

**Summary of Submissions on the Discussion Paper
Review of the Consumer Information Standards (Used Motor Vehicles)
Regulations 2003**

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1. Introduction

This report provides a summary of submissions received on the effectiveness of the Supplier Information Notice requirements as set out in Schedules I and II of the Consumer Information Standards (Used Motor Vehicles) Regulations.

The submissions were received following the release of a discussion paper Review of the Consumer Information Standards (Used Motor Vehicles) Regulations 2003, in May 2006.

Seventeen submissions were received: A combined submission from three main motor sales organisations (Trade Associations); three from licensed motor vehicle dealers (traders); five from government agencies; two from consumer groups; and six from other organisations and individuals, as follows:

Trade Associations (joint submission)

Motor Trade Association
Independent Motor Vehicle Dealers Assn
Motor Industry Association

Licensed Motor Vehicle Dealers

Trademe
Kiwi Auto Auctions Ltd
Turners Auction (Turners)

Government Agencies

Land Transport New Zealand (LTNZ)
Ministry of Transport (MOT)
Ministry for the Environment (Mfe)
Commerce Commission
Energy Efficiency & Conservation Authority (EECA)

Consumer Groups

Consumers' Institute
New Zealand Automobile Association (AA)

Other organisations and individuals

Institute of Professional Engineers NZ (IPENZ)
On Tap Information (On Tap)
NZ Law Society
Allan Scott and Mark Kunned (both associated with AA)
Financial Services Federation (Inc) (FSF)
(representing 48 financial institutions)
Radio Broadcasters Association
(representing non-competing interests of the Radio Network, Rhema Broadcasting and 9 independently owned stations)

Suggestions and comments made by submitters are summarised below under the headings as set out in the discussion paper.

2. General comments

Supplier details

The current requirement is for suppliers to: provide their name, address and contact details; indicate whether they are a registered motor vehicle trader; and provide their registration number.

Submitters were asked for suggestions on what supplier details should be required.

Trade Associations, Trademe, Turners, AA, Consumers' Institute, Commerce Commission and Allan Scott and Mark Kunnen supported the status quo.

Turners suggested including the salesperson's name and phone number. Trademe suggested the inclusion of a link to the back of the card for online sales.

Related to the requirement for seller details on the SIN, Trademe suggested there is a danger in requiring all sellers to provide an online SIN card as the information can be used to defraud consumers. They specifically noted Identity fraud which involves someone using information from the SIN, such as the seller details and the vehicle specifications, to create an offer designed to defraud consumers or to obtain a loan using the vehicle as security.

Submitters were also asked whether they supported the requirement for sellers to disclose their MVTR number or indicate that they are conducting a private sale and if so whether there were any dangers to this approach.

Turners, On Tap and FSF supported the requirement to disclose the MVTR number. Turners suggested that the requirement should be actively policed by the Commerce Commission.

AA noted that requiring a trader to disclose their MVTR number and also tick the box to indicate whether they are registered is superfluous and that if the box is empty consumers would infer that the seller is unregistered.

The Commerce Commission and Trade Associations agree that registered traders should disclose their MVTR numbers but do not agree that private sellers should be required to display a SIN.

Related to the requirement for private sellers to display a SIN at car markets, the Commerce Commission and Trade Associations suggested that usage of the SIN should be restricted only to registered traders. Trade Associations considered it a potential danger for private suppliers to display a SIN. This is because consumers buying a vehicle from private suppliers may get the incorrect impression that as a SIN is displayed, the same consumer protection measures apply, as they would when buying from a trader.

Cash Price

The current requirement is for suppliers to display the cash price inclusive of GST.

Submitters were asked for suggestions on how to indicate on the SIN the cash price and additional costs and indicate reasons.

Trade Associations suggested displaying the cash price and additional costs separately and defined and restricted additional costs to registration costs, licensing costs, road user charges and auction fees. Their approach is taken from the Air New Zealand ticket pricing court decision (November 2005), where it was judged that the headline price should be the purchase price for the item, and that only genuine levies (government regulated charges) are to be listed over and above the headline price. They suggested that although, auction fees do not entirely fit this definition they should be treated in the same manner as ultimately the consumer is better served through having the information clearly defined.

The Commerce Commission supported an option of a single price inclusive of all relevant costs.

The Consumers' Institute supported a cash price inclusive of all reasonably foreseeable costs such as yet-to-be-registered vehicles and the cost to put the vehicle on the road. They considered this approach is similar to the requirement for retail prices to include GST as not including on-road costs could be considered misleading under the Fair Trading Act.

