



National Motor Vehicle
Theft Reduction Council
driving down vehicle theft

**Code of Practice for Dealing in Second
Hand Auto Parts
Phase 2 Report**

September 2003

**Prepared by:
A D Edwards Consulting Pty Ltd**

National Motor Vehicle Theft Reduction Council

**Code of Practice for Dealing in Second-hand Auto Parts
Phase 2 Report (incorporating the *Exposure Draft Code*)**

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REPORT OUTLINE

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- TITLE:** Code of Practice for Dealing in Second Hand Auto Parts
- ADDRESS:** National Motor Vehicle Theft Reduction Council
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- Type of report:** Discussion Paper
- NMVTRC Program:** Reducing the cost of theft
- Desired outcome:** Development and implementation of cost-effective systems infrastructure and practices that impede the activities of criminals attempting to convert stolen vehicles or components into cash.
- Key Milestones:** "Exposure Draft" code and associated papers completed.
- Abstract:** One of the national Motor Vehicle Theft Reduction Council's (NMVTRC) key goals is to impede the activities of criminals attempting to convert stolen vehicles or components into cash. Minimising the likelihood of stolen parts being unwittingly laundered via legitimate businesses is an important element of the NMVTRC's strategy.
- This report builds on the Feasibility Study into a Code of Practice for the auto parts recycling industry undertaken in August 2002. For the purposes of this report, the Code is notionally referred to as "PartSafe".
- The report provides a draft Code suitable for release as an "exposure draft". The Code comprises the proposed Accreditation Agreement, containing the detailed obligations of auto parts recyclers that wish to become accredited, and a short public document suitable for use as a shopfront pamphlet etc.
- The report also provides a model for the governance and administration of PartSafe.
- Purpose:** To provide the basis for an informed decision about the content and operation of a Code of Practice for the auto parts recycling industry.
- Key words:** Code of practice, dismantlers, auto parts recyclers, wreckers, stolen parts, car parts, auto parts, vehicle theft

FOREWORD

The National Motor Vehicle Theft Reduction Council (NMVTRC) is a joint initiative of all Australian governments and the insurance industry. Its mission is to deliver a culture of continuous and sustainable vehicle theft reductions by advancing reform and co-operations between industry, government and community stakeholders.

The NMVTRC achieves this by working with stakeholders to develop and implement countermeasures that will impede the activities of organised criminals attempting to convert stolen vehicles or components into cash.

The NMVTRC estimates that more than 15,000 vehicles are stolen each year for dismantling and re-distribution as parts. A study of the stolen parts trade by the Australian Institute of Criminology (2001) observed that the business practices of parts recyclers were potentially facilitating the trade. Minimising the likelihood of parts being unwittingly laundered by legitimate recyclers must therefore be an important element of any strategy to combat the problem.

Over time, some states and territories have responded to the problem by subjecting recyclers to the record keeping requirements of motor car trader or second-hand dealer laws. Some commentators have called for nationally consistent laws but the NMVTRC is of the view that this would not be achievable in the medium term. There are also legitimate concerns about the lack of rigour with which existing laws are enforced.

In 2002 the NMVTRC engaged A D Edwards Consulting to examine the feasibility of achieving the desired outcomes via an industry-based code of practice. The *Feasibility Report* (August 2002) determined a Code was practicable and found widespread stakeholder support for the concept. That support was reiterated by stakeholders at a national workshop on the issue in November 2002 which resolved that the NMVTRC should continue to develop the proposal.

This report builds on the outcomes of the 2002 Feasibility Study report and the workshop and provides a comprehensive guide to the elements that would make an effective Code and the issues that need to be addressed in order to implement it. It includes an exposure draft of the proposed Accreditation Agreement.

Considerable care has been taken in designing the Code to limit any conflict with the existing regulatory regimes and allow businesses some flexibility in demonstrating compliance. A central element of the proposal is that insurance companies support the Code by insisting that approved repairers source any recycled parts used in crash repairs from participating recyclers.

It is estimated that the Code will cost around \$350k per annum to administer via a specially formed administering body. However, it is important to note that potential funding streams—and implications for any participant subscriptions—have been deliberately excluded from the work undertaken to date. The NMVTRC will explore these issues in more detail over the next few months.

At this time, we are seeking stakeholder feedback on the adequacy of Accreditation Agreement and support to move on to the next stage in which funding scenarios and the extent to which insurance companies are prepared to support the Code are locked down.

SUMMARY

Background

This project follows on from the Feasibility Study published in August 2002, and a national workshop of stakeholders convened by the National Motor Vehicle Theft Reduction Council (NMVTRC) in November 2002. There was unanimous support at the workshop to proceed with the further development of a Code of Practice. The objective of the Code is to reduce the (often unwitting) entry of stolen auto parts into legitimate parts recycling business.

For ease of discussion, the Code of Practice is notionally called "PartSafe" in this report.

Conclusions

It was determined that the best way to prepare the Code was as two key documents. The first is a short public outline of the Code, suitable for use as, for example, a shopfront brochure. It could be derived from the Questions and Answers Summary Paper (Attachment D). The second document is the PartSafe Accreditation Agreement (Appendix C), a legal agreement between PartSafe and accredited recyclers that details the obligations and other arrangements pertaining to the Code.

The crux of the Code is to institute appropriate stolen-parts avoidance checks covering the acquisition of stock by PartSafe recyclers. A system of record keeping and parts marking ensures that individual components can be traced back to those checks. Stringent identification requirements would apply to the acquisition of already separated spare parts, particularly those from private sellers.

The PartSafe administration should take the form of an incorporated association, independent of the industry and existing industry associations, although with a mix of police, office of fair-trading, and industry association representation on the governing Council. It is important to ensure there can be no suggestion of bias in the operation of the Code. Commonwealth publications relating to the development of voluntary industry codes¹ also stress that independence is a key benchmark for Codes of Practice.

Many stakeholders raised concerns about the likely effectiveness of the Code in impacting on the problem elements of the industry, and those outside the industry such as "backyarders". Clearly the success of the Code will be largely dependent on the extent of industry coverage that can be achieved. It is concluded that significant coverage will result from the expected support for PartSafe recyclers from both trade and private buyers. Insurance company support will be an important initial catalyst to create the incentives for recyclers to become accredited.

It is recognised that an industry Code's impact will, by definition, have less impact on those outside the legitimate industry. There are strong concerns about the "backyarders" amongst legitimate businesses. An effective Code is also likely to

¹ eg. Benchmarks for Industry-Based Customer Dispute Resolution Schemes, 1997 and Codes of Conduct – Policy Framework, 1998, both issued by the Commonwealth Minister for Customs and Consumer Affairs, and the Final Report of the Commonwealth's Taskforce on Industry Self-Regulation, 2000.

further marginalise the stolen parts trade away from the regular industry. Accordingly, concerted efforts should be made by enforcement agencies to clamp down on the “backyard” trade as an adjunct to the introduction of the Code.

The Code has been designed to minimise the compliance burden upon PartSafe recyclers and the extent of any conflict with existing regulatory requirements while preserving the effectiveness of the Code. In South Australia, for example, much of what is already required under that State’s legislation would meet the PartSafe obligations. Nevertheless, some additional obligations would exist. To the extent possible, the obligations have been designed to allow businesses some flexibility about the processes they institute or adapt, so long as the specified objectives can be demonstrably met.

While any additional administrative burden will meet some resistance, it is concluded that the suggested requirements are not unduly onerous, reflect community expectations about minimum checks that ought already be happening, and can be readily incorporated with businesses’ existing stock control and other procedures.

The cost of administering PartSafe is likely to be about \$350,000 per annum. Three staff would be the minimum necessary to effectively operate PartSafe. This excludes compliance auditing personnel who would be engaged on a temporary basis through “service level agreements” with existing organisations that have relevant staff available, or through recruitment agencies in each State and Territory. Standardised compliance audit pro-formas and procedures would be developed in conjunction with the industry in the implementation phase. Ideally, at least 20 per cent of PartSafe recyclers should have their compliance with the Code audited per annum.

Major and repeated breaches of the Code will result in termination of the Accreditation Agreement. Breach investigation and appeals processes will ensure reasonableness and natural justice for PartSafe recyclers.

The terms of reference for the project did not require recommendations as to whom should fund the PartSafe resource requirements, however, the issue of accreditation fees is clearly an important option. If fees are to be applied, it is recommended that the first year’s fees be waived for recyclers that become accredited within 12 months of the establishment of PartSafe. This recognises the potentially low initial awareness of PartSafe amongst parts buyers, and the need to quickly attract a critical mass of accredited recyclers.

It is highly likely that a critical mass of accredited recyclers will eventuate, particularly if early support from insurance companies is realised. For operational effectiveness, it is estimated that at least 300 PartSafe recyclers would be needed, but to significantly impact the trade in stolen parts, the maximum possible level of industry coverage will need to be pursued. The achievement of the latter goal will be largely dependent on the effectiveness with which consumer buying behaviour is directed towards PartSafe recyclers. It is concluded that high levels of industry coverage will be achieved with marketing support from stakeholders, and the fact that recyclers are likely to seek accreditation to protect or increase even a small proportion of their turnover.

The viability of PartSafe should be apparent within the first 12 months of operation, and stakeholders should reconsider the future of the scheme at that time.

Recommendations

It is recommended that:

- the draft Accreditation Agreement and the “Questions and Answers” summary documents be released as the basis for broad discussion;
- an outcome-based, rather than a process-based, approach to obligations under the Code be agreed (to the extent feasible without compromising effectiveness);
- there be nationally consistent obligations, penalties and enforcement under the Code;
- the target should be to audit at least 20 per cent of accredited recyclers per annum;
- the Code should only apply to vehicles and components less than 15 years old;
- the Code should apply to the components at Table 1: Applicable Components;
- the introduction of the Code should be in conjunction with a concerted effort by all States and Territories to clamp down on the private, or “backyard”, trade in used auto parts;
- the recycling industry, insurance industry, and damaged vehicles auction houses should convene to consider options to further restrict criminal involvement at auctions and tender processes for written-off vehicles;
- subject to any specialist accounting advice during the implementation phase, PartSafe be established as an incorporated association;
- the administration of PartSafe be clearly separate from any existing industry organisations, and independent from scheme members;
- care be taken when drafting the Rules of Association to ensure the key elements of the Code’s content and the governance structure are safeguarded to the extent possible;
- the Director of PartSafe report to an independent governing council comprising representatives of police services, offices of fair trading, APRAA, the MTAA (or an MTA nominated by the MTAA) and an independent recycler;
- the NMVTRC consider chairing the Council in the implementation period;
- the Appeals Committee comprise three members of the Council, as nominated by the Chairperson from time to time;

- a vision statement for the organisation be prepared that clearly identifies the primary purpose as a reduction in the trade in stolen auto parts, whilst also acknowledging the associated rewards for accredited recyclers in terms of market size and market share;
- a budget of approximately \$350,000 per annum and 3 full time staff be agreed for the Code's administration;
- if fees are to be applied, that consideration be given to waiving the first year's fees for recyclers that become accredited within 12 months of the establishment for PartSafe;
- the NMVTRC seek formal responses from stakeholders about whether and on what basis they might be prepared to provide financial assistance;
- support from a number of individual insurance companies should be formally agreed and implemented within 12 months of the establishment of PartSafe; and
- stakeholders should determine whether to continue with PartSafe in light of the first 12 months of operational experience.

