



Consumer Rights Statutory implied conditions and warranties – Issues Paper

Submission from Veda Advantage on Lemon Laws and better information for second hand motor vehicle purchases

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EXECUTIVE SUMMARY

Purchasing a second hand car in Australia involves a considerable level of uncertainty.

Veda congratulates the CCAAC for recognising the need for better consumer protection *ahead of purchase* and contemplating the role of non-regulatory mechanisms.

Better consumer protection is broader than vehicle reliability. It also involves ensuring consumers have enough information to make an informed purchase offer. Consumers assessing market value need to know more than whether a vehicle is mechanically sound, or if its' odometer is accurate.

To make a fair offer, consumers need to know critical information, such as if the vehicle was previously a hire car or taxi, or been subject to numerous sales.

The information consumers need is held - by government, by vehicle related industries and by other service providers.

The innovation needed to bring this together can be generated by information economy experts. The consumer products described in Veda's submission here are common place in many European countries.

It does not involve personal information and solely relates to the life events of a vehicle.

Australia's present patchwork of available information, limited to state borders, is insufficient and its integrity easily undermined. Weaknesses identified by the National Vehicle Theft Reduction Council in a February 2001¹ Report on consumer access to information remain.

Veda is working with various states on access to data and with the private sector to improve information integrity.

We seek from the CCAAC a recommendation that, as a priority, the Commonwealth work with State Governments to open up access to non-personal vehicle data, on commercial terms, for the purposes of developing consumer information products on second hand vehicles.

¹ Feasibility of Improving Consumer Access to Reports on Vehicle Status February 2001 prepared for the national Motor Vehicle Theft Reduction Council by Michael McMullan Infoconsult Pty Ltd

“A lemon law may simply ensure increased disclosure of known faults before a good is sold to a consumer” Pg 31, CCAAC Consumer Rights Issue Paper July 2009

Every year more than 2 million second-hand motor vehicles transfer ownership; but ahead of purchase, buyers have little capacity to gain insight into a car's history.

Without that knowledge, buyers remain at a disadvantage when making an assessment of a vehicle's value.

Instead, buyers are currently limited to:

- generic advice on the performance of a make and model;
- an assessment of a car's current running condition through mechanical inspection;
- a REVS check to verify encumbrances; and
- Government vehicle products, providing information limited to the period of registration within that state.

Beyond that, tools to accurately verify, or identify, critical information are absent in Australia.

The result is a significant potential for perpetration of fraud or misrepresentation on used car buyers.

In July 2009 Veda Advantage conducted survey research² on people who had either recently purchased, or were soon likely to purchase, a second hand vehicle.

Unsurprisingly, 89 per cent nominated the criterion most important to a purchaser was the condition of vehicle. Closely allied to this were concerns about the legitimacy of information available on a car, with respondents nominating their top four concerns as:

1. Accidents / insurance claims (71%)
2. Value of the vehicle relative to other similar vehicles (49%)
3. Service history of the vehicle (49%)
4. Vehicle odometer reading (47%).

For people who purchased a vehicle, only 32 per cent had sought a REVS check prior to purchase.

Based on overseas experience, Veda believes Australian consumers do not have the basic tools available to make informed decisions when buying a vehicle.

Greater access to data from a broader range of sources can overcome information asymmetry.

² Veda Advantage survey of 1017 people aged over 18, July2-9 2009

“...there may be only limited steps open to the consumer to improve his or her understanding...”

Pg 32, CCAAC Consumer Rights Issue Paper July 2009

The gaps between the six states and two territories allow simple methods to circumvent existing consumer protections. Two of the most glaring examples are detailed here:

Important facts about a car disappear by re-registering it interstate

Fraud and misrepresentation are made easier by the inconsistent collection and availability of data between the states.

Typically, only data on the Written Off Vehicle Register (WOVR), encumbrances (REVS) and the Stolen Vehicle Register (SVR) reflects events that occurred in another state³.

However, a vehicle’s historic usage is far harder to discover.

A vehicle used as a hire car in NSW is discovered by purchasing a NSW RTA Vehicle History Check product.

But by re registering the vehicle in Victoria, its NSW history as a hire car effectively disappears; a prospective purchaser would now only see events from the date the vehicle was registered in Victoria. And chasing its previous NSW history would be impossible without knowing its previous NSW registration plate number.

Lack of historical recordings makes it impossible to verify odometer readings

Unlike many European countries, there is no mandatory annual reporting of odometer readings to Government and only one state (Queensland) has odometer information currently available (however this is only taken if a transfer of ownership has occurred).

NSW collects odometer readings both at transfer and as part of pink slip inspections mandated for cars more than five years old. However, there is currently no disclosure of this critical information, rendering pointless any potential consumer protection aspects.