AA and Allan Scott and Mark Kunnen suggested that the quoted cash price should "include all costs required to be met so the vehicle can be driven on the road" however, "where potentially variable on-road costs such as licensing and compliance have not yet been met by the supplier, there should be provision for quoting a discounted price with those on-road costs clearly excluded".

The Law Society supported the status quo noting that additional costs such as on-road costs, insurance costs, and finance costs will differ between consumers and are not essential core information that should be provided on the SIN.

FSF suggested disclosure of full price details with an indication of costs if a vehicle is unregistered or unlicensed "so that buyers know exactly what they are in for".

Submitters were also asked whether an indicative price for cars at auctions should be displayed on the SIN.

Turners, On Tap, Consumers' Institute and AA supported the inclusion of an indicative price on the SIN. Turners noted that they have received a number of complaints and queries from potential purchasers in regard to the display of a used vehicle for auction without some indication of a potential price range.

Trade Associations, FSF, Law Society and Commerce Commission disagreed. The Commerce Commission noted that displaying an indicative price has the potential to lead to breaches of the Fair Trading Act in terms of price banding issues.

2.1 Security Interest

The current requirement is for suppliers to state "there is a security interest registered over this motor vehicle" or leave the entry blank.

Submitters were asked whether they supported the requirement.

The Commerce Commission, Consumers' Institute, AA and Turners supported the status quo.

Trade Associations and FSF disagreed with the option of leaving the field blank if there is no security interest and suggested a definitive statement either way.

Allan Scott and Mark Kunnen suggested replacing the requirement with information on how to access the security register so consumers can check the information themselves.

The Law Society disagreed with making the requirement mandatory as it places too onerous a duty on traders. Kiwi Auctions suggested replacing the requirement with a declaration that the vehicle will be sold with clear title.

Regarding the requirement of stating whether a vehicle has a security interest, Trade Associations referred to the information at the back of the SIN card where it states "[I]f a security interest is recorded on the PPSR, the supplier must state on the front of this card" as impractical in situations where traders have floor plan security arrangements. The floor plan arrangements mean security may be registered against individual vehicles but the vehicle is sold with clear title and in these instances traders do not always indicate that an interest exists as it does not affect consumers. However, failing to declare the interest contravenes the requirement.

Make and model, engine capacity and operating fuel type

The current requirement is for suppliers to state the make and model, engine capacity and operating fuel type of the motor vehicle as recorded on the motor vehicle register (MVR).

Submitters were asked whether changes should be made to the requirement.

Trade Associations, Turners, Commerce Commission, Consumers' Institute, AA, Allan Scott and Mark Kunnen, Law Society and On Tap supported the status quo.

Turners suggested including the motor vehicle variant and On Tap suggested including the transmission type as well.

Vehicle identification number or chassis number

The current requirement is for suppliers to include the vehicle identification number (VIN) or chassis number.

Submitters were asked what if any changes should be made to the requirement.

Trade Associations, Commerce Commission, Consumers' Institute and Law Society supported the status quo.

Turners suggested the inclusion of both numbers so as to remove the risk of vendors receiving security information on another vehicle.

AA and Allan Scott and Mark Kunnen suggested removing the requirement for a VIN number as VIN numbers are redundant and not useful in identifying a vehicle.

2.2 Vehicle year

The current requirement is for suppliers to state the vehicle year defined as either the calendar year in which the vehicle was manufactured or the model year as designated by the manufacturer.

Submitters were asked whether the requirement should be retained in its current form.

Trade Associations, Commerce Commission, LTNZ, MOT, Consumers' Institute, AA, On Tap, Law Society and Allan Scott and Mark Kunnen suggested changes primarily as the use of the year of manufacture or model year to indicate the vehicle year can potentially mislead and confuse consumers. Trade Associations suggested separate fields for used vehicles for the Year of Manufacture, Model Year or Year of First Registration and leave the fields blank if the information is unknown.

LTNZ disagreed with suppliers sourcing the information from the MVR because the information has different meanings on the MVR and may be inaccurate.

MOT supported using Year of First Registration to determine the vehicle year and suggested making the information on the MVR available to suppliers and consumers to inform them of the age of a particular vehicle.

Actual distance the vehicle has travelled and disclaimer

The current requirement is for suppliers to state either the odometer reading or a disclaimer that they cannot accurately determine the actual distance the vehicle has travelled or that the vehicle's odometer reading is inaccurate.

Submitters were asked whether there should be changes to the wording of the current disclaimer.