ACKNOWLEDGEMENTS

The NMVTRC and A D Edwards Consulting Pty Ltd (ADEC) gratefully acknowledge the assistance of the members of the Expert Reference Group in helping guide the project.

The support and advice provided by members of the Auto Parts Recycling Association of Australia (APRAA) is much appreciated, particularly the tireless contribution from Bill Bartlett.

Particular thanks are extended to the 200 or more parts recyclers around the country who were consulted during the course of the project. Their comments on the proposed Code and their industry knowledge were invaluable. The help of John Hitchcock in co-ordinating a discussion forum with most of the industry in South Australia is gratefully acknowledged.

The NMVTRC and ADEC also extend their gratitude to all the representatives of the police services, offices of fair-trading, motor trades associations, insurance companies, and other stakeholders around Australia who contributed their time and advice in the preparation of this Report.

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1 METHODOLOGY AND OUTCOMES

1.1 Methodology

1.1.1 Introduction

The development of the Code built on the work and consultations undertaken during the Feasibility Study. The focus for this stage of the project was refining the content of the Code and determining appropriate governance and administrative arrangements, rather than engaging in further broad consultation with stakeholders.

However, given some concerns expressed about consultation levels in Western Australia and South Australia during the Feasibility Study, the consultant visited a range of stakeholders in those States for face-to-face discussions. The consultant also visited stakeholders in Queensland, New South Wales and Victoria.

The objective of the project was to develop an “exposure draft” of the Code for further consideration by stakeholders and the public generally, and to develop suggested governance and administration arrangements.

These documents have been prepared as the basis for further discussion about the details of the Code and its operation, and should not be interpreted as a final position.

The terms of reference for the project also specified that:

- formal sign-off by stakeholders was not to be pursued at this stage;
- resolution of “political” issues associated with the project and stakeholders was not the role of the consultant;
- environmental considerations would not be significantly pursued (as they are outside the mandate of the NMVTRC), other than to ensure that the Code would lend itself to the later inclusion of an “environmental module” if required; and
- advice on the Code and its governance and administration would not extend to the minutiae of organisational and operational structures and processes – these are matters for the implementation phase and may require professional accounting and legal advice.

1.1.2 Approach

A multi-faceted approach to the project was necessary, and included:

- consulting with stakeholders (see below);
- working with the Expert Reference Group (see below);

- researching several existing industry Codes;
- discussions with the Commonwealth Department of Treasury regarding the design of Codes etc;
- researching publications relating to the design of industry codes of practice;
- researching existing legislation and regulations - both those currently applying to the parts recycling industry, and those that provided a useful model for ensuring the Code would readily lend itself to adaptation to regulations (such as Fair Trading legislation);
- examination of existing legal documents that were suitable as models for the Code Accreditation Agreement;
- discussions and correspondence with the Australian Competition and Consumer Commission (ACCC);
- discussions and correspondence with a law firm to obtain independent advice on Trade Practice Act, privacy, contractual and other legal issues associated with the Code;
- researching information regarding cost and staffing levels for small organisations; and
- researching existing strategic and business plans.

1.1.3 Guiding Principles

The development of the Code took into account best practice as espoused in various publications (including Commonwealth documents²), by examining a number of existing Codes, and considering the structure and content of comparable regulations:

- this approach should greatly assist if the Code later needs to be translated to a regulatory, rather a voluntary and contractual, format.

It should be noted, however, that the primary focus of the PartSafe Code is to achieve a reduction in the trade in stolen vehicles and vehicle components. Although there are obvious consumer protection benefits, this focus is somewhat different from most other Codes of Practice (and most of the literature on the subject) that are largely aimed at customer-dispute resolution.

² eg. Benchmarks for Industry-Based Customer Dispute Resolution Schemes, 1997 and Codes of Conduct – Policy Framework, 1998, both issued by the Commonwealth Minister for Customs and Consumer Affairs, the Final Report of the Commonwealth's Taskforce on Industry Self-Regulation, 2000, and information at the Commonwealth's industry self-regulation website (www.selfregulation.gov.au) and the Commonwealth Department of Treasury's website (www.treasury.gov.au).

1.1.4 Expert Reference Group

The NMVTRC formed an Expert Reference Group (ERG) to:

- provide a source of expert input into the development of the draft Code;
- provide an early review of consultants reports and NMVTRC proposals to ensure the feasibility of recommendations prior to the commencement of more general consultation; and
- where appropriate—assist in disseminating information about the Code's development to stakeholder organisations and networks.

The members of the ERG were:

- Mr Tony Selmes, Chair (NMVTRC Council member/Motor Trades Association of Australia/Motor Trades Association Queensland);
- Mr Michael Beasley (APRAA, WA);
- Mr Bill Bartlett (APRAA National Spokesperson);
- Mr Tony Tarplee (Motor Vehicle Repair Industry Authority, NSW)³;
- Detective Inspector Terry Campbell (NSW Police);
- Detective Sergeant Gerry Bashford (Victoria Police);
- Mr Barry Phillips (Roads and Traffic Authority, NSW);
- Mr John Hitchcock (Hotline Recycled Autoparts, SA);
- Mr David Schomburgk (Office of Consumer and Business Affairs, SA);
- Mr Chris Wood (Allianz Insurance);
- Mr Anthony Boddy (Insurance Australia Group); and
- Mr Graeme Bevis (Motor Trades Association, NT).

Three discussion papers were circulated to ERG members and discussed, along with other issues, at four ERG meetings over the course of the project. ERG papers covered:

- options for the Code administration body;
- key elements of a Code (containing draft provisions covering the proposed obligations upon Code-accredited recyclers); and

³ Resigned June 2003

- disciplinary and appeals mechanisms (containing draft provisions relating to, for example, penalties for breaches of the Code and appeal processes).

Written and oral feedback from ERG members played a significant role in formulating the draft Code.

1.1.5 Industry Mail-out

ADEC co-ordinated the mail-out of a letter from the NMVTRC's Executive Director to approximately 1400 businesses in the industry that briefly explained the proposed Code and sought comments. Five responses were received.

1.1.6 Industry Consultation

In addition to the industry mail-out, about 200 auto parts recyclers were consulted directly during the course of the project, either individually or as part of an address to groups of recyclers.

1.1.7 Industry Associations

Several meetings and on-going consultation was undertaken with APRAA. In addition to discussions with the APRAA head office, meetings were held with APRAA representatives in Victoria, New South Wales, Queensland, South Australia, and Western Australia.

Meetings were held with the MTAA, and MTAs in Queensland, South Australia, and Western Australia. MTAs in Tasmania (TACC) and the NT were contacted by phone. Two State MTA representatives were on the ERG.

These consultations were in addition to those during the Feasibility Study phase.

1.1.8 Police and Government

Meetings were held with the Police Services, Offices of Fair Trading and other government agencies in Western Australia, Queensland, and South Australia. Similar discussions were held with these agencies in New South Wales, Victoria and the ACT during the Feasibility Study phase of the project.

Correspondence and phone discussions were undertaken with the Commonwealth Department of Treasury and the Australian Competition and Consumer Commission. Regrettably, the Department of Treasury did not respond to requests for comments on the proposed Code.

The consultant met with Environment Australia (the Commonwealth's environment agency).

1.1.9 Legal Advice

NMVTRC arranged for independent legal advice on the Code, including contractual and Trade Practice Act issues, to be provided to the consultant.

Campbell Duncan and Associates provided written and oral advice in relation to a range of issues – discussed further below.

1.2 Legal Issues

1.2.1 Trade Practices Act Issues

Trade Practices Act (TPA) issues that might arise with the Code were followed up with the Australian Competition and Consumer Commission (ACCC) during the project. The ACCC made it clear that its role was not to provide legal advice, however, it stated that there were three possible concerns that should be considered.

The first relates to the eligibility requirements for accreditation under the Code. This concern could arise if membership was restricted because of criteria other than standards of conduct or probity.

The second area of possible concern relates to any “exclusionary agreements” by traders who otherwise compete. Such a problem might arise, for instance, if insurance companies or crash repairers agreed with each other to restrict purchases to recyclers accredited under the Code. If each trader formed its own decision to do so, there would be no exclusionary agreement.

Finally, the ACCC considered that “third line forcing” issues could arise. This occurs where a corporation supplies goods or services on the condition that the acquirer obtains other goods or services from another person. The ACCC suggested that this could arise if a trader indicated that it would only deal with a particular parts supplier if that supplier was accredited under the Code.

ADEC obtained independent legal advice as suggested by the ACCC. In summary, the advice provided agrees that care should be taken to ensure that:

- accreditation is restricted only by reference to standards of conduct and probity;
- supporters of the Code (such as insurance companies and other parts buyers) are making independent decisions about whether and how to support the Code;
- the structure and management of the Code should be focussed on the public policy objectives (protecting consumers, reducing the trade in stolen parts etc); and
- as a form of risk management, there should be periodic reviews of the scheme’s impact on the car parts and vehicle repair markets.

These issues have been addressed in the design of the Code and the proposed administrative arrangements.

In relation to the issue of third line forcing, the legal advice provided to us states that:

- “As we understand the proposal, the question of third line forcing does not arise, so there is nothing to be achieved by making a third line forcing notification to the ACCC”.

Third line forcing under the terms of the TPA does not appear to arise given the nature of the anticipated transactional arrangements, particularly given the possible interpretations of who might constitute “suppliers”, “acquirers”, and potential “third party suppliers” in the transaction.

The legal advice also notes that the Dawson Committee review of the TPA has recently recommended that third line forcing should cease to be an offence.

The Code (including the Accreditation Agreement) has been subsequently examined by the lawyers to ensure TPA issues have been adequately addressed.

