

# Motor Vehicle Standards (Cheaper Transport) Bill 2014

1.1 On 20 August 2015, the Senate, on the recommendation of the Selection of Bills Committee, referred the Motor Vehicle Standards (Cheaper Transport) Bill 2014 (the bill) to the Environment and Communications Legislation Committee for inquiry and report by 28 October 2015.<sup>1</sup> However, on 23 October 2015 the Senate granted an extension of time to report until 25 November 2015.

1.2 The bill is a private senator's bill introduced by former Senator Milne on 10 July 2014. The bill proposes to set carbon emissions standards for new passenger vehicles and light commercial vehicles purchased in Australia from 2017.

## Conduct of the inquiry

1.3 In accordance with its usual practice, the committee advertised the inquiry on its website and wrote to relevant individuals and organisations inviting submissions by 18 September 2015.

1.4 The committee received 14 submissions, which are listed at Appendix 1. The submissions may be accessed through the committee's website: [www.aph.gov.au/senate/ec](http://www.aph.gov.au/senate/ec).

## Acknowledgement

1.5 The committee thanks all the organisations and individuals who assisted the committee with the inquiry.

## Overview of the bill

1.6 At the present time, there are no mandatory fuel efficiency or carbon dioxide standards in place in Australia.<sup>2</sup> Under the *Motor Vehicles Standards Act 1989* and the *Motor Vehicles Standards Regulations 1989*, the Australian Government, through the Department of Infrastructure and Regional Development (the department), maintains the Australian Design Rules (ADRs). The ADRs require manufacturers to meet national design and performance standards before vehicles can be supplied to the Australian market.<sup>3</sup>

1.7 The bill intends to improve the fuel efficiency of new cars purchased in Australia by establishing legally binding vehicle carbon emissions efficiency standards, which a seller or vehicle importer is required to meet. The vehicle carbon emissions efficiency standards will be applied as an average across a seller's fleet of

---

1 Senate Standing Committee for Selection of Bills, *Report No. 10 of 2015*, 20 August 2015, Appendix 2.

2 Department of Infrastructure and Regional Development, *Submission 10*, p. 9.

3 Department of Infrastructure and Regional Development, *Submission 10*, p. 9.

new passenger and light commercial vehicles when more than 1000 cars are sold in a year.<sup>4</sup>

### ***Definitions of passenger and light commercial vehicles***

1.8 The bill defines passenger vehicles as 'having the meaning given by the regulations', however, if the regulations do not provide a definition then a road motor vehicle is categorised by the ADRs as LA, LB, LC, LD, LE, MA, MB or MC.<sup>5</sup> Similarly, if the regulations do not provide a definition of light commercial vehicles then it is categorised by the ADRs as NA.<sup>6</sup>

1.9 Passenger and light commercial vehicles would be required to meet a vehicle carbon emissions target of 130 grams of carbon dioxide emitted per kilometre by 2020, and 95 grams of carbon dioxide emitted per kilometre by 2023.<sup>7</sup> Compliance with the vehicle carbon emissions targets would be phased in from 2017 when 70 per cent of a seller's fleet has to meet the 2020 target, which increases by 10 per cent each year until 2020. Similarly, in 2021 it is expected that 80 per cent of a seller's fleet would be required to meet the standard of 95 grams of carbon dioxide emitted per kilometre, which also increases by 10 per cent each year until 2023.<sup>8</sup>

1.10 Senator Milne stated that the targets would align Australia with the European Union's 2020 standard of 95 grams of carbon dioxide emitted per kilometre by 2023.<sup>9</sup>

### ***Penalty charges***

1.11 The bill would provide for penalty charges to be applied when a seller's fleet emissions average exceeds the vehicle carbon emissions standard. The formulas contained in the bill are to be used to determine the penalty amount to be charged to sellers or vehicle importers. The formulas are:

- (1) The amount of the charge the person must pay for the year is the amount worked out using the following formula multiplied by the number of chargeable vehicles the person sells in the year, if the mean specific emissions of the CO<sub>2</sub> of the vehicles exceeds the standard by more than three grams of carbon dioxide per kilometre:

$$\$62 + ((\text{excess} - 3\text{gCO}_2/\text{km}) \times \$135 \text{ per gCO}_2/\text{km})$$

- (2) The amount of the charge the person must pay for the year is the amount worked out using the following formula multiplied by the

---

4 Explanatory Memorandum, p. 2.

5 Clause 3: LA refers to two-wheel mopeds; LB are three wheel mopeds; LC refers to motorcycles; LD refers to motorcycles with a side car; LE refers to motor tricycles; MA refers to passenger cars; MB refers to forward-control passenger vehicles; MC refers to off-road passenger vehicles.

