

CONSUMER INFORMATION
STANDARD
DISCUSSION PAPER

USED MOTOR VEHICLE
INFORMATION DISPLAY

August 2001

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FOREWORD

Motor vehicles are technically complex, and their purchase is one of the largest financial commitments a consumer makes. It is crucial that consumers receive meaningful and accurate information if they are to make good buying decisions.

For this reason, and following the Government's decision to put in place a new law covering the sale of motor vehicles, I am very pleased to present this paper.

The Government decided, amongst other things, that:

"All traders offering vehicles for sale in trade, and other trade premises, and all sellers at car fairs (including private sellers), and auctioneers, be required pursuant to section 27 of the Fair Trading Act 1986 to disclose a notice with 'specified information' about any vehicle for supply."

This paper discusses how this will occur and at what type of information (the 'specified information') should be provided to buyers and in what form. It refers to the replacement of the current window card with a Vehicle Information Display. Some of the information proposed for display is the same as what is required in the current window card. But there are some notable additions and changes of wording to provide more meaningful information for buyers.

Following the Government's decision, there will be wider coverage than the current window card, including suppliers at car fairs, auctions, and other places of supply.¹ The Ministry raises for discussion the option of coverage in an area that the Government has not yet agreed – roadside sales away from the private seller's normal place of residence.

The aim is to cover as many different types of transactions as appropriate, and in turn help as many consumers as possible to make well-informed buying decisions. Thus, the paper refers to 'suppliers' not 'traders' (except for registered traders under the Motor Vehicle Dealers Act) as some of the suppliers may be private individuals, selling through car fairs or other venues (and therefore not technically 'traders'). For the purpose of this discussion document, auctioneers are referred to as 'suppliers', except where specifically noted.

I welcome your comments on this paper. Your views are important to us in finalising how consumers can best be assisted when buying motor vehicles.

The Ministry will consider all responses to the paper and will then provide Hon. Jim Anderton, Acting Minister of Consumer Affairs, with appropriate recommendations.

Keith Manch
General Manager

¹ 'Supply' includes sale, exchange, lease, hire and hire purchase. Most vehicles are 'sold' to consumers, but many consumers acquire vehicles by lease and hire purchase. Therefore, the term 'supply' rather than 'sale' is used throughout the paper. For similar reasons, 'supplier' is used rather than 'trader' or 'seller'.



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1. INTRODUCTION

The Government intends to introduce a Consumer Information Standard under the Fair Trading Act 1986 that will require suppliers of motor vehicles to provide buyers with certain information to assist them with purchasing decisions.

The Fair Trading Act prohibits false and misleading representations about goods or services and deals with the provision of information by suppliers to consumers. A Consumer Information Standard is a regulation made under the Act requiring the suppliers of goods and services to disclose specific information about the goods and services in a specific form. The purpose is to ensure that consumers are supplied with good information to assist them in making informed purchasing decisions.

More information on the Fair Trading Act and on Consumer Information Standards is provided in the Appendix.

People who offer motor vehicles for supply (except some private sellers) will be required to provide information in the form of a 'Vehicle Information Display'. This replaces the former 'window card'. The suggested change of name reflects the fact that suppliers of vehicles over the Internet should also have to supply this information – and in this instance, the information will not be attached to the window. The term Vehicle Information Display is therefore more accurate than the term window card.

This document discusses what information should be on the Vehicle Information Display, and the form and manner in which it should be provided.

1.1 Who should have to provide a Vehicle Information Display?

The Government recently agreed to introduce a Motor Vehicle Sales Bill into Parliament. The Bill covers motor vehicles supplied by existing motor vehicle dealers, auctioneers, car fair operators, wholesalers, importers, car rental agencies, and finance companies that sell motor vehicles to the public. Any person who supplies more than six, or imports more than three, motor vehicles a year is presumed to be in the business of trading and is covered by the Bill. Specifically, they must register as motor vehicle traders and are subject to the Motor Vehicle Disputes Tribunal, as well as other legislative requirements.