1.2.2 Contractual Issues

Legal advice was also provided on contractual issues associated with the Code and these have also been incorporated in the current drafts.

While the Accreditation Agreement is largely complete and legally accurate, consideration should be given to obtaining further legal assistance in finalising the document following any feedback on this version.

It is also recommend that legal advice be sought when developing the Rules of Association during the implementation phase.

1.2.3 Privacy Act Issues

The Commonwealth *Privacy Act 1988* has applied to small businesses since December 2002. Legal advice was obtained about the potential implications under the Act of the Code’s provisions on accredited parts recyclers.

It appears likely that the collection of personal information, such as the address of an individual that was selling a vehicle or component to the recycler, would be allowable under Privacy Principle 1. This Principle requires that the personal information only be collected for the recycler’s own functions or activities. In this case, it would seem to be a reasonable requirement as part of the transaction to obtain the seller’s address.

Principle 2, covering disclosure of personal information to third parties (such as PartSafe or the police) is more likely to be a potential issue. However, discussions with the lawyers suggest that the disclosure is likely to be permissible, as the legislation allows disclosure to third parties in certain circumstances, including where:

- the purpose of the disclosure is related to the primary purpose of collection (eg. recourse in the event of receiving stolen goods) and the individual would

reasonably expect the organisation to disclose the information for the secondary purpose.

Preliminary advice is that this exemption would be likely to apply, particularly if:

- it was apparent to the individual from signage etc at the shopfront that the recycler was a PartSafe recycler, and hence was concerned about avoiding stolen parts; and
- the recycler included an appropriate clause in their Privacy Policy.

In addition, it is proposed that there would be public, pamphlet versions of the PartSafe Code available at shopfronts that would indicate the circumstances under which personal information could be provided to third parties.

Given the recent changes to the application of the Act, it is likely that most parts recyclers are already required to have a Privacy Policy (as most would collect personal information of some sort).

While it appears that the privacy issues will be able to be addressed relatively easily, further legal guidance on these matters will be important during the implementation phase.

It should be noted that the privacy principles only relate to the collection of personal information about individuals, and not corporations.

1.3 Stakeholder Feedback

1.3.1 Industry Concerns

While industry associations and many recyclers are generally supportive of the Code, many are concerned about the financial or administrative imposts, and/or the effectiveness of the Code in capturing the poor operators. Concerns raised during this phase of the project were little different from those raised during the Feasibility Study.

In summary, the predominant themes raised by recyclers who are either concerned or do not support the Code are:

- the need for a Code at all given the existence of regulatory requirements in a minority of jurisdictions:
 - the consultant spoke with approximately 80 recyclers in South Australia where this was a particular concern for many businesses;
- the extent to which a Code will have an impact on “backyard” or poor operators, rather than simply creating extra imposts for the already “good” operators;
- the need for greater controls over those purchasing written-off vehicles, particularly at auctions, to remove the criminal element;

- the workload associated with the Code (“compliance costs”);
- the possibility of having to duplicate inventory management and record keeping systems;
- whether the Code will be properly monitored and enforced;
- concerns about accreditation fees – good operators are already doing the right thing “fee free”, and/or comply with regulations “fee free” (eg. in South Australia); and
- the difficulties that “self-serve” operators would have in adhering to the Code requirements, as they rely on customers to tell them which vehicle the part came from.

The way in which the Code’s design endeavours to address these concerns to the extent possible is discussed below.

It should be noted that many of the initially sceptical recyclers became more positive once they were given a clearer idea of the detail of the Code’s proposed provisions and operation. In particular, the potential marketing benefits that could accrue from “piggybacking” on the PartSafe marketing were of interest.

In addition, from the consultations, it is apparent that a substantial proportion of parts recycling businesses are genuinely interested in improving the performance and image of the industry, and clamping down on the “poor” operators.

1.3.2 Industry Associations

Both APRAA and the MTAA indicated strong support for the Code.

The MTA in South Australia was generally supportive but had some reservations given the existence of similar regulatory requirements in that State. As discussed further below, the design of the Code ensures there is no duplication or conflict of record keeping requirements and this may alleviate some of those concerns.

During discussions with one or two MTAs, some scepticism was expressed about the motives behind insurance company involvement with the Code. These concerns were generally non-specific, and seem to relate to pre-existing tensions over issues such as hourly labour rates for crash repairs. The inference appeared to be that the Code could be a mechanism for insurance companies to exert downward price pressure on the supply of used parts. As discussed below, insurance companies will not be involved in the operation of the Code, a competitive market will continue to exist for the supply of used parts from accredited recyclers, and the Code does not appear to provide insurance companies with any greater opportunity to dictate used parts prices to crash repairers than the status quo.

1.3.3 Government and Police Services

There was a very positive response from the police services and offices of fair-trading (OFTs) consulted during this phase of the project, reaffirming the findings of the Feasibility Study. However, it is noted that, at the NMVTRC's November 2002 workshop, a representative of the NSW OFT was sceptical about the likely success of the Code without regulatory force.

Most OFTs indicated a willingness to consider some degree of involvement in the Code, although formal proposals to the respective Governments would need to be officially considered before any firm undertakings could be made. Options discussed in general terms included representation on the Board of PartSafe, assistance with compliance audits (possibly on a fee for service basis), and in-kind assistance in promoting the Code (such as the inclusion of leaflets about the Code with registration notices, making brochures available at Government shopfronts etc). Formal proposals along these lines should be pursued during the implementation phase.

1.3.4 Insurance Companies

The positive responses from the insurance industry during the Feasibility Study continued during this phase of the project. Both the Insurance Council of Australia (ICA) and a number of individual insurance companies were consulted during the Feasibility Study. The development of the Code during this phase of the project predominantly involved consultation with the Insurance Australia Group (IAG) and Allianz, both of which were represented on the ERG.

Useful background information was provided on the legal issues associated with insurance companies' approved/preferred crash repairer agreements, which are similar to some of the Trade Practice Act matters that could arise in relation to the Code.

As well as feedback on the proposed provisions of the Code, key points made included:

- the practical issue of ensuring there is an adequate number of accredited recyclers to meet the demand associated with insurance-related crash repairs;
- the fact that, for practical and legal reasons, insurance companies will need to come to their own decisions about whether to support the Code, and if so, how;
- the importance of ensuring that the auto parts covered by the Code include high-value, high-demand items including headlamp assemblies, alloy wheels etc; and
- the fact that other action will continue to be needed to capture that part of stolen parts trade that occurs outside the mainstream parts recycling industry (including some of the "selective stripping" that occurs, eg. whereby parts are stolen "on order" for a crash repair).

1.4 Outcomes - Addressing Stakeholder Concerns

This Section discusses the key outcomes in relation to major elements of the proposed Code, in light of stakeholder comments.

In designing the Code, the aim was to address the concerns of stakeholders to the extent possible without detracting from the effectiveness of the Code. The general approach adopted is to place the onus on PartSafe businesses to meet the objectives of the Code using systems that best suit their circumstances, rather than being overly prescriptive about the specific processes to be adopted.

1.4.1 Application of the Code

Concerns were expressed by many recyclers that the workload associated with the Code may be inappropriate for older, low value vehicles and components. There was general support amongst stakeholders to limit the application of the Code to vehicles that are not more than 15 years old. This has been incorporated.

There was also considerable discussion of the vehicle components to which the Code should apply. It is important for the success of the Code to ensure that high-value, high-demand components should be covered. On the other hand, it is important to minimise the compliance burden upon PartSafe recyclers.

The components contained within NSW and SA regulations were also noted. From discussions with insurance companies and other stakeholders, it is recommended that the Code should apply to a couple of additional components—see opposite. There are three components that are currently not captured in either the NSW or SA regulations, but which appear to be potential targets for thieves.

Applying the PartSafe checks and parts-marking procedures to these additional components should not be a substantial burden for PartSafe recyclers, although any additional workload will meet resistance. However, this recommendation is expected to be one key area of further discussion about the proposed Code.

Table 1: Applicable Components

PartSafe Requirements	NSW Regulations	SA Regulations
Body Panels:		
• body shells (and major sections)	Yes	Yes
• front fenders (left & right)	Yes	Yes
• doors (all)	Yes (front only)	Yes
• bootlids and tailgates	No	Yes
• bonnets (“hoods”)	Yes	Yes
• rear quarter panels (left and right)	No	Yes
• chassis (“frames”)	Yes	Yes
Mechanical:		
• engines	Yes	Yes
• transmissions (both automatic and manual)	Yes	Yes
• radiators and air-conditioning condensers	No	No
Other:		
• airbags and pyrotechnic seatbelt pretensioners	No	Yes (airbags only)
• seats	No	Yes
• headlamp assemblies	No	No
• car audio/audio-visual/sat nav systems	Yes	No (pending)
• alloy wheels	No	No

1.4.2 Receiving Whole Vehicles

The crux of the Code is to minimise the possibility that stolen parts, whether already separated or in the form of whole vehicles, can enter PartSafe businesses. The draft Accreditation Agreement details the proposed checks and record-keeping requirements that would apply to each source of used parts stock.

These requirements have been developed taking into account:

- the importance of avoiding any unnecessary workload burdens;
- an assessment of “tools” available to check the legitimate entitlement of a person or business to dispose of each vehicle or part offered to a PartSafe recycler;
- consideration of what minimum checks a reasonable person might consider should be undertaken as part of good business practice to ensure stolen parts were not passed on to customers;
- an examination of the checks already being undertaken by parts recyclers; and
- existing regulatory requirements, particularly those in South Australia and New South Wales.

To address recyclers’ concerns, and minimise the possibility of conflicts with or duplication of existing good-practice, an approach whereby the onus is on recyclers to meet the objective, rather than implement prescriptive processes, was again applied.

The obligation in relation to purchasing whole vehicles is that documentary evidence of the seller's entitlement to dispose of the vehicle must be obtained and kept for later inspection if necessary:

- the default means by which this objective is to be achieved is through the use of vehicle status checks (generically referred to as "REVS" checks);
- in South Australia, where legislation already requires parts recyclers to obtain and retain a "serial number" from Transport SA for each whole vehicle, nothing further will be required as this system already appears to meet the objective;
- similarly, if a recycler can demonstrate to the PartSafe Director's satisfaction that a recognised alternative system meets the objective above to at least the same extent as a REVS check, then approval may be given for the recycler to use that arrangement.

Other information to be collected and retained by PartSafe recyclers includes basic details about the vehicle (VIN and registration number etc), and the person or business from whom it was obtained. The records are to be kept for five years.