6 Clause 3: NA refers to light goods vehicle.

7 Clause 4.

8 Clause 4.

9 Senator Christine Milne, *Senate Hansard*, 10 July 2014, p. 4645.

number of chargeable vehicles the person sells in the year, if the mean specific emissions of the CO<sub>2</sub> of the vehicle exceeds the standard by more than two grams per kilometre but less than three grams per kilometre:

$$\$27 + ((\text{excess} - 2\text{gCO}_2/\text{km}) \times \$35 \text{ per gCO}_2/\text{km})$$

- (3) The amount of the charge the person must pay for the year is the amount worked out using the following formula multiplied by the number of chargeable vehicles the person sells in the year, if the mean specific emissions of the CO<sub>2</sub> of the vehicle exceeds the standard by more than one gram per kilometre but less than two grams per kilometre:

$$\$7 + ((\text{excess} - 1\text{gCO}_2/\text{km}) \times \$20 \text{ per gCO}_2/\text{km})$$

- (4) The amount of the charge the person must pay for the year is the amount worked out using the following formula multiplied by the number of chargeable vehicles the person sells in the year, if the mean specific emissions of the CO<sub>2</sub> of the vehicle exceeds the standard by less than one gram per kilometre:

$$\text{Excess} \times \$7 \text{ per gCO}_2/\text{km}^{10}$$

1.12 Payment of the penalty amount by sellers or vehicle importers would be in accordance with the regulations. Failure to pay the charge would result in a late fee of up to 1.5 per cent of the unpaid charge being added per month or part of a month that it remains outstanding.<sup>11</sup>

1.13 The bill also proposes to authorise officers of the Clean Energy Regulator to seek further information on relevant matters from sellers and vehicle importers. This information may be accompanied by a statutory declaration to guarantee its accuracy. Failure to provide this information would result in the person committing a strict liability offence. The Explanatory Memorandum explained that a strict liability approach is necessary as it is relatively easy for vehicle manufacturers and sellers to comply with the requirement to provide information to the regulator, and the difficulty the regulator would have in proving intention.<sup>12</sup> In addition, the penalty imposed for failing to provide the information would be a financial penalty, rather than imprisonment.

### ***Administration of the standards***

1.14 The bill proposes that the Clean Energy Regulator would be the Commonwealth agency responsible for administering the standards. This responsibility includes processing annual returns from sellers and vehicle importers regarding the average emissions performance of cars sold, the number of cars sold and publishing the data on its website. The Clean Energy Regulator already fulfils a

---

10 Clause 6.

11 Clause 8.

12 Explanatory Memorandum, p. 3.

similar requirement to publish data on its website regarding other clean energy programs, such as the National Greenhouse and Energy Reporting Scheme.

1.15 Furthermore, it is proposed that the Climate Change Authority review the effectiveness of the scheme and recommend future mandatory standards beyond 2021. The Climate Change Authority's review would be undertaken in 2021 and be tabled in Parliament on its completion.<sup>13</sup>

### **Consideration by other committees**

1.16 When examining a bill or draft bill, the committee takes into account any relevant comments published by the Senate Standing Committee for the Scrutiny of Bills. The Scrutiny of Bills Committee assesses legislative proposals against a set of accountability standards that focus on the effect of proposed legislation on individual rights, liberties and obligations. The Scrutiny of Bills Committee considered this bill in its *Alert Digest No. 9 of 2014* and made a number of comments relating to the definitions of passenger and light commercial vehicles, the reasonable excuse defence, privilege against self-incrimination, and the reversal of onus.<sup>14</sup>

1.17 The Scrutiny of Bills Committee questioned whether the definitions of light commercial vehicles and passenger vehicles contained in clause 3 of the bill were appropriate. Light commercial vehicle and passenger vehicle are defined as 'having the meaning given by the regulations'.<sup>15</sup> However, the bill stated that if the regulations do not provide a definition then the meanings specified in the ADRs are to be applied. The Scrutiny of Bills Committee explained the importance of the definitions in determining the scope of the scheme and expressed its regret that the explanatory memorandum 'does not state the reasons for them to be altered by delegated legislation'.<sup>16</sup> It therefore sought advice from Senator Milne to justify the proposed approach.<sup>17</sup>

1.18 The Scrutiny of Bills Committee also questioned whether the offences in relation to returns contained in clause 15 of the bill were appropriate. As noted at paragraph 1.11, subclause 15(1) makes it an offence if a person fails to give information or submit a return that is required under this bill. This offence is a strict liability offence. The explanatory memorandum stated that the use of the strict liability approach 'is warranted in these circumstances' due to 'the difficulty of the regulator proving intention and the ease of complying with the provision to provide information to the regulator justifies the application of strict liability'.<sup>18</sup> Furthermore,

---

13 Explanatory Memorandum, p. 4.

14 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 9 of 2014*, 16 July 2014, pp 1–3.

15 Clause 3.

16 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 9 of 2014*, 16 July 2014, p. 1.

17 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 9 of 2014*, 16 July 2014, p. 1.