Trade Associations, Turners, Commerce Commission, Allan Scott and Mark Kunnen and AA supported the current format but with changes to the wording.

Trade Associations, AA and Turners suggested the supplier should record the odometer reading and include a disclaimer to the effect that it may not be accurate.

Commerce Commission suggested tick boxes with the options accurate and cannot verify.

Allan Scott and Mark Kunnen suggested the reading should be shown as the current reading as an emphasis on accurate odometer reading is misleading.

Consumers' Institute supported the status quo.

2.3 Vehicle Registration and Vehicle licence

The current requirement is for suppliers to indicate whether the vehicle is registered by ticking the yes or no box. If yes list the vehicle licence (registration) expiry date. If no leave the expiry date field blank.

Submitters were asked for suggestions on the best method for notifying a buyer of the licence and registration status of the vehicle.

Trade Associations, Commerce Commission, Consumers' Institute and Law Society supported requiring the supplier to record the information on the SIN card.

AA and Allan Scott and Mark Kunnen disagreed with including the information on the SIN as the information is already on the windscreen.

Trade Associations suggested: in the case of a vehicle not yet registered suppliers should include a statement to that effect; and for vehicle licence details, suppliers should include a statement referring the buyer to the label on the windscreen. This is to alleviate the need for suppliers to re-issue the SIN card whenever the licence status changes. They also suggested any costs for registration or licensing should be included in the cash price.

Registration Plate number

The current requirement is for suppliers to state the number or distinguishing mark on the registration plate of the vehicle.

Submitters were asked whether the supplier should be required to state not yet registered for an unregistered vehicle and if so to indicate reasons.

Trade Associations and Consumers' Institute supported the use of the statement as on road costs may need to be added to the price listed.

AA suggested leaving the field blank to indicate the vehicle is unregistered or unlicensed.

The Law Society answered No to this question.

2.4 Warrant or certificate of fitness

The current requirement is for suppliers to indicate whether a vehicle has a warrant or certificate of fitness by ticking the yes or no box and if yes list the expiry date.

Submitters were asked whether a supplier should list the warrant of fitness date as the date is already on the windscreen sticker.

Trade Associations, Commerce Commission, Consumers' Institute, AA and Allan Scott and Mark Kunnen disagreed with the inclusion of the warrant of fitness dates primarily as the information is already on the windscreen.

The Law Society, On Tap and FSF agreed with including warrant of fitness dates on the SIN as it provides a record of the vehicle.

On Tap supported the suggestion as: there have been instances where the warrant of fitness stickers were fraudulent; internet buyers have difficulty deciphering the date on the windscreen; and buyers will have no record of the date once the sticker is replaced.

Submitters were also asked whether the information should only be provided if the warrant of fitness is due to expire within 28 days of the date of sale.

The Consumers' Institute noted the legal requirement is for a warrant of fitness to be no more than one month old so the expiry within 28 days discussion is not relevant.

The Law Society answered No to this question.

Submitters were also asked for preferences of displaying the warrant of fitness for vehicles advertised and sold over the internet.

AA, Consumers' Institute, Law Society and On Tap supported, for vehicles advertised and sold over the internet, the display of the warrant of fitness on the SIN. AA and Consumers' Institute suggested requiring the supplier to state on the SIN whether the vehicle is sold as is, where is or that the warrant of fitness will be obtained before the sale.

Road user charges and outstanding road user charges

The current requirement is for the supplier to indicate whether the vehicle is subject to road user charges by ticking the yes or no box and also state whether outstanding road user charges existed.

Submitters were asked whether changes should be made to the requirement.

Trade Associations, Turners, Commerce Commission, Consumers' Institute, AA, and On Tap supported the status quo. AA suggested providing more information on road user charges including an estimated road user charge for the vehicle per 100km. On Tap suggested displaying, if any, the amount of road user charges outstanding.

2.5 Re-registered vehicle

The current requirement is for suppliers to indicate whether the vehicle has been previously registered and then re-registered as recorded on the motor vehicle register by ticking the yes or no box. Re-registration is necessary if the vehicle's registration has been cancelled usually because it had been written off by an insurance company, rendered useless or destroyed, or has been unlicensed for more than one year.

Submitters were asked whether changes should be made to the requirement.

Trade Associations, Commerce Commission, Consumers' Institute and Law Society supported the status quo. On Tap suggested that suppliers should also provide a reason as to why a vehicle was deregistered so that the damage history of a vehicle is disclosed.

2.6 Year first registered overseas and country where last registered

The current requirement is for suppliers to list the year the vehicle was first registered overseas as well as the country where it was last registered.