In recognition of the concern expressed during the consultations with some recyclers and with APRAA, the draft Accreditation Agreement notes that:

- so long as the above checks are undertaken for a whole vehicle, a PartSafe recycler will not be held accountable should that vehicle unknowingly be comprised of one or more stolen components (eg. where a REVS check indicates that a vehicle is of unencumbered title, but it later turns out to have had, say, a stolen sound system fitted).

Based on the consultation undertaken during this project, the above requirements are not considered onerous or excessive:

- the great majority of recyclers are already making these checks when obtaining whole vehicles, or agree that they should be;
- OFTs indicated that consumers would expect that these basic checks should already be happening as part of normal good business practice.

It should be noted that these requirements capture the great majority of parts, as about 90 per cent of stock enters the industry in the form of whole vehicles.⁴

1.4.3 Receiving Separated Spare Parts

Where a PartSafe recycler does not have a required part in stock, they must give first preference to another PartSafe business. As other PartSafe recyclers will also be required to have undertaken the required checks, little record keeping will be required other than to retain records of the suppliers PartSafe accreditation number⁵ and details of the transaction and the part.

⁴ ADEC, Feasibility Study, p.37

⁵ Each PartSafe business will be issued with a unique accreditation number as part of the administrative arrangements.

In other cases, identification (ID) checks must be made, and those details retained, when receiving separated auto parts from private individuals or non-PartSafe businesses. The details of those proposed checks are in the draft Accreditation Agreement.

As discussed in the Feasibility Study, there are already significant attempts by criminals to dispose of stolen parts through parts recycling businesses (60 per cent of the 300 businesses surveyed by ACNielsen in 2002 reported at least one encounter with suspicious parts each year). As also discussed in the Feasibility Study, there is likely to be an increase in those attempts due to the expected displacement of the trade away from stolen vehicles (due to the introduction of written-off vehicle registers etc) and towards the trade in stolen vehicle parts.

Accordingly, in the interests of effectiveness, specific obligations are suggested for PartSafe recyclers, including:

- stringent ID checks; and
- no cash payments when obtaining already separated spares.

Section 8 (1) of the South Australian *Regulations under the Second-hand Dealers and Pawnbrokers Act 1996* would appear to meet the proposed ID requirements under the Code, so long as those records are retained for 5 years.

There was little concern expressed during this project about the proposal to apply stringent ID checks when receiving separated spares. This appears to reflect the fact that:

- many businesses already refuse to accept separated spare parts from individuals because of the high risk of receiving stolen parts;
- only about 10 per cent of stock enters the industry as separated spares; and
- most businesses accept the fact that particular caution needs to be exercised with these parts.

For businesses that import separated parts, records would need to be kept of the shipping details for a period of 5 years.

1.4.4 Parts-Marking

Parts-marking is an essential element of the proposed arrangements. The application of a unique identifier to each applicable vehicle component is necessary to allow its source to be established, and hence, its clear title to be demonstrated by associating the component with the checks undertaken as described above.

However, this was also an issue of concern for many recyclers due to either:

- the variety of existing parts marking and inventory control systems already in use; or
- current requirements to mark parts in a prescribed manner under regulations in New South Wales and South Australia.

Accordingly, and again in line with the proposed non-prescriptive approach, an outcome-based, rather than a process-based, requirement is recommended. This approach places the onus on PartSafe recyclers to ensure that they have a system of parts labelling that uniquely identifies each applicable component in stock that demonstrably meets the objective of:

- readily and unequivocally associating each component with the records and checks described above.

The “green sticker” system in South Australia would appear to meet this objective. Stock control systems (such as “ARMS”) that are commonly used by recyclers were examined and found to readily lend themselves to achieving the objective described.

It should be noted that, for good business management reasons, the great majority of businesses consulted indicated that they already had in place some form of stock control that involved labelling parts.

1.4.5 Existing Regulations

There was particular concern expressed about the proposed Code by many businesses in South Australia where reasonably comprehensive regulatory arrangements have been introduced. The need for the Code in that jurisdiction was questioned, and particular objection was taken by some recyclers to the suggestion that fees might need to be paid when an existing fee-free regime was already in place.

Similar concerns were generally not expressed in New South Wales, where the recyclers consulted believed that the current system was not particularly effective.

Independently assessing the effectiveness of the SA arrangements was outside the scope of the project however, from discussions with the SA Police, SA MTA and many recycling businesses, they do appear to represent Australia’s most comprehensive and best-enforced regulations covering the trade in used auto parts.

However, while many recyclers (particularly in the Adelaide area) indicated that they have had their compliance checked by authorities, other recyclers expressed doubts about the effectiveness and degree of enforcement of the regulations (particularly in regional areas).

As discussed above, simply complying with many aspects of the South Australian system would also meet the requirements of the Code, particularly:

- the ID checks when purchasing used auto parts;

- the processes for checking the clear title of whole vehicles for dismantling; and
- the parts marking requirements.

However, areas in which the proposed Code would go further than or vary from the South Australian requirements include:

- the Code as currently drafted applies to some vehicle components not covered by South Australian and NSW regulations (see Table 1: Applicable Components);
- the eligibility requirements under the Code (such as no criminal convictions for violence or dishonesty, and compliance with environmental and other legislation) may be greater than that required under the SA regulations;
- the prohibition on cash payments when acquiring separated spare parts;
- general administrative arrangements, such as giving preference to other PartSafe recyclers, reporting suspicious parts, etc; and
- different compliance auditing, disciplinary and appeal provisions.

While there would be an additional workload, it is concluded that the additional requirements would not constitute a substantial extra burden for SA recyclers. However, given the strength of feeling amongst many in the industry in SA about any change to the status quo, one option that could be considered is to:

- deem recyclers that operate in accordance with the SA regulations to be PartSafe accredited.

This is not recommended and would be likely to weaken the actual and perceived effectiveness of the Code. The lack of nationally consistent obligations, penalties and enforcement is also likely to cause concern amongst other stakeholders, such as parts buyers, police services and OFTs, as well as PartSafe recyclers in other States and Territories.

Another option that might be considered is to waive fees (if there are to be any, as discussed below) for SA PartSafe recyclers. Again, this would undermine nationally consistent arrangements, and would be seen as inequitable by recyclers in other States.

The preferred approach should be to continue working towards support for the Code in SA (and elsewhere), to improve awareness of:

- the limited nature of the additional requirements under the Code;
- the fact that much of what is required in SA already addresses the requirements of the Code;

- the benefits for the industry as a whole (and consumers) to have nationally consistent arrangements, that should serve to improve the industry's image and increase market size; and
- the likely financial benefits that should accrue from the marketing of PartSafe to trade and private buyers.

1.4.6 Accreditation Fees

The terms of reference for the project required an estimation of the likely resource requirements to administer PartSafe, but did not require recommendations as to the source of those funds.

However, the possibility of accreditation fees was discussed with recyclers. As noted above, many South Australian recyclers were particularly unhappy with the suggestion that they should pay fees when they already comply with similar requirements under SA legislation, fee-free. Many recyclers also pointed out that they already pay fees, for example, to industry associations and/or trade networks.

More detail about the level of fees and number of recyclers that would be required to meet the estimated costs of administering PartSafe is contained in Chapter 2, Governance and Administration Paper, including at Table 5: Accreditation Fee Income Scenarios.

As discussed there, it is recommended that, if fees are to be applied, consideration be given to waiving the first year's fees for recyclers that become accredited within 12 months of the establishment for PartSafe. This recognises:

- the initially low levels of awareness of PartSafe amongst parts buyers, and hence the possibility that direct financial benefits may be limited in the transitional period; and
- the desirability of creating incentives to rapidly attract a critical mass of PartSafe recyclers.

The likelihood that PartSafe members will realise significant benefits over time from the marketing of the Code to both trade and private buyers should also be recognised. Many recyclers consulted were less concerned about a small annual accreditation fee once the proposed marketing benefits were explained.

The provision of signage, brochures, and the use of the PartSafe brand/logo in their own advertising were also seen by many recyclers to offset any accreditation fee.

Clearly a requirement to pay any fees will always meet some resistance. No accreditation fees would be likely to maximise participation by parts recyclers, although there would be, in our view, real benefits from accreditation. Businesses will need to reach their own conclusions as to whether the benefits outweigh the costs for their business, and whether the code will be effective.

Alternative sources of funding to help administer PartSafe could include contributions from industry associations, or stakeholders such as insurance companies and governments.

However, it is likely that significant financial contributors would wish to have some degree of control over the use of the funds and hence it would be important to ensure that the independence of PartSafe not be compromised. While the MTAA has indicated it might consider providing financial assistance (no firm commitment was sought or given), it could be on the basis of equitable contributions being provided by other stakeholders. APRAA indicated it has a small resource base and hence limited scope to assist in financial terms. Governments generally indicated that assisting industry associations was probably outside the purposes for which their appropriations could be used.

Nevertheless, it is recommended that the NMVTRC seek formal responses from stakeholders about whether and on what basis they might be prepared to provide financial assistance.

1.4.7 Code Monitoring and Enforcement

All stakeholders recognised the importance of regular and effective compliance monitoring of PartSafe recyclers. This was seen by many to be the key problem with existing regulations (where they exist). Many recyclers accepted that the Code could make it increasingly difficult for illegitimate operators to attract buyers as awareness and support for PartSafe recyclers increased. However, a failure to effectively enforce the Code would mean that these operators would continue their poor practices even if they became accredited.

As with other Codes and regulations, a two pronged approach to compliance monitoring is proposed:

- random audits; and
- targeted audits in response to specific information about possible breaches, and to ensure known breaches had been remedied.

From consultations with stakeholders, it is concluded that the minimum proportion of PartSafe recyclers audited each year should be 10 per cent:

- it is recommended that the target should be to audit at least 20 per cent of accredited recyclers per annum.

A discussion of the resource and administrative arrangements for the Compliance Auditing Program is included at chapter 2 of this report, Governance and Administration. An early priority for the PartSafe Director will be to establish this program, including development of a simple but effective compliance audit pro-forma for use by compliance monitoring officers. Assistance from the industry (perhaps through APRAA) could be sought to help with the development of the pro-forma, and the development of a basic training package for compliance monitoring officers.

In addition to compliance audits, other key measures to ensure maximum awareness of and compliance with the PartSafe obligations should include:

- an effective telephone response service to assist with queries from PartSafe recyclers (eg. about whether their systems and processes are compliant);
- the publication and distribution to PartSafe recyclers of a short “plain English” pamphlet, including a simple compliance checklist; and
- the publication and distribution to PartSafe recyclers of a regular, short newsletter that covers, for example, frequently asked questions about compliance obligations, common mistakes etc.