18 Explanatory Memorandum, p. 3.

---

the penalty for not complying with the provisions in the bill invokes financial consequences, not imprisonment.<sup>19</sup>

1.19 However, the Scrutiny of Bills Committee noted in response that:

...the *Guide to Framing Commonwealth Offences* recommends against framing defences in terms of 'reasonable excuses' given the uncertainties associated with what may constitute such an excuse and, thus, the associated difficulties that defendants may face in adducing relevant evidence. It may also be noted that the appropriateness of placing an evidential burden on the defendant in relation to the reasonable excuse defence is not specifically addressed.<sup>20</sup>

1.20 The bill also contains subclause 15(4) which provides that a person is not excused from providing a return or information on the ground that the information, or return, may incriminate the person. However, there is no information contained in the explanatory memorandum as to why this approach is required. The Scrutiny of Bills Committee also sought Senator Milne's advice to justify this approach.<sup>21</sup>

1.21 Finally, the Scrutiny of Bills Committee expressed its concern regarding subclauses 16(2) and 16(4) of the bill. Subclause 16(2) appears to place the legal burden of proof on the body corporate unless it proves that it exercised due diligence to prevent the relevant conduct from occurring.<sup>22</sup> Similarly, subclause 16(4) appears to place the burden of proof on individuals unless they can prove that they exercised due diligence to prevent the relevant conduct from occurring.<sup>23</sup> Accordingly, the Scrutiny of Bills Committee sought Senator Milne's advice with particular interest in whether consideration had been given to imposing a lower legal burden of proof.<sup>24</sup>

1.22 The Scrutiny of Bills Committee wrote to Senator Milne seeking her advice on the matters of concern raised in its *Alert Digest No. 9 of 2014*. However, a response was not received before Senator Milne resigned from the Senate on 24 June 2015.

1.23 The committee notes the concern expressed by the Scrutiny of Bills Committee in its *Alert Digest* regarding the bill.

---

19 Explanatory Memorandum, p. 3.

20 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 9 of 2014*, 16 July 2014, p. 2.

21 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 9 of 2014*, 16 July 2014, p. 3.

22 Explanatory Memorandum, p. 3.

23 Explanatory Memorandum, p. 3.

24 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 9 of 2014*, 16 July 2014, p. 3.

## Key issues

1.24 Evidence provided to the inquiry revealed significant opposition to the bill from some submitters in the automotive industry. For example, the Australian Automotive Dealers Association (AADA) and the Federal Chamber of Automotive Industries remarked that there was a lack of consultation with the automotive industry regarding the preparation of the bill.

1.25 The bill received support from environmental organisations and the Royal Automobile Club of WA. The Clean Energy Regulator gave in-principle support for the bill; however, it recognised that additional funding would be required from the Government to adapt its systems to accommodate the proposed functions.<sup>25</sup> The Climate Change Authority also provided in-principle support for the bill, as it stated 'mandatory standards would complement existing arrangements in the transport sector'.<sup>26</sup> It further stated that 'in the Authority's view, they represent a feasible and desirable addition to Australia's climate policy toolbox'.<sup>27</sup>

1.26 This section discusses the following key issues raised in submissions:

- the scope of the bill;
- Australian fuel quality; and
- the requirement for vehicle emissions standards.

### *Scope of the bill*

1.27 A number of submitters argued that the bill contains a noticeable error. The bill will apply to the ADR categories: LA, LB, LC, LD, and LE, which relate to motorcycles and mopeds.<sup>28</sup> The Federal Chamber of Automotive Industries stated that 'motorcycles are not currently included in measuring CO<sub>2</sub> emissions from passenger vehicles in Europe, Japan or the United States'.<sup>29</sup> It concluded that the passage of this bill 'will require the development of a unique CO<sub>2</sub> emissions test for motorcycles, adding further cost and complexity to industry with negligible consumer benefit'.<sup>30</sup>

1.28 The department also noted that the inclusion of motorcycles in the bill 'is relatively uncommon internationally'.<sup>31</sup> It further stated that:

...there is currently no ADR that requires motorcycle manufacturers to test and report on their CO<sub>2</sub> emissions. If motorcycles were included in the scope of this Bill, a new test procedure would need to be specified in the

---

25 Clean Energy Regulator, *Submission 3*, p. 1.

26 Climate Change Authority, *Submission 7*, p. 1.

27 Climate Change Authority, *Submission 7*, p. 1.

28 Australian Automotive Dealers Association Ltd, *Submission 5*, p. 3; Federal Chamber of Automotive Industries, *Submission 4*, p. 2.

29 Federal Chamber of Automotive Industries, *Submission 4*, p. 2.

30 Federal Chamber of Automotive Industries, *Submission 4*, p. 2.

31 Department of Infrastructure and Regional Development, *Submission 10*, p. 4.

---

regulations. Further while there is an international standard for measuring motorcycle fuel efficiency and CO<sub>2</sub> emissions; the Department understands that China is the only country to date that has included motorcycles in vehicle efficiency standards. As such manufacturers may be reluctant to invest resources into improving the efficiency of motorcycles for a relatively small Australian market restricting choice for consumers.<sup>32</sup>

1.29 Several submitters commented on the scope of the bill and the limitation of focusing on improving fuel efficiency standards of new passenger and light commercial vehicles purchased in Australia. The Federal Chamber of Automotive Industries commented that the bill has 'a single target for passenger cars and light commercial vehicles'.<sup>33</sup> The AADA also advised that the new car market in Australia is 'sub-optimal by global standards' as approximately 1.1 million sales of new vehicles were recorded in Australia in 2014. This represents 1.4 per cent of global sales of passenger and commercial vehicles.<sup>34</sup> The AADA commented that the bill overlooks the 17.2 million used vehicles registered in Australia, which are on average approximately 10 years' old.<sup>35</sup> The average lifespan of a light vehicle in Australia is approximately 20 years with four per cent of the fleet retired each year.<sup>36</sup>

