme through primary legislation.

## Industry Involvement

- 1.8. Industry involvement and support of the scheme will be crucial to its success. The February consultation paper originally proposed creating a Ministerial Advisory Committee to facilitate industry input to the development and ongoing operation of the scheme.
- 1.9. During consultations stakeholders expressed a preference for an industry body similar to the United States National Automotive Service Taskforce, which is a cooperative industry group formed to ensure motor service professionals can access service and repair information.
- 1.10. Progressing the scheme through legislation now provides additional flexibility to incorporate an industry-led body into the administrative arrangements supporting the scheme.
- 1.11. The Government will initially consult with the five signatories<sup>1</sup> to the *Agreement on Access to Service and Repair Information for Motor Vehicles* (voluntary agreement) on the scope to create such a body. Treasury notes that the features, and role, of such a body would need to be carefully considered and developed in consultation with industry.
- 1.12. Roles for such a body may include:
- a. providing guidance and education to industry and promote compliance; and
  - b. providing dispute resolution services, either in house or through contracting arrangements, such as providing or appointing a mediator with relevant expertise or experience.
- 1.13. Ideally, the body would be established and supported by funding from industry, with industry to determine its preferred approach.
- 1.14. The body could also provide technical advice on details of the scheme, drawing on industry expertise to help settle the initial details of the scheme and updates as required.

**Outcome:** The Government is consulting with the five signatories to the voluntary agreement on their support for creating an industry-led body to assist with administering the scheme.

## Vehicle Scope

- 1.15. The consultation paper proposed to initially cover passenger and light goods vehicles as defined (by clause 4.3 and subclause 4.5.5 respectively) in the *Vehicle Standard (Australian Design Rule - Definitions and Vehicle Categories) 2005*. Automated driving systems in vehicles of level 3 automation and above as defined by Society of Automobile Engineers Standard J3016 would not be covered.
- 1.16. The Government proposes retaining the initial vehicle type as proposed as feedback from consultation suggests the type of vehicles covered is an appropriate starting point for the scheme. Once operational, consideration could be given to extending the scheme to other types of vehicles, following appropriate consultation and regulatory impact analysis.

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<sup>1</sup> The five signatories to the voluntary agreement are the: Australian Automobile Association; Australian Automotive Aftermarket Association; Australian Automotive Dealer Association; Federal Chamber of Automotive Industries and Motor Traders Association of Australia.

1.17. Under the scheme, repair information will only be required to be shared for vehicles manufactured after 2002, if manufacturers continue to share this information with dealers after commencement of the scheme. This approach is designed to provide appropriate coverage of the current vehicle fleet while limiting the burden associated with providing access to older information; a concern raised by stakeholders during consultation.

**Outcome:** The scheme will initially apply only to passenger and light goods vehicles manufactured after 2002.

## Safety, security or environmental (SSE) information restrictions

1.18. The consultation paper proposed the scheme would allow manufacturers to restrict access to safety, security of environmental information (SSE) using a principled definition. It proposed at a minimum this include information necessary to reset an immobiliser and that may result in non-compliance with relevant safety or environmental regulations or legislation.

1.19. Consultations with stakeholders emphasised that unrestricted access to SSE information could have negative implications for the performance of a vehicle. In particular, such access could compromise vehicle security and the safety of repairers, users and the general public. However some stakeholders raised strong concerns that manufacturers should not be able to decide what information could be restricted.

1.20. The Government has determined the most appropriate approach is to provide an explicit list of tightly-defined types of SSE information and the relevant access criteria. This list could be amended over time based on advice from the proposed industry body (and other stakeholders).

1.21. Further consultation will occur with key industry stakeholders on what SSE information should be restricted and the relevant access criteria.

**Outcome:** The presumption will be that information must be shared under the scheme unless it is on the SSE list. If on the list, it must be shared if those seeking it meet specified criteria.

## Enforcement

1.22. The consultation paper proposed the Australian Competition and Consumer Commission (ACCC) have enforcement responsibilities for the scheme. Consultation feedback supported this approach.

1.23. In relation to enforcement activities, feedback indicated there is support for the inclusion of penalties in the scheme. It is the Government's position that penalties be included in the scheme, and apply after a transition period.

**Outcome:** The ACCC will have enforcement responsibility over the scheme with penalties to apply after a transition period.

## NEXT STEPS

- 1.24. The Government will seek advice from key stakeholders on issues outlined in this paper to further develop the design of the scheme. This will help facilitate the development of draft legislation.
- 1.25. The next step in the formal consultation process is anticipated to be public consultation on draft legislative provisions. Stakeholders are welcome to contact Treasury at any time to provide input or feedback into the process.
- 1.26. Please contact [repairinfo@treasury.gov.au](mailto:repairinfo@treasury.gov.au) if you are interested in participating in future consultations and Treasury will add you to our stakeholder list. Stakeholders are also welcome to use this email address if they wish to discuss a particular aspect of the scheme, or provide further relevant information not already provided.