As discussed at length in the Feasibility Study, it is anticipated that there will be a high level of voluntary compliance with the Code, given the potential loss of business that would accompany termination of a recycler’s accreditation.

The Accreditation Agreement spells out arrangements for breaches of the Code. It should be noted that, as drafted, a zero tolerance approach (ie. immediate termination with no right of appeal) has been adopted for serious breaches.

For other breaches, a Termination Notice will be issued if a PartSafe recycler:

- fails to remedy a breach within 10 business days of receiving a Breach Notice;
- has 3 or more breaches over a 2 year period; or
- has 2 or more Breach Notices for the same shortcoming in a 12 month period.

A right of appeal, firstly to the PartSafe Director and ultimately to an Appeals Committee, is available for Termination Notices issued in these circumstances.

The processes spelt out in the Accreditation Agreement ensure a recycler has every opportunity to provide relevant information relating to the investigation of a possible breach. The investigation and appeals procedures ensure that minor breaches, those that are not indicative of a broader disregard for the Code, etc are fairly dealt with.

The Accreditation Agreement has been drafted to balance natural justice and procedural fairness against the need to ensure that serious offences or a continuous disregard for the Code’s requirements are not tolerated.

Financial penalties were also considered as an option for the Code’s disciplinary procedures. While this option could be reconsidered in the light of operating experience, it is concluded that the possible legal difficulties, the administrative burden, and the lesser impact relative to loss of accreditation do not warrant the use of financial penalties.

It should also be noted that best-practice principles for codes of conduct require public notification of breaches, and the penalties applied. Subject to any contrary

advice from the Department of Treasury, it is recommended that this should be limited to the public notification of businesses that lose accreditation.

In summary, the combination of the disciplinary arrangements and compliance auditing processes should result in an effective, well-enforced Code with a high level of voluntary compliance.

1.4.8 Effectiveness in Capturing the “Backyarders”

An effective compliance monitoring and disciplinary regime, and the creation of tangible benefits for businesses that become and remain accredited, are fundamentally important to the effectiveness of the Code.

However, perhaps the single greatest concern encountered from discussions with the industry was that the Code might simply add to the burden of “good” operators, while not affecting the “backyarders”.

Effectively marketing to the public the dangers of not dealing with PartSafe recyclers should also have some impact on the private and “backyard” trade.

However, it is accepted that an industry-based Code will, by definition, have a limited impact on the trade in stolen parts that occurs outside the “regular” industry. Furthermore, a successful Code is likely to marginalise the trade in disposing of stolen parts to outlets other than the regular industry.

It is concluded that if the Code is not progressed in conjunction with efforts to address the backyard trade, it will:

- significantly compromise the support from the industry for a Code; and
- mitigate against achievement of the objective of reducing the trade in stolen auto parts.

Given the strength of concern about backyarders, and the likely increase in attempts to dispose of stolen parts through private sales, backyarders, flea markets etc as the result of a successful Code, it is recommended that:

- the introduction of the Code should be in conjunction with a concerted effort by all States and Territories to clamp down on the private, or “backyard”, trade in used auto parts.

Most States and Territories have existing legislation that can be used to achieve this end – including motor vehicle dealer licensing regulations, second-hand goods regulations, and environmental regulations – however, anecdotal evidence from recyclers suggested the enforcement efforts were infrequent.

It is suggested that, as an important adjunct to the introduction of the Code, the NMVTRC and other stakeholders mount a campaign to encourage on-going action from States and Territories. The aim should be to clamp down on those who are

not genuine, one-off private sellers, but are in fact trading in used parts and not meeting the regulations applying to legitimate recycling businesses.

1.4.9 Access to Written-Off Vehicle Auctions

As with the consultations during the Feasibility Study, many recyclers expressed concern about the perceived lack of restrictions on those that may bid at auction for written-off vehicles, and the part this may play in the criminal trade.

It is noted, however, that a number of issues arise – such as the possibility that auctioned vehicles will simply be on-sold to thieves if they cannot participate directly.

Given the strong feeling amongst many stakeholders about this issue, it is recommended that:

- the parts recycling industry, insurance industry, and damaged vehicles auction houses convene to consider options to further restrict criminal involvement at auctions and tender processes for written-off vehicles.

1.4.10 Self-Serve Operators

Self-serve parts recycling businesses, where customers remove parts from vehicles themselves, were concerned about their ability to meet the Code's requirements. The view was expressed that it is currently difficult to ensure that the customer is accurately declaring the correct vehicle from which the part is removed.

It would be undesirable to provide any exemptions of variations to the Code requirements for self-serve businesses, as this would create a loophole and undermine the overall effectiveness of PartSafe. Furthermore, being able to accurately associate components with the vehicle from which they came underpins the effectiveness of the Code.

However, the particular difficulties for these businesses are acknowledged. In the implementation phase, it will be important to work closely with the industry to assist self-serve businesses to develop revised operational procedures to maximise the level of certainty about the vehicle from which applicable components are removed.

1.5 Other Outcomes

1.5.1 Environmental Issues

The terms of reference for this project recognised that the NMVTRC's mandate and objectives relate to reducing the trade in stolen vehicles, including stolen parts. A number of recyclers and some stakeholders expressed the view that setting minimum environmental standards would be desirable, both for the industry and to assist with the marketing of the PartSafe Code to consumers. ADEC supports this view.

However, given NMVTRC's mandate and the terms of reference for the project, the environmental obligations upon PartSafe recyclers are limited to:

- complying with all laws and regulations applicable to operation of a parts recycling business in that recycler's jurisdiction, including "legislation in relation to environmental protection";

A breach of this requirement would lead to termination of the Accreditation Agreement.

There is a possibility that government environment agencies (possibly through Commonwealth Government co-ordination) may at a later stage wish to make suggestions about the minimum environmental standards for PartSafe recyclers.

Accordingly, the Code has been designed to readily allow the addition of environmental obligations at a later stage. It should be noted, however, that:

- the PartSafe Board would need to approve any variations to accreditation requirements;
- it is suggested that the Articles of Association indicate the circumstances under which the PartSafe Council may vary the terms of new accreditation agreement; and
- as currently drafted, varying pre-existing Accreditation Agreements to include new obligations would require the agreement of both parties, or alternatively, could be varied at the completion of the pre-existing Agreement.

1.5.2 Customer Dispute Resolution

The bulk of the literature regarding industry Codes of Conduct relates to mechanisms for resolving disputes between the customer and the trader (for example, a dispute over a faulty good). The terms of reference for this project were limited to theft avoidance issues.

It may be desirable in the future, if regulatory backing or an all-encompassing Code is to be pursued, to add clauses addressing general dispute resolution issues.

2 GOVERNANCE AND ADMINISTRATION

2.1 PartSafe Structure

2.1.1 Administrative Options

Three options were considered for the administration of PartSafe:

- Option 1 - A fully independent administrative body, with no structural or legal reliance upon any other organisation;
- Option 2 – Administration by an existing organisation, such as one of the existing industry associations (APRAA or the MTAA); and
- Option 3 – Administration at “arms length” by an existing organisation, with a degree of structural and financial separation from the host organisation.

A discussion paper that described and assessed the pros and cons of each option was considered by the ERG.

There was strong support amongst ERG members for Option 1.

From the consultations, it is concluded that, rightly or wrongly, a significant number of parts recyclers would mistrust the intentions of existing organisations were they to directly administer the PartSafe Code.

One obvious difficulty is that both APRAA and the MTAs/MTAA represent the parts recycling industry (albeit from different standpoints - refer to the Feasibility Study). Some progress may now be developing to better align the two organisations. It is not possible to predict or pre-empt the outcome of those discussions, however, it would appear that united representation could only be beneficial to the operation of PartSafe and its relationship with the industry.

There may also a risk that the focussed pursuit of PartSafe objectives could, unintentionally, become compromised or diluted by the other priorities and agendas of the industry associations.

There also appears to be real tensions developed over time amongst the various players in the industry – namely the industry associations, independent trade networks and some stand-alone businesses. Some businesses may have been refused membership of an industry association, others perceive the associations as elitist and representative only of wealthy businesses, some believe that the associations may be pursuing agendas that are not in their interests, trade networks compete with others for market share etc.

In summary, the three options above essentially involve trade-offs between cost and independence. Ultimately, however, the possible cost savings of Options 2 or 3 become irrelevant if there is not widespread industry confidence in administrative model.

Any model that does not demonstrably separate PartSafe administration and objectives from existing industry politics and demarcations will result in a sub-optimal level of industry acceptance of the Code. PartSafe must be, and must be seen to be, an end in itself that is not compromised by existing industry politics or other industry agendas.

It is noted that some sections of the industry (a small minority) questioned the motives behind the Code, with some suspicious that insurance companies are driving an agenda to reduce competition in the supply and prices of used spares.

However, these views clearly do not reflect the reality of NMVTRC's operational independence, and the fact that PartSafe is a NMVTRC initiative would seem to be a key benefit in demonstrating that the Code is not compromised by existing industry "baggage".

It is recommended that the administration of PartSafe be clearly separate from any existing industry organisations.

2.1.2 Legal Structure

PartSafe would be a not-for-profit organisation with a "public good" objective. Based on an examination of the options and existing organisations, an incorporated association would, prima facie, appear to be the most appropriate legal structure for PartSafe.

The NMVTRC itself, APRAA and many other industry associations are examples of this model.

Although there may be minor differences between States in the requirements of incorporated associations, key advantages are that they:

- create a legal identity separate from the individual members;
- provide a certain amount of limited liability for members;
- continue regardless of changes to membership;
- allow the organisation to enter into enforceable contracts;
- allow the organisation to sue (but also to be sued); and
- are relatively easy to establish.

The basic requirements to establish an incorporated association are that five or more persons:

- authorise a person to apply for incorporation (in NSW, the application is to the NSW Office of Fair Trading);
- approve a set of objectives and rules; and

- nominate at least two people to be the first committee members of the incorporated association.

A Public Officer needs to be appointed, who in this case would probably be the PartSafe Director. The Rules of Association would need to specify that an application for membership of the Association could only be made by accredited recyclers – in practice, application for membership would be submitted at the same time as an application for accreditation.