A greater range of suppliers will be required to provide the Vehicle Information Display when offering motor vehicles for supply. At the moment only licensed motor vehicle dealers are required to display a window card. In future, the following will be required to provide a Vehicle Information Display when offering motor vehicles for supply:

- all suppliers of used motor vehicles required to be registered under the Motor Vehicle Sales Bill
- for private sales:
 - private sellers at car fairs only, and possibly



- private sellers displaying vehicles for sale from any public location other than the immediate proximity of their usual place of residence (depending on decisions made following responses to this paper).²

² Note that this possibility was not included in the Government's decisions on the new Motor Vehicle Sales Bill and is included in this paper as a possibility that could be recommended by the Ministry.



1.2 Comparison between the existing and proposed requirement

Differences from current requirements are detailed in this paper. In summary, the differences are:

- A Consumer Information Standard under the Fair Trading Act 1986 to replace the window card currently required under section 90 of the Motor Vehicle Dealers Act 1975.
- Change the term ‘window card’ to the term ‘Vehicle Information Display’.
- That Vehicle Information Display details be provided by a wider range of suppliers.
- Information to be supplied in the Vehicle Information Display that is not currently required on the window card, including:
 - the supplier’s name and registration number, and full address details
 - the distance travelled or the wording, “I (name of supplier) cannot determine the distance this motor vehicle has travelled because the odometer reading may be inaccurate”
 - the date the vehicle was first registered overseas, if it is an import
 - the country from which the vehicle was imported (as opposed to the words “ex-overseas”)
 - the date of manufacture
 - the type of fuel the vehicle uses
 - Vehicle Identification Number (VIN)
 - whether the vehicle has been imported as damaged
 - whether the vehicle is subject to an outstanding security interest as recorded on the Personal Property Securities Register.



2. BACKGROUND

Regulation of who may sell motor vehicles has been under review since 1994. So has the type of information consumers need when buying motor vehicles.

In June 1996, and again in May 1998, the Ministry of Consumer Affairs released discussion documents considering the information that should be on window cards, by way of a Consumer Information Standard under the Fair Trading Act. In each case, the Standard was to accompany changes to the Motor Vehicle Dealers Act.

These previous proposals did not go beyond the consultation stage because in both instances the amendments to the Motor Vehicle Dealers Act did not proceed.

In January 2001, the Ministry of Economic Development and the Ministry of Consumer Affairs jointly released the document *Motor Vehicle Sales: A Proposed Regulatory Regime*. Public consultation on that discussion document has been completed and was considered by the Government in its decisions on the new Motor Vehicle Sales Bill that will soon be introduced into Parliament.

This Vehicle Information Display paper takes account of previous consultations, submissions received on the paper *Motor Vehicle Sales: A Proposed Regulatory Regime*, the Government's recent decisions in relation to the Motor Vehicle Sales Bill, as well as the changed nature of the motor vehicle market.

2.1 Objectives of information disclosure

The objective of disclosing information to buyers is to make it easier for them to access information that assists them in making an informed decision about the vehicle they are considering buying. Disclosure should:

- provide a minimum standard of information which must be made available to buyers
- ensure that information is accurate and easily understood.

Buying a motor vehicle is a major financial commitment for consumers. Motor vehicles are also technically complex. There are many factors which can affect their value. Some of these are not obvious to a prospective buyer from a visual inspection, but become apparent through use or the passage of time.

Buyers need reliable information to assist them in assessing the value of a vehicle, and to assist them in negotiating an appropriate price. This is because:

- It is difficult for most buyers to assess the value of a vehicle and whether it will meet their needs. Buyers need reliable indicators to help them do this, for example, age, odometer reading, and date of first registration.
- Suppliers of motor vehicles are usually better informed about the vehicle than buyers, and are also in a better position to obtain additional information.
- With written information about the vehicle from a supplier, buyers are in a stronger position to seek redress if the supplier's claims prove to be false or misleading.
- Motor vehicles are expensive goods. The cost to the buyer and others dependent on the vehicle for transportation is relatively high (and may be catastrophic) if they receive a 'bad deal'.



3. DECIDING WHAT DETAILS SHOULD BE ON THE VEHICLE INFORMATION DISPLAY

The benefits of better informed buyers need to be balanced against the costs to suppliers who have to gather and provide the information, as well as the legal risks of failing to provide the information according to the law.

The information that could be on the Vehicle Information Display should be relatively easy to gather, provide a level playing field for suppliers who have to gather the information, be accurate and meaningful for the buyer, and be enforceable.