1.30 The Federal Chamber of Automotive Industries advised that carbon emissions from new vehicles have decreased by 25 per cent since 2002. It was also noted that carbon dioxide emissions from new vehicles have decreased over that time.<sup>37</sup> The National Transport Commission (NTC) also reports on the carbon dioxide emissions intensity of new cars and light commercial vehicles. In its *Carbon Emissions from New Australian Vehicles 2013* information paper, the NTC found that in 2013 the industry average of carbon emissions from new passenger and light commercial vehicles was 192 grams of carbon dioxide emitted per kilometre.<sup>38</sup> This is a reduction of 3.4 per cent from 2012 and represented the third largest annual reduction since records started in 2002.<sup>39</sup> Figure 1.1 illustrates the reduction in the average carbon emissions from new passenger cars and light commercial vehicles since 2002.

---

32 Department of Infrastructure and Regional Development, *Submission 10*, p. 7.

33 Federal Chamber of Automotive Industries, *Submission 4*, p. 2.

34 Australian Automotive Dealer Association Ltd, *Submission 5*, p. 1.

35 Australian Automotive Dealer Association Ltd, *Submission 5*, p. 1.

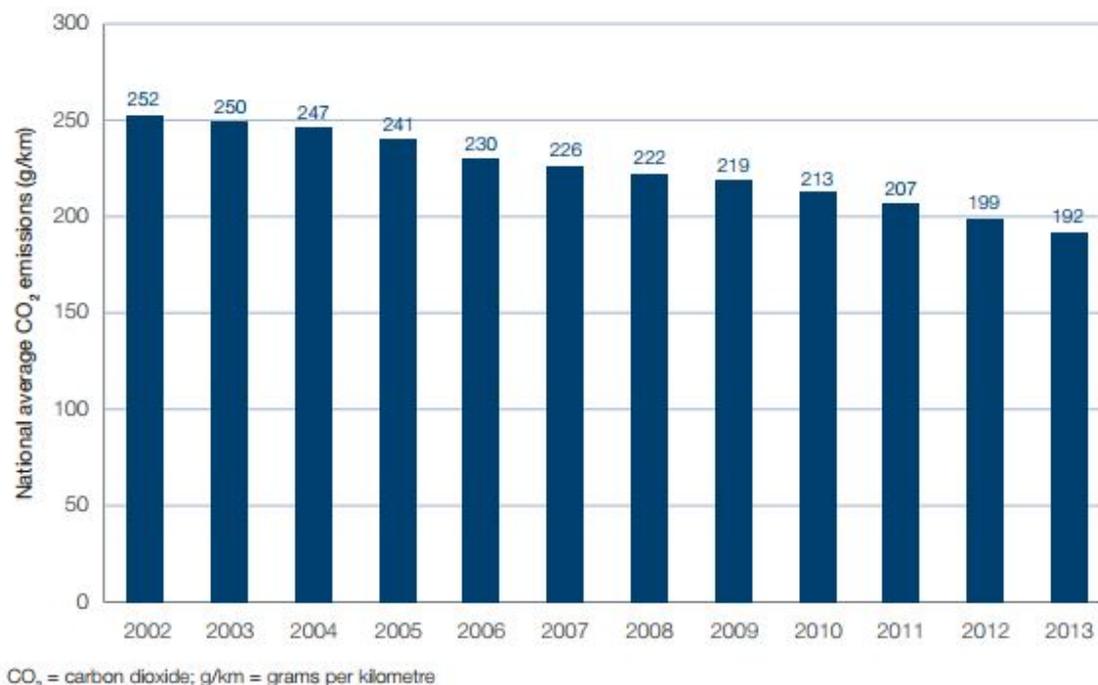
36 Climate Change Authority, *Light Vehicle Emissions Standards for Australia Research Report*, June 2014, p. 23.

37 Federal Chamber of Automotive Industries, *Submission 4*, p. 1.

38 National Transport Commission, *Carbon Dioxide Emissions from new Australian Vehicles 2013*, p. 4.

39 National Transport Commission, *Carbon Dioxide Emissions from new Australian Vehicles 2013*, p. 4.

Figure 1.1: National average of carbon dioxide emissions from new passenger and light commercial vehicles 2002 to 2013



Source: National Transport Commission, *Carbon Dioxide Emissions from New Australian Vehicles 2013*, information paper, May 2014, p. 16.