Care will need to be taken in the drafting of the Rules of Association to ensure that the rights of members to vary the PartSafe arrangements will not undermine the basic governance structure and key elements of the Code. Legal advice is that this is achievable. This is also important in light of the Commonwealth's "Benchmarks for Industry-Based Customer Dispute Resolution Schemes".

Members of an incorporated association have no rights to the property of the association.

It is recommended that:

- subject to any specialist accounting advice during the implementation phase, PartSafe be established as an incorporated association; and
- care be taken when drafting the Rules of Association to ensure the key elements of the Code's content and the governance structure are safeguarded to the extent possible

2.2 Governance

2.2.1 Guiding Concerns

The success of PartSafe, its acceptance by the industry, and its ability to be readily translated to a regulatory format if required later, is dependent on:

- its actual and perceived independence from existing industry politics and vested interests; and
- its objectives and agenda being unequivocally tied to the "higher good" of reducing the trade in stolen parts.

Accordingly, it is recommended that the PartSafe Director report to an independent governing council.

Membership of the PartSafe Council should reflect a balance that favours stakeholders from organisations interested in a reduction in the trade in stolen parts, while also ensuring industry views and knowledge are properly represented.

The rules of the association, along with the PartSafe's business plan and public information about the code, should also emphasise the avoidance of stolen parts and minimise any reference to other, unrelated industry issues. This clear

emphasis on stolen parts is important for legal reasons (see 1.2 Legal Issues) as well as for industry and stakeholder acceptance.

2.2.2 Council Membership

It is recommended that the Director of PartSafe report to a Council comprising:

- an independent Chairperson, who possesses a mix of financial and business acumen and industry knowledge;
- a representative of the National Motor Vehicle Theft Reduction Council (at least initially);
- a representative of State and Territory Police Services (nominated by the Australasian Police Ministers' Council);
- a representative of State and Territory Offices of Fair Trading (nominated by the Fair Trading Offices' Advisory Council);
- a representative of the MTAA (who may alternatively nominate a representative from a State or Territory motor trades association);
- a representative of APRAA; and
- an independent recycler.

It is recommended that the NMVTRC consider chairing the Council in the implementation phase, given its knowledge of the issues and the fact that PartSafe is a NMVTRC initiative. This would be considered appropriate in the event that the NMVTRC provided establishment funding.

The Rules of Association for PartSafe will need to indicate the composition of the Board, and the processes for appointments.

It is hoped that the governance structure could be administered very efficiently, given the likely resource constraints. It is anticipated that participation on the Council would be voluntary, although a fee may be needed to attract a suitable Chairperson (perhaps \$10,000 per annum). PartSafe would provide secretariat services to the Council.

2.2.3 Council Functions, including Appeals Committee

It is suggested that the Council convene at least 3 times a year (which may be by teleconference). Its functions would include:

- consider and provide feedback on reports from the Director about the financial operation of PartSafe, including reviewing budgets, and performance outcomes, approving Annual Reports, Strategic Plans etc;
- providing advice to the Director on financial, marketing and operational issues;

- considering and approving any suggested significant variations to the Accreditation Agreements or PartSafe operational procedures;
- assist with liaison with key stakeholders; and
- reviewing the effectiveness of the Code.

It is also recommended that Council members form the basis for the Appeals Committee:

- it is recommended that the Appeals Committee comprise any three members of the Council, as nominated by the Chairperson from time to time.

The appeals process would be informal, and for practicality, may be conducted via teleconference. As it is not a legal process, it would not be bound by rules of evidence. However, the Accreditation Agreement requires the appellant to be given every opportunity to present their side of the argument, and for natural justice to prevail. The appellant would have the right to put their case in person or by teleconference to the Committee, in addition to consideration of any written advice. The Accreditation Agreement indicates the grounds on which an appeal may be upheld.

The Accreditation Agreement allows PartSafe the right to determine the nature and operation of the Appeals Committee at its discretion.

2.3 Administration

2.3.1 Introduction

It is anticipated that recruitment of the Director of PartSafe will be amongst the first steps in the implementation process. Key initial responsibilities will include:

- development of the Rules of Association and establishment of the Association;
- refinement of the business and strategic plans;
- development of operational arrangements, including establishment of the PartSafe compliance-monitoring program;
- establishment of accounting and reporting structures (using external accounting specialists as required); and
- recruitment of other staff members.

2.3.2 Context

The following information, including the attached drafts of key elements of the business and strategic plans, are therefore provided as a starting point. It is important that the PartSafe Director have responsibility for, and ownership of, the final versions of these documents.

There are various valid styles and approaches to strategic and business plans, and the model used here should be modified as necessary to meet the preferences of the PartSafe Director and the NMVTRC.

2.3.3 Approach

ADEC adopted a basic model that underpins most strategic plans. It comprises a hierarchical system as follows:

- an overarching vision for the organisation, that describes why the organisation exists;
- a break down of the vision into the two or three key objectives or goals that will allow the vision to be realised or pursued;
- key strategies that describe how the organisation will meet each goal;
- for each strategy, the key program elements that describe what main actions will be taken in order to achieve the strategy; and,
- key performance indicators to measure the efficiency and effectiveness of the actions and strategies in meeting the objectives and vision.

2.3.4 PartSafe Vision Statement

The vision statement for the organisation should clearly identify the primary purpose as a being reduction in the trade in stolen auto parts, whilst also acknowledging the associated rewards for accredited recyclers in terms of market size and market share.

As a starting point, for further consideration during the implementation phase, the following vision statement is proposed:

To eliminate stolen vehicle components from auto parts recycling businesses by advancing an effective industry Code of Practice, that protects consumers, increases confidence in the recycled parts industry, and increases opportunities for participating businesses.

2.3.5 Key Strategic Goals

Three key strategic goals are proposed for PartSafe to guide its activities and planning towards the overarching vision. These are provided as the basis for further discussion and development by the PartSafe Director during the implementation phase:

- *Strategic Goal A* - Maximise consumer awareness and industry coverage.
- *Strategic Goal B* - Maximise the operational effectiveness of the PartSafe Code.

- *Strategic Goal C* - Actively pursue continuous improvement, including through effective liaison with stakeholders.

2.3.6 Strategic Plan

Detailed information about the suggested key elements of the PartSafe Strategic Plan, including strategies, activities and performance measures in relation to the strategic goals, are detailed at Appendix A.

2.3.7 Initial Priorities

In its establishment year, the strategic priorities for PartSafe should be to:

- develop and implement effective administrative and operational arrangements;
- create awareness of PartSafe's existence amongst the parts recycling industry and consumers;
- rapidly attract an initial "critical mass" of PartSafe businesses; and
- establish productive and co-operative relationships with key stakeholders.

Actions to achieve these priorities might include, by way of example:

- the development of operational guidelines relating to key administrative functions and procedures;
- recruitment of suitable personnel;
- satisfactory and cost-effective resolution of operational issues (office accommodation, wages and conditions, accounting and reporting structures, etc);
- refining protocols and procedures for processing accreditation requests, breach notices, termination notices, appeals, etc;
- establishment of information management systems, including a PartSafe membership database;
- development of a compliance monitoring program; and
- actively seeking PartSafe memberships through: an industry mail-out; editorial or advertising in relevant trade publications, etc.

2.3.8 Key Administrative Functions

For simplicity, the administrative functions of PartSafe are summarised into three core areas:

- Accreditation Management;
- Marketing and Liaison; and
- Finance and Operations.

Activities of PartSafe against these key areas are summarised in Table 2 Key Administrative Functions.

Table 2 Key Administrative Functions

Function	Key Activities
Accreditation Management	<ul style="list-style-type: none"> • Respond to new accreditation enquiries • Process accreditation requests • Respond to ad hoc inquiries from accredited recyclers • Establish/administer an accredited recycler database • Establish procedures for, and direct operations of, an audit team: <ul style="list-style-type: none"> – Manage a random compliance audit program – Manage a targeted compliance audit program • Administer 1800 reporting hotline • Manage/investigate complaints re accredited recyclers • Breach notification and processing • Appeals procedures • Termination procedures
Marketing and Liaison	<p><u>Marketing</u></p> <ul style="list-style-type: none"> • Disseminate guides to PartSafe recyclers to assist compliance • Disseminate lists of accredited recyclers to buyers • Signage, brochures, publicity material • Newsletters to accredited recyclers • Pursue in-kind support to promote Code • Pursue financial and other support to administer the Code • Actively manage relations with stakeholders • Maintain high levels of awareness of the Code <p><u>Liaison</u></p> <ul style="list-style-type: none"> • General enquiries, including from consumers, smash repairer, insurance industry, other trades, Govt authorities etc • Manage info re. suspicious businesses outside the scheme • Dissemination of intelligence to authorities (OFTs, police etc) • Respond to requests from authorities
Finance and Operations	<ul style="list-style-type: none"> • Accounts • Staffing, pay and conditions • Financial statements/Annual reports etc • Service the Council and Appeals Committee • Manage process for recruiting casual Code audit personnel in all States/Territories • Training – especially compliance audit personnel • On-going improvement program – collect/assess performance information • Develop info and proposals for Council consideration

2.4 Staffing and Resources

2.4.1 Introduction/Methodology

A three-part methodology was adopted in order to estimate the likely staffing and resource requirements for PartSafe, namely:

1. assessing the size of the organisation (in terms of personnel) necessary to undertake the administrative functions outlined above, including with reference to the staffing levels and functions of other small organisations;
2. adopting a “bottom up” approach to estimating resource requirements – ie. determining the key budget line items and estimating the required annual budget for each; and
3. using a “top down” approach, whereby the overall budget for “running costs” is compared with similarly sized organisations.⁶

The assessment was undertaken with reference to:

- several small agencies in the public sector,
- the consultant’s experience in the establishment of numerous public sector agencies and a Commonwealth Department; and
- detailed budget information provided on a confidential basis by the NMVTRC about its own costs. The NMVTRC is an incorporated association with a full-time staff of four which is likely to have broadly comparable running costs.

Salary levels necessary to attract suitably skilled PartSafe personnel were discussed with a recruitment agency, compared with other organisations, and compared with salary requirements for other agencies.

While the approach used is robust, it is impossible to precisely predict and quantify final expenditure levels for every cost element. In practice, of course, minor over-expenditure on some items tends to be offset by minor under-expenditure in other areas. In addition, there is always some element of discretionary expenditure within any budget—eg. in this case, expenditure on marketing, temporary employees etc.

The budget estimated for PartSafe is considered to be realistic, with a small degree of conservatism built-in. However, given the unavoidable uncertainties, it is recommended that a 10 per cent contingency be incorporated as a temporary measure until the budget forecasts can be tested against operational reality.

