

**MOTOR TRADERS'  
ASSOCIATION OF NSW**



**Better Business Reforms –  
Implementation  
Options Paper – November 2018**

**Motor Traders' Association of NSW  
(MTA NSW)  
Submission**

**19 December 2018**

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**The voice of the motor industry**

## Introduction

On 24 October 2018, the NSW Parliament passed the first of two Bills in the Government's package of Better Business Reforms. The reforms will empower everyday people by cutting red tape, and giving consumers the information, they need to make meaningful decisions about their future.

The reforms are the culmination of a comprehensive review of legislation in the Better Regulation portfolio, in consultation with business and the wider community. Independent consultants ACIL Allen, undertook a comprehensive impact evaluation of the reforms. As part of the impact evaluation, they estimated the financial impact of each individual reform, as well as the total package.

The Better Business Reforms aims to create opportunities for small business by reducing costs and complexity, without reducing consumer protections. The reforms also increase transparency and protections in consumer transactions without overly burdening businesses.

The headline reforms include extending tradies' licenses, making it easier for tradies to obtain the qualifications they need to work in the motor vehicle industry, and requiring businesses to be upfront and explicit about any terms and conditions, which could significantly impact customers.

There are more than 40 reforms in the Better Business Reforms package, most of which are contained in the Fair-Trading Legislation Amendment (Reform) Bill 2018, and the Fair Trading Legislation Amendment (Miscellaneous) Bill 2018. Some of the reforms have already commenced.

Many require subordinate legislation, administrative and ICT changes before they can be implemented. In many cases, these tasks are well understood and will be progressed over the next 12 to 18 months.

However, a small number of the reforms require further consultation to ensure stakeholders and the community have the opportunity to provide input into the details of the reform before they are finalised and implemented. For other reforms, further consultation will ensure that stakeholders and other interested parties can contribute to the decision-making process about the most appropriate commencement date.

The purpose of this Paper is to provide further detailed information about these select reform areas and to set out options for consideration. The Paper also provides a formal mechanism to make submissions on the issues.

## Background

The Motor Traders' Association of New South Wales (MTA NSW) thank you for the opportunity to provide feedback on this very important matter in relation to the *"Better Business Reforms – Implementation Options Paper – November 2018"*.

MTA NSW is the peak industry body for the automotive industry in this State.

It is recognised and acknowledged that a strong and mutual working relationship has been developed between the Department of Finance, Services and Innovation and the MTA NSW, with a number of issues jointly addressed for the betterment of the industry.

In order to provide an appropriate balance between Regulation and our members' requirements, MTA NSW makes the following recommendations and comments as outlined in the "Better Business Reforms – Implementation Options Paper – November 2018".

## HAVE OUR SAY

MTA NSW has made comment on only those matters of particular interest that may influence or impact on our members.

### (Section Two) Disclosure of Commissions and Referral fees

Preferred Option: A commencement date of 1 January 2020 is currently proposed. This date would give the necessary time to consult, pass regulations and proclaim a commencement date. There would then be sufficient time to communicate the new requirements to the community and traders. It would also provide sufficient lead time for any traders that would not presently meet the new requirements, to prepare for the change.

#### Response

MTA NSW does not agree with the Preferred Option. Please refer to our response in question 5.

#### Question 4

**Section 2.4 contains the matters for which regulations can be made.**

**Do you think that all of these matters require regulations before the reforms can commence? If you think some or all are required, what do you believe needs to be contained in those regulations?**

#### Response

Yes. MTA NSW believes some regulations would better clarify the exact rules and interpretations that apply to variable situations. MTA NSW strongly suggests the removal of the *wording "whether any other type of financial incentive besides a commission or a referral fee captured by these new obligations"*. This suggestion is based on the following reasons:-

- (a) There are too many variables in reality and this would complicate matters;
- (b) Businesses require time to implement changes; and
- (c) The changes would have a significant negative financial impact to the businesses and staff.

MTA NSW suggests to implement clear guideline parameters to work within and/or possibly the application of a threshold on values to declare as some commissions paid are relatively small dollar amounts (e.g. \$10.00 - \$50.00).

### **Question 5**

**Is 1 January 2020 an appropriate start date for the disclosure of commissions and referral fees? Do you believe there are reasons why this reform should start sooner or later?**

#### **Response**

MTA NSW currently opposes, on behalf of our members, an implementation date prior to 1 January 2020 due to the significant impact and additional operational reengineering required to comply with these new requirements.

In fact, MTA NSW recommends an implementation date of post September 2020. This suggestion is based on the following:-

- (a) A later implementation date will provide businesses an opportunity to develop and restructure new processes in their systems across multiple Departments and roles. An example of this would be the major redevelopment required for Information Technology (IT Dealer Management Systems) changes that have set prebuilt processes. This may also come with a significant cost to business that will require reinvestment and planning for these changes;
- (b) The restructure of employee's personal income around commissions and bonuses;
- (c) Businesses require additional time to evaluate the impact on the retail sales that will expand to other areas such as:- sales; service; parts; aftermarket sales; and finance; and
- (d) Additional time required by Dealerships to renegotiate future 'Manufacturer Agreements' in order to meet the franchise requirements, KPI's and targets. Any failure to meet the agreed targets will have an influence over the bonuses paid to the Dealership and flow on impact on employees and more importantly the Dealership retaining the 'Franchise Agreement' with the Manufacturer.

### **(Section Three) Streamlining the Uncollected Goods Regime**

Preferred option: The preferred commencement date is 1 October 2019.

Given the action required under paragraph 3.6, this would provide the necessary lead time to undertake those activities. In particular, this date will allow the necessary structural and procedural changes for the local courts and the NCAT to be assessed and scoped. It will also provide at least three months for those changes to be made prior to commencement.

An information and education campaign can be developed in early 2019 and delivered in the months leading up to commencement.

#### **Response**

MTA agrees with the preferred option.

### **Question 6**

**Do you think that any regulations need to be made under the new uncollected goods requirements?**

#### **Response**

MTA believes that a time period in which an application must be made to NCAT should be the same/similar time period given to Medium Value Goods (\$1,000 - \$20,000).

### **Question 7**

**Do you think that the start date provides sufficient time to ensure affected groups have time to prepare for the change in requirements for the disposal of uncollected goods?**

#### **Response**

MTA agrees that this time frame gives affected groups sufficient time to prepare for change.

### **Question 8**

**Do you think that the Government needs to take any other action about changes to the *Uncollected Goods Act*? If so, what should that action be?**

#### **Response**

MTA believes that the need to obtain a certificate and report from the Commissioner of Police confirming that the goods are not stolen is unnecessary and on most occasions hard to obtain. There is also push back from LPU's (Local Police Units) when asked for these reports. A simpler solution would be to make it part of the process that a PPSR search be done and a report printed as this report will state whether the goods are stolen or not. It also provides the Bailor with another avenue of 'Disposal' if the goods are encumbered.

### **Question 9**

**Are there any other issues with starting the uncollected goods reforms on 1 October 2019? Are there reasons the changes should start sooner or later?**

#### **Response**

MTA believes that this is an acceptable time frame but if it could be brought forward it would benefit Business owners.

### **Closing**

The MTA NSW would welcome the opportunity of discussing this Submission with The Department of Financial Services and Innovation, should this be necessary.

We once again thank The Department of Financial Services and Innovation for the opportunity to provide input on the Option Paper "Better Business Reforms – Implementation – November 2018".

Yours faithfully,

**Stavros Yallouridis**  
Chief Executive Officer