1.31 The department also noted the single target for 'all manufacturers and importers, regardless of the composition of the vehicles they sell' differs from the approach of the European Union (EU) or the United States.<sup>40</sup> The EU and the United States use an approach where each manufacturer has a 'sales weighted average basis' set. In the EU it is adjusted for each manufacturer based on vehicle weight. In comparison, the target for manufacturers in the United States is determined 'on the basis of footprint (length of wheelbase multiplied by track width)'.<sup>41</sup> The department noted the benefit of the approaches of the EU and the United States:

...standards in the EU and US provide for various allowances or 'credits', which enable manufacturers to further reduce their reported average emissions. These credits are intended to encourage investment in technologies that have benefits not captured in a standardised test cycle (such as air conditioning refrigerants with a lower global warming potential) or high cost, high abatement technologies such as electric vehicles.<sup>42</sup>

40 Department of Infrastructure and Regional Development, *Submission 10*, p. 7.

41 Department of Infrastructure and Regional Development, *Submission 10*, p. 7.

42 Department of Infrastructure and Regional Development, *Submission 10*, p. 7.

1.32 Further, the department stated that without the provision of a credit system it 'may make it harder for manufacturers and importers to meet the proposed standards in Australia as compared to the EU'.<sup>43</sup>

1.33 Dr Anna Mortimore, a lecturer in taxation at Griffith University, also recognised the importance of combining mandatory emissions standards with incentives and economic instruments. She submitted that:

To support innovation and alternative fuelled vehicles being imported into Australia, regulatory emission standards should provide for super credits or incentives to dealers of car manufacturers to encourage the technological development and sales of low emissions standards.<sup>44</sup>

1.34 Dr Mortimore further submitted that:

Australia will need to reduce the average CO<sub>2</sub> emissions for new passenger vehicles by around 28 percent (from an average CO<sub>2</sub> emissions of 182g/km in 2014 to the regulatory CO<sub>2</sub> emissions target of 130g/km) by 2020. This reduction in average emissions intensity for new passenger vehicles cannot be met by just introducing regulatory CO<sub>2</sub> emission standards for new light vehicles.

European Union Member States achieved an average emission for new passenger vehicles of 127g/km in 2013, earlier than the CO<sub>2</sub> emission target of 130g/km by 2015. The target was achieved by combining regulatory emission standards with additional economic instruments, such as reforming vehicle purchase taxes and the company car tax regime.<sup>45</sup>

#### *Consumer vehicle preference*

1.35 A number of submitters raised the issue that Australia's vehicle fleet differs significantly from the European vehicle fleet. Since 2000, the automotive industry has witnessed a change in the new vehicle mix as there has been an increase in the sale of all-terrain wagon and sport utility vehicles (SUVs) and a decrease in passenger vehicles. The department advised that 'between 2000 and 2015, passenger cars have decreased their market share from 70 to 48 per cent while SUVs have increased from 14 to 34 per cent'.<sup>46</sup>

1.36 The Australian Automobile Association noted that the European emissions targets were determined from modelling of the European fleet. The Association submitted:

The Australian vehicle fleet differs significantly from the European vehicle fleet, both in type of vehicles sold and the proportions in which each of

---

43 Department of Infrastructure and Regional Development, *Submission 10*, p. 7.

44 Dr Anna Mortimore, *Submission 14*, p. 4.

45 Dr Anna Mortimore, *Submission 14*, p. 4.

46 Department of Infrastructure and Regional Development, *Submission 10*, pp 8–9.

these types of vehicles are sold. As a result, a different fleet carbon emissions target could be expected for Australia.<sup>47</sup>

1.37 The NTC conducted a case study on consumer preference for vehicles in Australia and the United Kingdom. In its case study, the NTC found that Australians purchased a 'significantly greater proportion of SUVs compared with buyers in the United Kingdom (37 per cent versus 11 per cent)'.<sup>48</sup> In comparison, 65 per cent of vehicles purchased in the United Kingdom were from the light and small vehicle segments, which are 'the two segments with the lowest average carbon dioxide emissions'.<sup>49</sup>

1.38 The Federal Chamber of Automotive Industries also indicated that the 'Australian car market is different to other major automotive (especially European) markets'. Australian consumers prefer large cars, sport utility vehicles and light commercial vehicles that have larger engines and automatic transmissions compared to Europeans who prefer smaller cars with less powerful engines and manual transmissions.<sup>50</sup>

#### ***Australia's fuel quality***

1.39 Submitters also raised the issue of whether Australia's fuel quality is a barrier to the introduction of vehicle emissions standards. For example, Future Climate Australia (FCA) stated that assertions have been made in the debate regarding vehicle emissions standards regarding 'the lack of low sulphur fuel' as 'an impediment to meeting new vehicle CO<sub>2</sub> standards'.<sup>51</sup> However, the FCA pointed to correspondence from the International Council on Clean Transportation which acknowledged that:

...vehicle and fuel should be treated as a system, but the present quality of fuel available for road transport across Australia does not present any impediment to reduce vehicle CO<sub>2</sub> emissions at rates comparable to the other regions of the world.<sup>52</sup>

1.40 The Climate Change Authority also remarked that 'some stakeholders have suggested that this is a barrier to Australia implementing CO<sub>2</sub> emissions standards but there is no compelling evidence to suggest this is the case'.<sup>53</sup> The Authority identified

---

47 Australian Automobile Association, *Submission 2*, p. 2.

48 National Transport Commission, *Carbon Dioxide Emissions from New Australian Vehicles 2013*, p. 41.

49 National Transport Commission, *Carbon Dioxide Emissions from New Australian Vehicles 2013*, p. 41.

50 Federal Chamber of Automotive Industries, *Submission 4*, p. 3.

51 Future Climate Australia, *Submission 6*, p. 1.

52 Future Climate Australia, *Submission 6*, p. 5.

53 Climate Change Authority, *Light Vehicle Emissions Standards for Australia Research Report*, June 2014, p. 37.

---

that 'switching from conventional fuels with higher emissions to alternative fuels with potentially lower emissions' could reduce transport emissions.<sup>54</sup>