Submitters were asked whether any changes should be made to the requirement.

Trade Associations, LTNZ, Commerce Commission, Consumers' Institute, AA and Law Society supported the status quo. Trade Association suggested including Year of Manufacture, Model Year, Year of first registration and Year of first registration in New Zealand.

2.7 Imported as damaged vehicle

The current requirement is for suppliers to indicate whether the vehicle was imported damaged, as noted on the MVR, by ticking the yes or no box.

Submitters were asked whether changes should be made to the requirement.

The Commerce Commission, Consumers' Institute and the Law Society supported the status quo.

Trade Associations and Turners disagreed and suggested that the requirement be removed.

LTNZ noted that the information recorded on the MVR is only partial information: it relates only to those vehicles that might have been flagged as possibly damaged overseas (by visual inspection at the border), and those that have been repair-certified at entry or re-entry after structural damage has been repaired but other structural damage (and repair) information are not recorded. This could mislead consumers into thinking that vehicles not flagged have had no structural damage.

Kiwi Auctions suggested consideration be given to the inclusion of vehicles de-registered as damaged in New Zealand as well as a declaration of whether the vehicle has a history of being a rental, taxi or leased vehicle.

Trade Associations disagreed with the requirement as: it reduces the value of a vehicle flagged as damaged in comparison to the value of a vehicle damaged in New Zealand even though it has been repaired to a certified standard; the information is incomplete and could mislead consumers into thinking that a vehicle not flagged has not had structural damage but vehicles damaged in Japan and repaired before they are exported are not flagged; vehicles damaged and repaired in New Zealand are not flagged; and vehicles imported in a damaged condition as parts are not flagged even though sub-assemblies may be used to repair existing vehicles in New Zealand.

2.8 Features and additional information facility

Additional information such as features, accessories and information about the number of owners on a vehicle is not currently required on the SIN.

Submitters were asked whether an additional information option should be included on the SIN and if so whether there should be a limit on what additional information should be provided.

Turners, Consumers' Institute and Commerce Commission supported the inclusion of an option and Trade Associations, the Law Society and On Tap did not.

Consumers' Institute supported the inclusion but suggested limiting the information to number of owners and previous use of the vehicle.

Trade Associations indicated that their earlier view supported the inclusion of an option but they are now of the view that additional information is better provided by other mechanisms such as an additional window card and by the salesperson.

Submitters were also asked whether fuel efficiency information should be included on the SIN.

Mfe, MOT, EECA , AA, Consumers' Institute, IPENZ and On Tap agree that some form of fuel efficiency information should be included.

Mfe and MOT suggested that the fuel consumption, or fuel consumption rating of used vehicles as displayed on the Fuel Saver website www.fuelsaver.govt.nz should be included on the SIN.

EECA suggested further discussions between them and MCA with regard to the detailed logistics of introducing fuel economy information and if fuel consumption information is not included on the SIN to give them the opportunity to develop an alternative label.

IPENZ noted that increased purchases of less fuel efficient cars in recent years have contributed to the rapid growth of New Zealand's use of transport fuels. Purchasers of privately-owned vehicles rarely consider a vehicle's full life cycle costs for two reasons: consumers are not supplied with full cost information at the time of purchase; and, even if consumers can determine costs, they often do not own vehicles long enough for energy costs to be a major consideration. IPENZ suggested the introduction of minimum standards which may restrict the importation of inefficient vehicles and providing information such as the expected fuel consumption of the vehicle per year for a given distance to allow consumers to make an informed decision that benefits themselves as well as New Zealand.

Trade Associations, Commerce Commission, Turners, FSF and Law Society disagreed with requiring fuel efficiency information on the SIN.

Trade Associations disagreed as: the information has the potential to confuse and mislead consumers; there are too many variations in testing methods; and the end result of tests requires additional information to appreciate its usefulness and accuracy but there is insufficient room on the SIN to include it.

Commerce Commission disagreed as the information could lead to a number of problems with inaccurate comparisons between vehicles as it is dependent on numerous variables such as vehicle age, maintenance, tyre pressure and the number of

passengers carried. They also noted information differed between the same models of second hand vehicles.

2.9 Information format

The current requirement is that the SIN must be in a form set out in Schedule 1 of the Regulations and contain information in Schedule 2.

Submitters were asked for suggestions as to the best approach to take to provide consumers with specific sale and vehicle information.

Trade Associations, Law Society, Consumers' Institute, Commerce Commission and FSF supported a prescribed format.

