



National Motor Vehicle
Theft Reduction Council
driving down vehicle theft

A CODE OF PRACTICE FOR AUTO PARTS RECYCLERS ACROSS AUSTRALIA

INFORMATION BULLETIN

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FREQUENTLY ASKED QUESTIONS

JULY 2004

This document has been prepared to update stakeholders on progress towards establishing a national code of practice for dealing in second-hand auto parts. The aim of the Code is to limit the likelihood of stolen vehicle parts unwittingly entering the legitimate parts recycling and vehicle repair market.

The NMVTRC recently agreed to underwrite the Year 1 implementation costs associated with establishing the Code and an independent administration body to oversee its operations. This represents a commitment of \$350,000 over the next twelve to sixteen months and is a significant milestone for both the NMVTRC and the industry.

The accompanying ***Frequently Asked Questions*** lists the questions commonly asked about how the Code has been development and how it is intended to apply. It has been updated to cover issues raised by stakeholders in respect of the *Exposure Draft* of the Accreditation Agreement circulated for comment in late 2003.

The Accreditation Agreement is now called a Participation Agreement and a new version together with a summary of changes is also enclosed.

We expect that the Code Administration Body will commence operations in late 2004 and seek to enrol eligible businesses from that time. In the meantime, we will publish regular updates on progress on our website at www.carsafe.com.au.



A CODE OF PRACTICE FOR AUTO PARTS RECYCLERS ACROSS AUSTRALIA

Frequently Asked Questions

(Revised July 2004)

Why have a Code of Practice?

The National Motor Vehicle Theft Reduction Council (NMVTRC)¹, governments, police, insurance companies and the motor trades around Australia are concerned about a potential increase in the trade in stolen vehicle parts since “Written-off Vehicle Registers” and other initiatives are making it difficult for thieves to rebirth whole vehicles. The NMVTRC estimates the trade in illicit parts already returns criminals more than \$300m per annum.

A voluntary Code of Practice for auto parts recyclers is therefore being established to reduce the likelihood of participating businesses inadvertently dealing in stolen vehicle parts.

Why don't all states and territories simply impose similar obligations by legislation?

Some states and territories do require recyclers to comply with the record keeping requirements of motor car trader or second-hand dealer laws. However the NMVTRC does not consider a nationally consistent regulatory regime is achievable in the medium term. Many recyclers have also expressed concern about the lack of rigour with which existing laws are enforced.

A major focus of the NMVTRC proposal is to deliver accredited recyclers with tangible benefits for participating. The NMVTRC expects insurance companies to support the Code by insisting that their approved repairers source any recycled parts used in crash repairs from participating recyclers.

How has the Code been developed?

The proposed Code has been discussed directly with more than 200 parts recyclers in the industry. In addition, there has been extensive consultation with the Auto Parts Recyclers Association of Australia (APRAA) and most Motor Trades' Associations (MTAs). Two separate mail-outs to about 1,400 (March 2003) and 1,900 (September 2003) related businesses sought comments on the proposal.

The Code requirements and procedures have also involved extensive consultation with other stakeholders, such as police services and offices of fair trading around Australia, and major parts buyers.

¹ The NMVTRC is a joint initiative of all governments and the insurance industry to reduce the level of motor vehicle theft in Australia.

An Expert Reference Group (ERG) convened by the NMVTRC oversaw the development of the Code. The ERG comprised representatives of APRAA and the MTAs, an independent recycler, and representatives of police services, transport agencies, offices of fair-trading and insurance companies.

Is the Code compulsory?

No. Participation in the Code will be voluntary.

What are the benefits for businesses?

It is expected that buyers of parts, particularly large volume trade buyers will prefer to do business with participating businesses. The NMVTRC is in discussions with key trade buyers of used parts to develop opportunities for their involvement.

In addition, extensive marketing and awareness raising campaigns will target both trade and private buyers.

Point-of-sale brochures and signage will be provided to participating businesses. Those businesses will also be able to use the Code's branding in their own advertising, thereby leveraging benefits from the Code's broader marketing.

By increasing consumer confidence, it is expected that the overall size of the used auto parts market will grow.

Participating businesses should therefore benefit doubly—with an increase in market size and an increase in market share.

The NMVTRC will be seeking to enter into a Memorandum of Understanding with major insurers by the end of October 2004 as a sign of their commitment to the Code.

Who will administer the Code?