3.1 Accessibility of information

Once a vehicle has been first registered in New Zealand, the information proposed on the Vehicle Information Display would not be difficult to find. Much of it would be available from the Motor Vehicle Register public database, which is managed by the Land Transport Safety Authority (LTSA). It is also likely to be available from private-sector databases eg BayCorp or OnTap Information.

The cost of accessing these databases should not materially increase the price of a motor vehicle. For example, the maximum cost of data from the Motor Vehicle Register is \$11.25 (including GST). Also, if the buyer of the motor vehicle is required to retain a copy of the Vehicle Information Display, much of the information would not require updating for any future sales.

3.2 Accurate and meaningful

Written information about motor vehicles will assist consumers to assess the quality and value of a vehicle and should provide a clear record from which to seek redress if problems eventuate. In this light, details to be disclosed should be:

- informative (ie details that are important to know when buying a motor vehicle)
- simple to understand
- accurate
- legible (ie provided in such a way they can be easily read).

3.3 Level playing field for suppliers

Information requirements must provide a level playing field for suppliers who must comply with the Consumer Information Standard. The cost of compliance should also be as low as possible (ie proportionate to the benefits achieved).

3.4 Enforceable

The information requirements must be clear and certain to assist in compliance with, and enforcement of, the Consumer Information Standard. Details to be disclosed must be clearly understood, capable of being provided, and readily verifiable at minimum cost.



3.5 Information categories

The type of information that buyers need when purchasing a motor vehicle falls into two categories.

The first category is information that acts as a reliable indicator of a vehicle's value. This includes:

- age
- price
- date of first registration
- manufacturer
- design features
- vehicle specifications (eg engine capacity/configuration, safety features).

Each item is discussed in more detail in the next section.

Individually, these indicators may not allow the buyer to make a reliable assessment of a vehicle's value. However, when displayed together as a Vehicle Information Display, a judgement as to value can be made.

The second category is information that helps buyers to seek redress if things go wrong with the deal. This includes information about who the supplier is and where they are located.



4. PROPOSED INFORMATION THAT SHOULD BE ON THE VEHICLE INFORMATION DISPLAY

Proposed Vehicle Information Display [This is a draft for the purposes of consultation only]

Information about the Seller	
Seller's Name:	Seller's Registered Number: <small>(Registered Seller Requirement only)</small>
Seller's Address: <small>(Registered Seller Requirement only)</small>	Contact Information: <small>(Voluntary Field)</small>

Standard Vehicle Information	
Registration Plate:	Date of Manufacture/Vehicle Year:
Vehicle Identification Number:	Vehicle Make and Model:
Date First Registered in New Zealand:	Engine Capacity:
Fuel Type: <i>Important Information See Over</i>	
Distance Travelled: <i>Important Information See Over</i>	
Used Imported Motor Vehicles	
<i>Important Information See Over</i>	
Date First Registered Overseas: <small>(Where this cannot be obtained substitute Country of Import)</small>	Country Imported From:

Cash Asking Price (Including GST)
--

Damaged Vehicle Imported as a Damaged Vehicle: No / Yes <i>(Important Information See Over)</i>
--

Vehicle Title
.....
WARNING: IF THERE IS MONEY OWED ON THIS MOTOR VEHICLE IT CAN BE REPOSSESSED
<i>Important Information See Over</i>

Additional Information
Before deciding to purchase this vehicle you should get it tested by an independent mechanical service to check that the vehicle is mechanically, electrically and structurally sound.

Additional Information provided by Seller/Auctioneer
[For example, design features, minimum deposit required for a supply on credit.]



4.1 Information about the supplier

The information proposed in this section will help to identify suppliers of motor vehicles at locations such as car fairs and other informal venues who are required to register under the Motor Vehicles Sales Bill. It is also the minimum amount of information needed to enable the buyer to contact the supplier and seek redress if things go wrong.

4.1.1 *Supplier's name*

This must be the supplier's registered name if registered, or the supplier's usual name if it is a private sale.

It is proposed that, in the case of auctions, the auctioneer's name is provided only (to disclose the owner's name may undermine the auction process).

4.1.2 *Supplier's registered identifier*

This would be compulsory for registered traders only. The Registrar of Motor Vehicle Traders would hold a registered trader registration identifier (likely to be a serial number or something equivalent).