Turners suggested two preferences: a broadly stated format that can be altered to suit the vehicle and supplier and customer needs; or a mixed format with the statutory requirements grouped together at the top and additional information on the bottom.

On Tap suggested: like data be grouped together; information be explicitly stated so no blank fields; and vehicle options and features to be on a separate page. They supported a fully prescribed format as they have the capability, if there are changes in market, information, or legislative needs, to change the layout of their electronically generated and stored SINs at short notice. Also a standard layout makes law enforcement easier.

Submitters were also asked whether there were specific problems with particular approaches in terms of the medium used to advertise the vehicle for sale, for example, internet, car fair and display for sale operations.

The Commerce Commission noted that there are problems with the provision of general information but not with the provision of contact details.

Trade Associations noted that some internet sales do not display a SIN as required under the MVSA. They said it should be a mandatory requirement for operators to ensure that a SIN is displayed at car fairs as currently operators are only required to take reasonable steps.

Consumers' Institute noted no problem with the status quo.

2.10 Consumer Advice

Regarding consumer advice submitters were asked for suggestions to the following questions:

- what general consumer information should be provided;
- what level of details should be disclosed;
- where to refer buyers to seek further advice;
- what the layout of consumer protection should be; and

- what is the single most important contact from which buyers can/should get assistance.

Trade Associations considered the information provided currently is acceptable but should be abbreviated to improve readability and consumer understanding. They noted the: SIN is incorrect as it states that a security interest must be disclosed whereas there is no obligation for a supplier to disclose a security if one exists; odometer field that allows the wording relating to actual distance the vehicle has travelled is too restricting and could lead to a trader facing prosecution under the Fair Trading Act; and the reference to the Motor Vehicle Disputes Tribunal for further advice should be included.

The Law Society suggested that there should be more emphasis on the front of the SIN to refer readers to the information at the back. AA suggested that there should only be one contact agency as there are too many agencies enforcing motor vehicle issues. MOT suggested that safety ratings and emission standards should be included on the SIN.

On Tap noted that there is too much information on the back page and suggested it be simplified to a list of points of contacts where consumers can get information and advice. FSF has developed an online knowledge base used by their call centre to answer queries from registered traders and consumers and they intend to add to their website a comprehensive frequently asked questions page for public and industry use. Their website can verify the accuracy of the information contained on the SIN without consumers having to contact the LTNZ, PPSR and Police. FSF suggested that the legislation be changed to allow other agencies such as themselves to provide advice and information to consumers.

2.11 Signing and dating the SIN

The current requirement is for buyers to sign and date the SIN as acknowledgement that they have received a copy.

Submitters were asked whether the requirement should be retained.

Trade Associations, Law Society, Commerce Commission, Consumers' Institute, FSF and On Tap supported the retention of the requirement.

Trade Associations suggested the supplier should also sign the SIN.

On Tap suggested an electronic confirmation/signature be accepted for the cases where a vehicle is displayed for sale on-line. This confirmation can be achieved by sending the supplier a confirmation of receipt to an email that contains the SIN or by delivering a SIN to the consumer's email address or send it by fax.

2.12 Supplier Information Notice a suitable name

Submitters were asked whether the name Supplier Information Notice (SIN) is a suitable name for the form.

Trade Associations, Law Society, AA, Consumers' Institute and Commerce Commission do not support the current name and made suggestions for alternative

names. Trade Associations suggested Consumer Information Standard to better reflect the form is about consumer information. Consumers' Institute also suggested Consumer Information Standard as it is supposed to inform the buyer not the seller. AA suggested Sales Card or Sales Information Card. Commerce Commission suggested Used Vehicle Information Card.

2.13 Other Issues raised by submitters

Radio Broadcasters Association raised concerns with the importation of motor vehicles, mainly from Japan, fitted with radios that do not have the capability of reception above 90MHz as it means consumers that purchase these vehicles do not receive radio broadcasts from the majority of radio stations in New Zealand. They considered this has a detrimental affect on commercial and public broadcasters and their respective listeners.

Radio Broadcasters Association suggested the inclusion on the SIN of a requirement for suppliers to advise consumers of the compliance of radio receivers fitted to vehicles to ensure imported motor vehicles have compliant New Zealand standard radio receivers before vehicles are imported. They suggested this would raise the awareness of various interest groups and improve the ability of consumers to receive New Zealand broadcasts.

Kiwi Auctions raised the issue that the problem faced by the industry is due to the SIN card designed on the concept that one size fits all. They suggested that there should be more than one standard SIN card: a card for public to public sales; a card for RMVT to include an area for benefits and features; and a card for auctioneers.