2.4.2 PartSafe Funding Requirements

Table 3 PartSafe Budget (Summary) shows forward estimates of expenditure for PartSafe.

⁶ For the purposes of this report, “running costs” includes, for example, salary and administrative expenses (that are broadly comparable between organisations) but excludes the “program expenditure” that is particular to each organisation.

- it is estimated that annual funding of approximately \$350,000 will be required.

This Table is a summary of the detailed budget at Appendix B.

Table 3 PartSafe Budget (Summary)

Budget Element	Year 1 (part year, pre- operational phase)	Year 2	Year 3	Year 4
Staffing	42,500	204,000	204,000	204,000
Administrative	31,000	90,000	84,000	84,000
Program	2,500	50,000	55,000	65,000
TOTAL	76,000	344,000	343,000	353,000
Contingency	8,000	34,000	34,000	35,000
GRAND TOTAL	84,000	378,000	377,000	388,000
Full time Staff	0.3	3	3	3

Year 1

The Year 1 estimates relate to the pre-launch, preparatory phase.

The estimates assume the Director will be appointed four months before the launch of PartSafe to undertake preparatory duties.

To assist with the implementation tasks, provision is also made for a temporary employee for approximately five weeks, and approximately 2 weeks of follow-up consultancy services from ADEC.

It has been assumed that the Director can be co-located at the NMVTRC during this period, however, if this is impractical, the contingency may be needed for accommodation and associated costs.

Years 2 Onwards

The full year estimates assume three full time staff (including the Director), as well as a provision for temporary employee for 3 months each year. As discussed below, it is proposed that the compliance auditing program be outsourced, at a cost of \$20-30,000 per annum.

The forward estimates assume a relatively stable pattern of expenditure between years, however, it is recommended that no unnecessary constraints be imposed to limit the flexibility to carryover income and expenditure between years.

All estimates are in current (2003) prices.

More detailed information is at Appendix B.

Scope for Savings

There will almost certainly be a decline in workload after the first two years of operation. It is likely that the bulk of accreditation inquiries will plateau out to a relatively stable level after a large initial surge. Other work related to the establishment of procedures and information systems will also have been completed.

A decline in workload does not, however, translate to a directly corresponding decrease in staffing or resource requirements, as any savings must be calculated on a marginal cost basis. In any organisation, and particularly a very small one, the need for a “critical mass” of administrative capacity and the existence of fixed cost items greatly limits the ability to realise marginal savings from decreased workload.

The option of reducing the PartSafe staffing levels from 3 to 2 after the first 2 years was considered (note that there is also provision made for a temporary staff member for 3 months per annum in the budget). This may be possible, and could be considered further in light of operating experience and the necessity of achieving any savings at that time. The saving could be approximately \$50,000 in current prices.

However, a decline in staffing (and associated resources) below 3 full time staff is not recommended at this stage because:

- there could be practical difficulties in only having 2 staff members in terms of continuity of corporate knowledge;
- it would be significantly more difficult to recruit the full range of expertise and experience necessary if there were only 2 staff members (expertise is required, for example, in the areas of marketing, administration, accounting, policy development, stakeholder liaison and customer relations);
- there would be problems maintaining operational effectiveness in times of staff absences;
- there is a need for a core staffing level to respond to workload peaks; and
- given the modest overall budget, it will be important to allow the Director some flexibility to reallocate resources to other priority areas in the event that any savings can be realised in salary expenditure.

Scope for any other reductions in the proposed PartSafe budget is limited, because they are either of a non-discretionary nature or already at a low but feasible level.

However, cost savings measures that should be examined include the availability of in-kind assistance from benevolent stakeholders. For instance, it is

recommended that the possibility of office accommodation and associated overheads being provided either free of charge or at a discounted rate should be formally pursued during the implementation phase. There appeared to be high level of in-principle support for the Code from most stakeholders consulted during the project. However, caution should be exercised to ensure that there is no actual or perceived bias that could taint the independence of PartSafe, which is of paramount importance.

Any such savings would be unlikely to amount to a significant proportion of the estimated budget and therefore will not significantly alter the bottom line estimates above. As discussed earlier, the PartSafe Director should be given the flexibility to manage priorities and unforeseen expenses within an overall budget – any minor savings that can be achieved should be retained to provide this flexibility.

Regular Reviews

As with any good business plan, the proposed budget should be closely monitored on an on-going basis and formally reviewed at regular intervals. It will be paramount, given the risks and assumptions associated with establishing a new organisation, that expenditure and income patterns be closely monitored against the budget assumptions.

A formal review of financial performance should be undertaken after 12 months, including:

- an assessment of the future operating environment;
- a financial risk analysis;
- a review of expenditure to date against budgets and performance outcome indicators;
- an assessment of the scope for increasing cost-effectiveness; and
- the development of a revised business plan including reworked forward estimates of resource requirements.

2.4.3 Risk Analysis/Critical Mass Assessment

Critical Mass

The viability of the Code in operational terms is dependent on achieving “critical mass” in 2 areas:

- a critical mass of accredited parts recyclers; and
- a critical mass of consumers that will alter their purchasing behaviour in favour of accredited parts recyclers.

It should also be noted that the critical mass needed to realise a significant reduction in the trade in stolen parts is a different matter. Clearly the aim must be to ultimately achieve as close to 100 per cent industry coverage as possible in order to meet this objective.

Critical Mass – Number of Accredited Recyclers

A critical mass of accredited recyclers is necessary to:

- meet the demand from parts buyers that wish to deal with accredited recyclers; and
- meet any income requirements for financial support of some or all of the operating costs of operating PartSafe.

The second point is addressed above at 1.4.6. As noted there, the terms of reference for the project did not require recommendations as to the appropriate sources of funds to meet the PartSafe operating costs. If it is determined that accreditation fees will form some or most of the contribution to PartSafe income, then Table 5: Accreditation Fee Income Scenarios indicates the range of required combinations of accredited recyclers and fee levels.

Key Factors

Equally important is establishing a critical mass of accredited recyclers that is sufficient to meet the needs of parts buyers that wish to purchase from them. Key factors taken into account in the assessment of critical mass include the:

- minimum number of accredited suppliers needed to meet demand;
- need for a supply of the range of used auto parts products (eg. specialists in parts from the range of different makes and models);
- need for supply to meet demand in geographical regions (noting that parts are already often sourced from outside the geographical location of the customer, using “hotlines”, overnight delivery services etc); and
- importance of ensuring a sufficient level of competition amongst accredited suppliers.

Assessment

As discussed in the Feasibility Study and elsewhere in this Report, it is anticipated that support from insurance companies (through their approved crash repairers) will constitute a key catalyst of support for accredited recyclers. Crash repairs account for approximately 20 per cent of the total demand for used auto parts (see the Feasibility Study for a discussion of the nature of supply and demand for used auto parts).

The insurance industry's requirements are likely to at least mirror (if not exceed) the supply requirements of other trade buyers and the general public.

In New South Wales, Insurance Australia Group (IAG) has approximately 800 "preferred repairers". From analysis and discussions with IAG, a ratio of at least 10:1 (preferred repairers : PartSafe recyclers) would seem desirable, and 8:1 would be preferable:

- this would equate to 80-100 PartSafe recyclers in NSW; and
- by extrapolation, a requirement for between 235 and 295 PartSafe recyclers nationally.

Achieving these numbers would require 15-20 per cent of the industry to become accredited (assuming a total industry size of 1500⁷).

Table 4: Critical Mass - Summary shows the assessment of the critical mass requirements necessary to adequately meet demand from buyers that wish to deal with accredited recyclers:

- it will be fundamentally important to establish a substantial base of accredited recyclers quickly, from which further incremental increases can be pursued;
- critical mass will need to be achieved within 12-24 months of the establishment of PartSafe;
- although some businesses may choose to delay seeking accreditation until PartSafe's cost-benefit to them is proven with time, the majority of accreditation requests are expected to occur soon after establishment (incentives should be offered as discussed at below); and
- as the overall objective is to minimise the entry of stolen parts into legitimate businesses, the ultimate goal must be to achieve as close to total industry coverage as possible.

In summary, the suggested targets to be set are:

- at least 300 accredited recyclers within 12 months of establishment;
- at least 500 accredited recyclers within 24 months of establishment; and
- as close to total industry coverage as feasible, say 1000 recyclers, within 5 years.

These performance targets are reflected in the draft Business Plan at Appendix A.

⁷ Estimating the true size of the industry is problematic, and hence caution should be exercised in relation to percentage estimates of industry coverage (see the Feasibility Study for further information). The number of "legitimate" businesses may be closer to 1000 according to APRAA.

Table 4: Critical Mass - Summary

	Marginally Viable	Viable	Highly Viable
# Accredited Recyclers	250-350	350-500	500 -750
% of Industry (approx)	17-23%	23-33 %	33-50 %

In practice, it will be important to ensure that more detailed data about the accredited recyclers is closely monitored, in particular:

- in Tasmania and the Territories, each of which accounts for less than 2 per cent of businesses nationally, it will be important to ensure there are sufficient numbers of accredited recyclers in absolute (rather than percentage) terms;
- similarly, when promoting the Code to businesses during the implementation phase, it will be important to ensure adequate take-up in regional areas rather than relying solely on State or Territory totals (notwithstanding the common practice of buyers sourcing parts nationally); and
- it will be important that the range of businesses that become accredited are representative of the overall nature of the industry – particularly in terms of business size, and product range. For instance, in the unlikely event that established, large suppliers did not sign up, the viability of PartSafe is likely to be significantly affected.

Feasibility of Achieving Critical Mass

There is a very strong likelihood that the critical mass targets above will be achieved so long as the expected support from parts buyers eventuates. The realisation of tangible financial benefits for accredited recyclers is pivotal.

In addition, from the consultations, it is apparent that a substantial proportion of parts recycling businesses are genuinely interested in improving the performance and image of the industry, and clamping down on the “poor” operators. It is notable that a considerable proportion of the industry appears willing to support PartSafe for reasons of “cleaning up our industry”, quite aside from any financial benefits that may accrue.

One significant factor to consider when assessing likely accreditation up-take levels is the experience of the existing industry association, APRAA, which has nearly 300 members. APRAA’s focus is largely directed towards environmental issues. APRAA members appear to be motivated by a general desire for industry improvements as much as, if not more than, an expectation of financial rewards from membership. It is hoped that these concerned industry members would also be attracted to the real improvements that PartSafe could bring to the industry.