The NMVTRC is in the process of establishing an independent not-for-profit incorporated association to administer the Code. The NMVTRC is an example of this model. The Code Administration Body (CAB) will comprise:

- an independent Chairperson, with a mix of financial and business acumen and industry knowledge. (The NMVTRC will choose the inaugural chair in consultation with affected parties);
- a representative of the NMVTRC;
- a representative of State and Territory offices of fair trading (nominated by the Standing Committee of Officials of Consumer Affairs);
- a representative of the Motor Trades Association of Australia (who may alternatively nominate a representative from a State or Territory motor trades association);
- a representative of APRAA; and
- an independent recycler—to be selected by public advertisement.

The CAB will be serviced by a Code Director and a small support team based in Melbourne. Compliance audits will be conducted by specially contracted local auditors in each state and territory. The Code Director will be responsible for the CAB's day to day operations, accreditation management and marketing.

What influence will insurers have over the Code's Administering Body?

Insurers will not have any direct representation on the Administration Body. However, the CAB would be expected to consult regularly with all relevant stakeholders in much the same way as the NMVTRC consults with many non-member organisations.

What are the advantages for customers?

Customers can purchase confidently, knowing that a participating businesses:

- has put a system of checks and procedures in place to ensure that all the prescribed parts in stock have come from legitimate sources;
- meets all government regulations, including environmental standards, relating to the operation of a parts recycling business; and
- is fit and proper with no recent criminal history.

How are customers protected?

The Code's procedures should reduce the chance of a consumer inadvertently purchasing a stolen vehicle part.

However, in the event that a customer receives a used vehicle part that is stolen or for which unencumbered ownership cannot be established, the participating businesses must happily refund the purchase price or replace the item at the customer's discretion.

The invoice of a participating business would contain information to allow the recycler to trace the part to its original source.

A participating business would also be required to report any suspicious parts or sellers of parts that they encounter. The Code's administration would notify the police, office of fair-trading and any other appropriate authorities should information be received regarding stolen parts or those trading in them.

Likewise, customers who have concerns about any parts recycler, or believe that a participating business is not meeting their obligations, would be able to relay their concerns to a Freecall hotline.

Which businesses are eligible?

To participate in the Code a parts recycler must:

- have a business name and an Australian Business Number;
- not have had a conviction for violence or dishonesty (eg. theft, fraud) in the last 3 years;
- **meet all Local, State, Territory and Commonwealth Government regulations applicable to the operation of the parts recycling business, including any environmental requirements; and**

- **agree to meet the requirements of the Accreditation Agreement.**

What are the main requirements?

A participating business must:

- **check that vehicles acquired for parts dismantling are only obtained from the person legally entitled to dispose of that vehicle (eg. encumbrance or vehicle status check via the local office of fair trading or registration authority);**
- **check and record the identity, and source, of vehicles that are obtained for parts;**
- **check and record the identity of the person or organisation from whom already-separated used parts are sourced;**
- **label prescribed used vehicle parts with a unique identifier when they are dismantled from the original vehicle - so that the origin of each part in stock can be traced;**
- **not acquire separated vehicle parts from people under 18 years of age;**
- **not pay cash when acquiring used parts (and not more than 50% for vehicles);**
- **include sufficient details on the invoice for a part when it is sold so that it can be traced to its source; and**
- **give preference to other accredited recyclers if a required part is not in stock.**

Full details of these and other requirements are contained in the model Accreditation Agreement which can be downloaded from the NMVTRC's web site (www.carsafe.com.au/parts).

What if a business already follows similar procedures?

For many businesses, existing good business practice or existing government regulations may mean some of the Code's requirements are already being met.

The Code requirements do not involve a standardised form of record keeping, parts labelling etc. It is up to individual businesses to show that systems are in place that meet the Code's over-arching requirements.

The bottom line is that businesses would determine the best way to meet the Code's requirements—if existing procedures or Government regulations already mean systems are in place that meet some of those requirements, they will not need to be changed.

For instance, a business may already have a parts labelling system in place as part of an existing stock control system, or because they are required to by the government (eg. in South Australia or New South Wales). So long as you can demonstrate that the parts marking system is comprehensive, and allows

each part to be traced back to its source vehicle and/or the person you obtained the part from, then no additional system is necessary.

Similarly, if you already have in place a system for checking and recording the clear title of vehicles you acquire for parts, you may already meet those *PartSafe* requirements.

How will compliance with the Code be monitored?

Participating businesses will be audited at random for compliance with the Code. Failure to allow a Code inspector to audit compliance may result in expulsion of the business from the Code.