1.41 Similarly, the Royal Automobile Club of WA recognised that fuels of the future including shale oil, hydrogen and synthetic fuels have 'the potential to contribute to Australia's future transport fuel mix' but they are unlikely to be competitive until 'successfully integrated into the broader fuels market'.<sup>55</sup>

1.42 To assist the development of such technologies, the department stated that it:

...encourages performance based approaches to the ADRs that allow for innovation in vehicle design, including alternative power sources, rather than prescribe a particular alternative. If the vehicle meets the ADRs, powered by electricity or otherwise, there is no impediment to it being used in Australia.<sup>56</sup>

1.43 The department also acknowledged that 'the minimum octane level for petrol sold in Australia is 91 RON (Research Octane Number), which is lower than Europe's minimum of 95 RON' and has a sulphur limit that is '15 times higher than permitted in Europe'.<sup>57</sup> Moreover, the department advised that industry is concerned that vehicles optimised for European fuel specifications 'may not operate as effectively on fuels that only meet the minimum Australian fuel specifications'.<sup>58</sup> The department, on advice from vehicle manufacturers, also stated that any changes to more efficient vehicle technologies would require vehicle manufacturers to test the technology and adapt it 'to ensure they are fit for purpose in Australian conditions'.<sup>59</sup>

1.44 The Federal Chamber of Automotive Industries acknowledged that Australia's fuel quality standards are lower than the World Wide Fuel Charter recommendations. However, its long-held position is that:

...fuel quality standards, Green House Gas (GHG) emission standards (i.e. CO<sub>2</sub> standards) and pollutant emission standards (i.e. ADR 79/0x or Euro 5/6) all need to be considered together, as they are all interrelated...It is shared by the global automotive industry, regulators and research organisations alike.<sup>60</sup>

---

54 Climate Change Authority, Light Vehicle Emissions Standards for Australia Research Report, June 2014, p. 20.

55 Royal Automobile Club of WA, *Submission 9*, p. 18.

56 Department of Infrastructure and Regional Development, *Submission 10*, p. 12.

57 Department of Infrastructure and Regional Development, *Submission 10*, p. 6.

58 Department of Infrastructure and Regional Development, *Submission 10*, p. 6.

59 Department of Infrastructure and Regional Development, *Submission 10*, p. 6.

60 Federal Chamber of Automotive Industries, *Submission 4, Attachment 1, Fuel Quality Standards – background for the Senate inquiry into motor vehicle standards (Cheaper Transport) Bill 2014*, p. 1.

1.45 Similarly, the AADA remarked that:

...vehicle pollutant emissions standards and fuel quality standards are interrelated and the setting of Australian emissions standards without consideration of Australia's poor fuel quality limit the ability of manufacturers to introduce innovative motor vehicle emissions technology into Australia.<sup>61</sup>

1.46 The AADA commented on the statement made by Senator Milne in her second reading speech that 'Australian motorists will save around \$850 a year on petrol under this scheme'.<sup>62</sup> It asserted that the statement:

...ignored the need for motorists to purchase premium unleaded petrol (PULP) to achieve the in-service fuel consumption and performance (and subsequent fuel savings) of many overseas (especially European) markets. Currently, PULP is around 10c per litre more expensive than unleaded petrol.<sup>63</sup>

### ***Compliance reporting and penalties***

1.47 A further matter raised by submitters was the penalties and formulas contained in clause 6 of the bill. The department advised that it 'understands that the formula is intended to be based on the European formula, but considers that this should be clarified'.<sup>64</sup>

1.48 The department also noted that 'care would need to be taken' in relation to subclause 4(2) of the bill, as it imposes the responsibility to comply on 'persons selling the vehicles, which appears to cover both manufacturers and importers'.<sup>65</sup> This differs to the requirements under the *Motor Vehicle Standards Act 1989* in which 'it is generally the overseas-based manufacturer, rather than the importer, that obtains and holds the approval to supply vehicles to the Australia market and associated responsibilities for ensuring conformity of production'.<sup>66</sup>

1.49 The AADA also commented that it is unclear from the bill whether penalties for non-compliance will be applied to the authorised dealer network in Australia rather than the vehicle manufacturer, as currently required under the *Motor Vehicle Standards Act 1989*.<sup>67</sup>

1.50 However, the EDOs of Australia suggested that, in light of the global Volkswagen diesel emissions 'scandal' (see paragraph 1.58), the committee should 'consider increasing the level of penalties and the range of remedies available under