APRAA, and the majority of its members consulted during this project, indicated a strong willingness to consider participating in PartSafe.

The MTAA and MTAs consulted during both this project and the Feasibility Study have also indicated strong support. Membership of the industry is roughly equal between APRAA and MTAs. Based on consultations, support is anticipated from the MTAA and MTAs in encouraging their parts recycling members to become PartSafe accredited.

It is likely that the creation and promotion of PartSafe will help to increase consumer confidence in used spare parts generally, thereby increasing market size (eg. as a substitute for new parts). The promotion of PartSafe should also increase market share for accredited recyclers, and help address the competitive disadvantage that “good” operators may currently face in comparison with those with poor theft-avoidance practices and inadequate environmental safeguards.

Accordingly, there is likely to exist a significant number of businesses that would consider becoming accredited under PartSafe even in the absence of obvious, immediate financial returns.

However, attracting the support of a proportion of buyers underpins the Code’s viability. There is a nexus between the required critical mass of accredited suppliers and achieving a critical mass of buyers that will support them.

As discussed in the Feasibility Report, early support from insurance companies will be crucial in creating immediate incentives for suppliers to become accredited, and as a catalyst for attracting the support of other buyers. Insurance companies are the largest single, easily identifiable purchasers of parts (through crash repairs). Crash repairs account for approximately 20 per cent of the demand for used parts.

As discussed earlier, there are various marketing strategies that will be employed by PartSafe targeting both private and trade buyers. However, it is concluded that:

- achieving critical mass levels will be significantly jeopardised if early support from a number of insurance companies does not eventuate.

While the ICA and individual insurance companies have all indicated strong in-principle support, the terms of reference for the project did not require formal agreement to be pursued at this stage. It will be important that insurance companies make individual decisions as to whether to support PartSafe and, if so, in what form, to ensure there can be no suggestion that PartSafe is being used as a forum for insurance industry collusion.

This gives rise to a key implementation/transitional problem:

- initially, buyers (including crash repairers/insurance companies) may not have a sufficient number of accredited recyclers available to provide their used parts supply requirements; and
- parts recyclers may be reluctant to become accredited until it is clear that buyers will support them.

To address this problem, it is recommended that:

- support from a number of individual insurance companies should be formally agreed and implemented within 12 months of the establishment of PartSafe; and
- if accreditation fees are to be introduced, the first year's fee should be waived for recyclers that become accredited within 12 months of the establishment of PartSafe.

Conclusion

If the recommendations above are achieved, critical mass levels should be realised.

Furthermore, if an initial catalyst of buyers and recyclers support the Code, and PartSafe effectively markets and administers the Code, there is strong likelihood of snowballing support leading to a high degree of industry coverage.

The likely viability of PartSafe should be clear within 12 months. It is recommended that stakeholders should determine whether to continue with PartSafe at that time.

Given the recommendations above, financial support of the costs of establishing and operating PartSafe for the first 12 months will be required. Accordingly, in order to minimise financial exposure, staffing and other contracts related to the establishment of PartSafe for significantly longer periods should be avoided.

The financial exposure for the providers of funding for this initial period is therefore approximately \$350,000.

2.4.4 Staffing

The estimates assume a PartSafe staffing model comprising (note that the job titles are for ease of reference only):

- The PartSafe Director – annual remuneration package of approximately \$80,000 (including salary of approximately \$72,000);
- Assistant Director – annual remuneration package of approximately \$62,000 (including salary of approximately \$55,000);
- Office Manager – annual remuneration package of approximately \$45,000 (salary approximately \$40,000); and a
- temporary employee – approximately 3 months per annum, at an hourly cost of \$27.50 (experienced/tertiary educated assistant from an agency to be used on an as-required basis to meet short term workload peaks or assist with specific projects.)

Being a small organisation, it will clearly be important to ensure the right mix of skills is available amongst the staff, and equally important to avoid a “silo” approach to organisational structure and operation. Accordingly, in this report, an allocation of tasks between the staff members is not suggested, as the Director should determine this by matching the skills and experience of the staff against the range of tasks to be performed, rather than an arbitrary predetermination of job titles or descriptions. Those tasks are described above, but should be refined by the Director in light of experience during the pre-operational phase.

Attached are a suggested Job Description, Duty Statement and Selection Criteria for the PartSafe Director (Appendix E). The ability, experience and attitude of the Director will have a significant bearing on the success of PartSafe, and the recruitment process to identify the most suitable available candidate should be rigorous.

2.4.5 Compliance Auditing Program

The staffing costs do not include provision for the compliance-auditing program, which are included under Program Costs in Table 3 PartSafe Budget (Summary) above.

Compliance monitoring is estimated to cost between \$20,000 and \$30,000 per annum. The derivation of this estimate is detailed at Appendix B.

As discussed below, it is proposed that these functions should be outsourced using either existing personnel from other organisations on fee-for-service basis, casual employees, or a combination of both.

From consultations with stakeholders in the States and Territories, it was concluded that there was a strong possibility that existing, relevant personnel may be engaged on a fee-for-service basis - from at least some of these organisations, in at least some States and Territories. Most suggested a formal proposal (from NMVTRC or PartSafe) should be provided later, detailing the suggested arrangements.

The terms of reference for the project did not require formal agreements along these lines to be pursued – this is a crucial task in the implementation phase. If suitable existing personnel are not available from organisations such as motor trades associations and offices of fair-trading, casual staff should need to be engaged through recruitment agencies in each State and Territory.

Employing full time compliance auditing personnel within PartSafe is not likely to be cost-effective or practical, given:

- the need for compliance audits to be undertaken in all States and Territories, and the potential availability of differing solutions in each;
- the workload does not require full time staff;

- the likelihood that relatively straight-forward and standardised compliance check lists can be developed; and
- the need for flexibility.

Various scenarios are compared at Appendix B. The key variables are:

- the number of accredited recyclers;
- the percentage of recyclers to be audited each year;
- the number of hours required to complete each audit; and
- the hourly cost of engaging compliance auditing personnel.

The cost will increase as the number of accredited recyclers increases over time, assuming the percentage audited each year remains unchanged.

By way of example, a \$30,000 cost scenario assumes:

- there are 1000 accredited recyclers in total;
- 20 per cent of those are to be audited each year;
- the hourly costs for outsourced auditing personnel are relatively high (\$50 per hour); and
- 3 hours per audit (including completing the paperwork).

Although the compliance-auditing program is perhaps the most difficult cost element to predict, it should be noted that even a doubling of this scenario should still be manageable within the overall budget proposed.

2.4.6 Marketing

The level of expenditure on marketing will largely be dependent upon the availability of funding, given its discretionary nature.

It appears that there should be considerable scope to leverage support for the marketing of PartSafe, based on the generally positive stakeholder feedback.

The key reason for likely support is the convergence of interests between PartSafe and a range of stakeholders and other organisations. The shared common interests fall into two categories:

- organisations that are also seeking to reduce the trade in stolen parts for consumer protection reasons and;

- organisations that could achieve economic and public relations benefits from an improved acceptance by consumers of the use of used spare parts (such as insurance companies and the parts recycling industry itself).

The terms of reference for this project did not include formally seeking agreements from third parties for in-kind assistance with the marketing of PartSafe, which will be an implementation issue for the NMVTRC or the PartSafe Director.

However, there appeared to be willingness amongst a number of organisations to favourably consider providing in-kind support. This could include:

- editorial and other promotion within trade magazines, such as: MTA and APRAA newsletters, used parts trade magazines etc;
- public awareness raising, for example, through:
 - the inclusion of leaflets with insurance and/or registration renewal notices;
 - shopfront information (leaflets etc) at relevant government offices, insurance companies etc;
 - editorial and articles in motoring association magazines and consumer publications (“Choice” etc) ;
 - articles in the broader media, particularly motor magazines and others that are more relevant to used parts buyers, etc;

There may also be scope for direct financial contributions from interested third parties to assist with PartSafe marketing. One insurance company requested a proposal detailing a case for the provision of assistance (as noted above, this will be an important implementation issue).

In summary, there are very positive indications of in-kind assistance with the marketing of PartSafe both to the parts recycling industry and to parts buyers. These opportunities are also likely to be well targeted, and perhaps more effective than a broad-brush public campaign.

It is important to recognise the critical importance of creating awareness of the PartSafe brand and influencing customer behaviour to favour accredited recyclers. It is to be expected that accredited recyclers will seek the highest level of expenditure on marketing possible, particularly if they pay an accreditation fee on the expectation of offsetting financial benefits.

Given the likely resource constraints (see below), a relatively modest budget allocation for marketing is included (\$30,000, or about 10 per cent of the PartSafe Budget), with an expectation that in-kind assistance will have a value at least equal to that allocation. It should be noted, however, that substantial additional funding could be available depending on the level of accreditation fees (if any) and the number of accredited recyclers. As other PartSafe expenditure is likely to be

relatively static, the availability of any additional funding could be used to increase the marketing effort.

2.4.7 Revenue

The terms of reference for this project required an estimation of funding requirements, but specifically excluded the requirement to recommend the source of funding. This will be an issue for the NMVTRC to evaluate in the implementation phase.

There was, unsurprisingly, a preference from the parts recycling industry for funding to come from sources other than accreditation fees. As discussed at 1.4.5 Existing Regulations, there was strong resistance from some recyclers, particularly those that already pay fees to other industry associations or for existing government regulations. However, many acknowledged that there may be offsetting financial benefits from becoming accredited – ie. the effective marketing of PartSafe to influence consumer behaviour.

Without expressing a view as to whether accreditation fees should apply at all, and if so, at what level, Table 5 below provides information about total income from accreditation fees under various scenarios.

Table 5: Accreditation Fee Income Scenarios

ANNUAL FEE	300 MEMBERS	500 MEMBERS	750 MEMBERS	1000 MEMBERS
	\$	\$	\$	\$
\$300	90,000.00	150,000.00	225,000.00	300,000.00
\$500	150,000.00	250,000.00	375,000.00	500,000.00
\$750	225,000.00	375,000.00	562,500.00	750,000.00
\$1,000	300,000.00	500,000.00	750,000.00	1,000,000.00

For ease of analysis, the combinations that produce total income in excess of \$300,000, probably the minimum amount required to administer PartSafe, are in bold.

Assuming no income from other sources, and a “mid-point” scenario whereby 500 businesses become and remain accredited, an annual accreditation fee of between \$600 and \$750 would be required for PartSafe to be self-funding.

As discussed earlier, the possibility of financial contributions from other stakeholders should be formally pursued as part of the implementation phase.