This lack of historical checkpoints or markers makes it all too easy to tamper with odometers, either within a state or when re-registering it in another state eg a 2005 Ford Falcon leaves Victoria with 110,000km on the odometer, but the clock is wound back, and the vehicle re-registered in NSW, and then sold.

Consumers have extremely limited ability to verify vehicle odometers.

³ REVS for Tasmania need to be separately accessed, and WA data is not current. Stolen vehicle register is limited to QLD; NSW; VIC and SA;

“However there are ways to relieve information asymmetries in consumer markets without introducing laws.” Page 33 CCAAC Consumer Rights Issue Paper July 2009

Some information on used cars is available from transport/roads Departments in Queensland, South Australia and recently in Victoria and New South Wales.

An attached table details these state-based products.

Typically these are limited by:

- The data collected varies between states;
- This leads to a lack of data transparency when vehicles move interstate;
- The information available is limited to the period the vehicle has been registered in that state; uncovering prior genealogy is extremely difficult.
- Verification of odometer readings are limited

Lack of consistent collection of key data by states

Data collected by each state varies, and achieving consistency brings challenges.

For instance, the reporting of odometer readings in Queensland and Victoria only occurs upon transfer of a vehicle, whereas in NSW in addition to transfer reportage, mandatory annual inspections of vehicles over five years old, requires provision of odometer readings.

It is unlikely new legislation or regulation to impose mandatory annual inspections on all vehicles over five years old will be introduced anytime soon in Victoria or Queensland.

The information available is limited to the period the vehicle has been registered in a state

Moving a vehicle interstate prevents consumers from seeing vital information as basic as knowing if a vehicle had been a hire car or taxi in another state.

The re birthing can be as simple as driving a Sydney vehicle to the ACT, re-registering the vehicle and then bringing it back to NSW for re-registration again.

Lack of transparency between the states

Knowing the state where vehicle was previously registered does not make the task of finding information any easier.

Existing state-based products use different look ups to access information.

Some state’s (Tasmania, Victoria) provide look up by registration plate only.

For a person trying to check a vehicle’s history, this is challenging unless they know the vehicle’s previous registration plate.

Queensland relies on look up by the 17 digit/letter Vehicle Identification Number (VIN) only.

While this code should remain constant with a vehicle, insurance industry experience shows consumers are unfamiliar with knowing or locating VIN and there is a high rate of error when people provide the 17 number/letter code.

Other states use both registration plate and VIN (South Australia) or registration plate and the last 4 digits of a VIN (NSW).

Clearly, better consumer protection rests on having **both** look ups available.

Access via just registration plates ensures ease of use; and access via VIN ensures traceability of vehicles across state borders.

Integrity of odometer readings is limited

Even where key information, such as odometer readings, is available, there reliability is limited by the fact that odometer readings on transfer are self-reported information.

A 2001 report from the National Motor Vehicle Theft Reduction Council (NMVTRC)⁴ on improving consumer access to reports on vehicle status identified strong support for a “one-stop shop” where a consumer can obtain all vehicle status information.

While some progress has been made on WOVR and SVR, the 2001 report also stated:

“such information as number of times a vehicle has changed hands recently...this can help the consumer better assess the risk of buying a particularly vehicle.

Pg 8 ‘Feasibility of improving consumer access to reports on vehicle status’

The slow, patchy pace of implementation highlights the need to rethink the approach needed to achieve better consumer protection in an acceptable timeframe.

⁴ NMVTRC “Consumer Access to Reports on Vehicle Status” February 2001

“Are there any non-regulatory means available to consumers, industries or governments which might deal with asymmetries of information?”

Page 33 CCAAC Consumer Rights Issue Paper July 2009

The key non-regulatory change needed to overcome information asymmetry should be straight forward.

Improved access to non-personal vehicle data allows information economy experts to develop consumer products that bring together a broad range of private data holdings relating to a vehicle.

These products are common in Europe.

There strength comes from two important truths:

- Greater certainty in data is achieved by looking at its historic footprint; and
- The broader the range of data sources, the more likely the information presented is accurate

Veda Advantage is developing this in our Veda Auto Report (VAR), using information from a wide combination of non-government and government sources.

This combination and cross checking gives much greater data integrity.

For instance, VAR checks what kilometres were displayed in an earlier advertised sale; dramatic differences can reveal a period of intense usage, suspiciously low usage or even outright fraud.

Additional elements under negotiation include service history and major smash claims.

The further development of the product reflects consumer’s concerns expressed in the Veda research – consumers want to know if the vehicle has been in a major accident and if it has been serviced properly.

The capacity to give consumers better insight into a potential purchase is there. *Greater co operation from Government on access to non-personal data is needed to make it happen.*