In addition, a telephone hotline will be available for the reporting of potential breaches of the Code. Complaints may be received from customers, other parts recyclers, industry associations, police, government authorities, etc.

What is the Cost?

The NMVTRC is funding the Code's operations for the first 12 months.

After that it is expected that the Code Administration Body's costs will be met by an annual subscription fee. Depending on the number of participating businesses subscription fees for the second year forward are expected to be between \$350 (if there are as many as 1,000 participating businesses) and \$1000 (if there are as few as 350 participating businesses).

What are the penalties for a breach of the Code?

Businesses that do not adhere to the Code risk loss of membership and hence face the loss of turnover from those customers who wish to deal with participating businesses.

One-off, accidental or minor breaches will be dealt with by a warning to immediately remedy the problem. Should follow up audits indicate that the breach has not been remedied, the business may be expelled from the Code.

Legal action may be taken against businesses that continue to claim they are a participating business.

What rights do participating businesses have?

Businesses that appear to have breached the Code's requirements will have the opportunity to provide all relevant information to the Code Director.

Any Termination Notice may be appealed to the Code's Appeal Committee. Its decision would be final.

What is the legal basis for the Code?

To participate in the Code, a business would enter into a legal agreement (the Accreditation Agreement). Businesses would agree to implement and abide by the Code's procedures, and declare that the eligibility requirements are met. The business would agree to the disciplinary and appeal procedures.

The disciplinary and appeal arrangements for breaches of the Code are not legal proceedings and hence are not subject to rules that might apply in courts (such as rules of evidence).

The Code Director and the Appeals Committee will be guided by the need to balance natural justice with the need for rigorous enforcement of the Code requirements to ensure its continued effectiveness.

What vehicle parts are covered by the Code?

The Code will apply to the following prescribed components from vehicles less than 10 years old:

Body Panels: <ul style="list-style-type: none">• body shells (and major sections)• front fenders (left and right)• doors (all)• bootlids and tailgates• bonnets ("hoods")• rear quarter panels (left and right)• chassis ("frames")	Mechanical: <ul style="list-style-type: none">• engines• transmissions (both automatic and manual)• radiators• air-conditioning condensers
Other: <ul style="list-style-type: none">• airbags and pyrotechnic seatbelt pretensioners• seats• headlamp assemblies• car audio/audio-visual/satellite navigation systems• alloy wheels	

What about the "backyarders"?

A voluntary industry Code of Practice by definition only applies to businesses that sign up.

However, with the expected support from parts buyers, and the anticipated publicity about the dangers of receiving stolen parts, it is hoped that it will become increasingly difficult for these unofficial traders to find customers.

The introduction of the Code could further highlight and marginalise the "backyarders". The implementation of the Code would provide a great opportunity for the industry and government authorities to work together to develop a package of complementary measures to clamp down on illegitimate dealers in auto parts.

How does the Trade Practices Act (TPA) affect the Code?

The impact of the Trade Practices Act (TPA) has been examined with the Australian Competition and Consumer Commission (ACCC) and reviewed by

independent expert lawyers. The Code could not be successfully challenged under the TPA provided that:

- participation is restricted only by standards of conduct and probity;
- supporters of the Code (such as insurance companies and other parts buyers) make independent decisions about whether and how to support the Code; and
- the structure and management of the Code focuses on the public policy objectives (ie protecting consumers, reducing the trade in stolen parts etc).

How does the Privacy Act affect the Code's operations?

The Commonwealth *Privacy Act 1988* (PA) has applied to small businesses since December 2002. There are no impediments to the disclosure of information by participating businesses to the CAB provided that the recycling business includes an appropriate clause in its Privacy Policy and sellers are expressly informed of this potential when making a transaction.

To assist participating businesses the CAB will develop a model privacy statement and pamphlet that indicates the circumstances under which personal information may be provided to third parties.

Of course the privacy principles do not affect the collection or use of information about corporations with which participating businesses may deal.

What are the next steps?

The NMVTRC will shortly advertise the Code Director's position nationally and commence discussions with stakeholders about filling the positions on the CAB.

It is expected that the establishment phase for the CAB will take about 4 months and it will commence operations in towards the end of 2004.

Where can I get more information?

We will post regular updates on progress on our web site (www.carsafe.com.au). Copies of all of our *Recyclers' Code* related publications can be downloaded from the web by following the links to *Publications* and *COP Project News*.

Alternatively you can write to us via:

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