---

61 Australian Automotive Dealers Association, *Submission 5*, p. 3.

62 Senator Christine Milne, *Senate Hansard*, 10 July 2014, p. 4645.

63 Australian Automotive Dealers Association, *Submission 5*, p. 3.

64 Department of Infrastructure and Regional Development, *Submission 10*, p. 8.

65 Department of Infrastructure and Regional Development, *Submission 10*, p. 7.

66 Department of Infrastructure and Regional Development, *Submission 10*, p. 7.

67 Australian Automotive Dealer Association Ltd, *Submission 5*, p. 4.

the relevant instrument to deal with large-scale corporate incidents'.<sup>68</sup> It also suggested the committee consider introducing a 'cost recovery' option to the bill in which 'regulatory costs are built into the system, consistent with a polluter pays approach'.<sup>69</sup>

### *Administration of the bill*

1.51 The bill proposes that the Clean Energy Regulator be made responsible for the administration of the standards. However, the Clean Energy Regulator suggested that 'there may be greater synergy with the functions of an agency other than the Clean Energy Regulator', which would enable 'the outcomes to be achieved at a lower cost'.<sup>70</sup> The department advised that, since vehicle manufacturers are required under the *Motor Vehicle Standards Act 1989* to submit information to the department 'there may be scope to streamline reporting arrangements for manufacturers under both the Act and the proposed bill'.<sup>71</sup> It also recommended that further clarity be provided on compliance and reporting responsibilities as the distribution rights for vehicle brands can also change for time to time.<sup>72</sup>

1.52 The department stated that manufacturers, particularly manufacturers of light commercial vehicles, may 'find it challenging to meet proposed targets' within the bill's stipulated timeframes. This is due to previous advice the department received from vehicle manufacturers and importers that 'product plans are largely locked in with international partners at least three to four years in advance thus limiting the scope for changes beyond that point'.<sup>73</sup> Consequently, vehicle manufacturers and importers 'may need to adopt more expensive technologies or restrict the availability of certain vehicle models (and therefore consumer choice)', which would increase the cost to both manufacturers and consumers.<sup>74</sup> This could potentially discourage consumers from purchasing a new and more efficient vehicle.

1.53 The AADA and the Federal Chamber of Automotive Industries, in opposing the bill, suggested that a whole-of-government approach is required. This approach should address all associated issues including fuel quality standards and incorporating all sectors of the economy such as agriculture, mining, electricity generation and transport.<sup>75</sup>

---

68 EDOs of Australia, *Submission 8*, p. 4.

69 EDOs of Australia, *Submission 8*, p. 4.

70 Clean Energy Regulator, *Submission 3*, p. 1.

71 Department of Infrastructure and Regional Development, *Submission 10*, p. 8.

72 Department of Infrastructure and Regional Development, *Submission 10*, p. 8.

73 Department of Infrastructure and Regional Development, *Submission 10*, p. 6.

74 Department of Infrastructure and Regional Development, *Submission 10*, p. 6.

75 Australian Automotive Dealers Association Ltd, *Submission 5*, p. 2; Federal Chamber of Automotive Industries, *Submission 4*, p. 3.

### *Vehicle emissions standards*

1.54 A number of submitters commented that Australia is one of six countries within the Organisation for Economic Co-operation and Development that does not have mandatory vehicle fuel emissions.<sup>76</sup> Despite not having mandatory vehicle emissions standards, the department advised that 'annual CO<sub>2</sub> emissions reductions continued to be delivered in the new vehicle fleet, from 247g/km in 2004 to 188g/km in 2014'.<sup>77</sup>

1.55 However, the EDOs of Australia stated:

While Australia may benefit from improved standards overseas given it already imports almost all of its light vehicles, without mandatory standards it is likely that manufacturers will continue to allocate their most efficient model variants to markets with emissions standards. New Australian standards would avert this.<sup>78</sup>

1.56 Similarly, Future Climate Australia also observed that Australia receives 'low-tech vehicles that are cheaper to produce, and use substantially more fuel' as a consequence of not having fuel emission regulations.<sup>79</sup> The Australian Conservation Foundation also stated that 'three-quarters of the light vehicles sold globally are subject to a carbon emission standard'.<sup>80</sup> Without a similar regulation, it suggested that Australia is at risk of being 'used as a dumping ground for foreign-made vehicles that are too inefficient for other markets'.<sup>81</sup>

1.57 The department clarified the current ADRs regarding light vehicle emissions and stated that:

The principal ADRs currently regulating light vehicle emissions are ADRs 79/02, 79/03 and 79/04 (Emission Control for Light Vehicles)...ADR 79/02 currently mandates compliance with Euro 4 emissions requirements for light vehicles. The subsequent ADRs put in place transitional arrangements to require that all newly approved light vehicle models manufactured from 1 November 2013 and all light vehicles manufactured from 1 November 2016 comply with Euro 5 emission requirements.<sup>82</sup>

---

76 See Royal Automobile Club of WA, *Submission 9*, p. 2; Australian Conservation Foundation, *Submission 1*, p. 2, Future Climate Australia, *Submission 6*, p. 1; and Department of Infrastructure and Regional Development, *Submission 10*, p. 3.

77 Department of Infrastructure and Regional Development, *Submission 10*, p. 10.

78 EDOs of Australia, *Submission 8*, p. 4.

79 Future Climate Australia, *Submission 6*, p. 1.

80 Australian Conservation Foundation, *Submission 1*, p. 2.

81 Australian Conservation Foundation, *Submission 1*, p. 2.

82 Department of Infrastructure and Regional Development, *Submission 10*, p. 9.

1.58 The department indicated that the ADRs 'provide a precedent for the introduction of other emission standards in Australia', as they are 'based on standards adopted through the United Nations World Forum on the Harmonisation of Vehicle Regulations'.<sup>83</sup> Nevertheless, it cautioned that:

The adoption of standards may have an impact on costs to manufacturers and consumers due to the need for new technologies and design features but these could be offset by fuel savings over the life of the vehicle. Further modelling work is needed to better understand the current cost benefits of adopting specific standards.<sup>84</sup>

1.59 The department further stated that the proposed bill:

...could potentially apply a disproportionate regulatory burden on manufacturers and importers selling vehicles in Australia who rely on a higher proportion of sales from larger, heavier or higher powered vehicles.<sup>85</sup>

### ***Volkswagen emissions scandal***

1.60 During the inquiry, the committee noted the revelations from the United States that certain cars with diesel engines manufactured by the Volkswagen Group had emissions defeating devices installed.

1.61 The committee also notes that the Government has closely monitored this matter.<sup>86</sup> On 2 October 2015, the Minister for Territories, Local Government and Major Projects, the Hon Paul Fletcher MP, met with representatives of Volkswagen and Audi and discussed whether any Australian vehicles had been installed with devices to defeat emissions tests.<sup>87</sup> The Government has since announced that 91,177 vehicles from the Volkswagen Group have emissions defeating devices installed.<sup>88</sup>

1.62 In light of the revelations about Volkswagen, CHOICE expressed its concern at the largely self-regulatory approach to emissions and efficiency and the claims that certain tests have been manipulated and 'gamed' by manufacturers. CHOICE went on to note that, beyond Volkswagen, it was not aware of evidence that manufacturers of vehicles sold in Australia were engaging in these practices. However, it stated that there is evidence of a growing gap between the fuel efficiency claims of

83 Department of Infrastructure and Regional Development, *Submission 10*, p. 9.

84 Department of Infrastructure and Regional Development, *Submission 10*, p. 10.

85 Department of Infrastructure and Regional Development, *Submission 10*, p. 7.

86 The Hon Paul Fletcher MP, Minister for Territories, Local Government and Major Projects, 'Volkswagen emissions defeat devices', *Media Release*, 25 September 2015.

87 The Hon Paul Fletcher MP, Minister for Territories, Local Government and Major Projects, 'Australian Government meets VW and Audi to seek clarification regarding presence of 'defeat devices' in Australian vehicles', *Media Release*, 2 October 2015.

88 The Hon Paul Fletcher MP, Minister for Territories, Local Government and Major Projects, 'Government notes that 91,177 vehicles affected by emissions defeat devices have been sold by Audi and Volkswagen Australia', *Media Release*, 7 October 2015.

manufacturers based on laboratory testing and the performance of vehicles in real world conditions.<sup>89</sup>

### **Other reviews**

1.63 Issues related to the regulation of vehicle emissions are currently being considered by other reviews.

1.64 Over the past 12 months, the Government has been undertaking a review into the *Motor Vehicle Standards Act 1989* in consultation with community and industry stakeholders. The review is focused on 'strengthening the safety and environmental performance of Australia's vehicle fleet while removing unnecessary restrictions and regulatory burdens on Australian businesses and individuals'.<sup>90</sup>

1.65 In addition, on 31 October 2015, the Government announced the creation of a Ministerial Forum that will coordinate a whole-of-government review of the approach to vehicle emissions. The working group supporting the Ministerial Forum will examine a wide range of issues including fuel efficiency measures, fuel quality standards and emission testing arrangements. The Government will also consider incentives and standards to encourage the purchase of more fuel-efficient vehicles.<sup>91</sup>

### **Committee view**

1.66 The committee commends the Government for establishing a whole-of-government review of the approach to vehicle emissions. Importantly, the Ministerial Forum process that was initiated during this inquiry will allow for proposals such as emissions standards to be carefully examined and developed in consultation with industry and other key stakeholders. The committee notes that the Ministerial Forum process is also able to examine other related matters, such as fuel quality standards and emissions testing arrangements.

1.67 The committee appreciates that the bill seeks to ensure that new vehicles sold in Australia meet best practice emissions standards. However, as this report has outlined, stakeholders have various concerns about the development and proposed operation of the bill. Given that the Ministerial Forum will be undertaking intensive consideration of the matters and other related issues, the committee considers that the bill should not be passed.

---

89 CHOICE, *Submission 12*, p. 4.

90 Department of Infrastructure and Regional Development, *Submission 10*, p. 12.

91 The Hon Paul Fletcher MP, Minister for Territories, Local Government and Major Projects; The Hon Greg Hunt MP, Minister for the Environment; The Hon Josh Frydenberg MP, Minister for Resources, Energy and Northern Australia, 'Turnbull Government to review approach to vehicle emissions', *Joint Media Release*, 31 October 2015.

**Recommendation 1**

**1.68 The committee recommends that the Senate not pass the Motor Vehicle Standards (Cheaper Transport) Bill 2014.**

**Senator Linda Reynolds CSC  
Chair**