4.1.3 *Supplier's address*

This would apply to registered traders only. The supplier's address must be the address for service under the Companies Act 1993. This information would be voluntary for private suppliers.

4.1.4 *Contact information*

This could be voluntary and would allow private sellers at car fairs or display for sale operations to provide their contact phone numbers.

4.2 Cash asking price

It is proposed that only registered traders be required to display the cash asking price (including GST) for the motor vehicle. This information would be voluntary for private sellers.

Motor vehicles sold at auction would not have to disclose the cash price (to do so is inconsistent with the auction process).

4.3 Standard vehicle information

There are a number of details common to all used motor vehicles that can be used to assess the value of a vehicle. Details with an asterisk (*) are mandatory fields recorded on the Motor Vehicle Register, the database administered by the LTSA.



4.3.1 *Vehicle Identification Number**

The Vehicle Identification Number (VIN) is a unique identifier and is available for all motor vehicles registered in New Zealand after December 1995. Checking the VIN with the LTSA would enable the buyer, and other agencies such as the Police, to ascertain that the vehicle is the same vehicle which is represented in the Vehicle Information Display. It could also be used as a keyword for further information about the vehicle contained on the Motor Vehicle Register.

4.3.2 *Registered plate details**

The registration plate details are either attached to the vehicle or, where the VIN is known, can be obtained from the LTSA.

4.3.3 *Date first registered in New Zealand**

It is proposed that the year and month in which the motor vehicle was first registered in New Zealand be disclosed on the Vehicle Information Display. This provides a measure of the period of time a vehicle has been used. Date of first registration in New Zealand is recorded on the Motor Vehicle Register for all motor vehicles, although those re-registered before 1996 may have the date of re-registration.

4.3.4 *Date first registered overseas**

For used imported motor vehicles it is proposed that the date of first registration in the country from which the vehicle was imported be disclosed. Date of first registration in New Zealand does not provide an indication of the period of use for the high proportion of imported secondhand motor vehicles in New Zealand. In 1999, 70 percent of motor vehicles first registered in New Zealand were used imports.

A few countries (eg Afghanistan) do not register motor vehicles. Where the date of registration cannot reasonably be ascertained from the country from which the vehicle was imported, the supplier may substitute the name of the country in place of the date of registration.

4.3.5 *Country from which vehicle was imported**

It is proposed that the Vehicle Information Display include the country from which a vehicle was imported, as it is recorded on the Motor Vehicle Register. The reason for this is that some motor vehicles may be imported from countries where driving conditions affect the value of the vehicle. These conditions may include fuel quality, road and environmental conditions, or access to maintenance facilities.

4.3.6 *Date of manufacture /vehicle year**

The LTSA currently records the 'vehicle year' on the Motor Vehicle Register. Unfortunately this is not an accurate indicator of a vehicle's age. The vehicle year may be either the year it was first registered, or the 'model year' (a model may be produced for periods of up to five years or more) or the date of manufacture (ie the date when a vehicle is assembled to the point that it can reasonably be expected that a consumer could purchase it).

The LTSA has proposed to record the date of manufacture as a separate mandatory field alongside the vehicle year for motor vehicles newly registered in New Zealand. A transitional period is envisaged while vehicle importers access information from the manufacturers.



It is proposed that the Vehicle Information Display include the date of manufacture (month, if known, and year) for all used motor vehicles registered after the change to the Motor Vehicle Register. Motor vehicles registered in New Zealand before this change would disclose vehicle year.

The date of manufacture provides an indicator of a vehicle's age. The date can be found on the vehicle chassis numbers correlated against manufacturer's build books. In many cases, there is only a short time difference between the date of first registration (the period from which the vehicle has been used) and the date of manufacture (the age of the vehicle). A discrepancy may not be particularly significant.

However, in some cases there can be a considerable time delay between the date a vehicle is manufactured and first registered. 'Inventory' motor vehicles may have been sitting for significant periods of time (even years) before being registered or exported. This is important because:

- Although a vehicle may not have been used, it may have deteriorated if it was left in certain environments (eg on a wharf and exposed to salt-air) for a long time. Buyers need to take this into account when assessing the value of a vehicle, even if it does have a Warrant of Fitness.
- The date the vehicle was first registered in a country does not necessarily indicate the length of time the vehicle has been in use. The vehicle may not have been registered (eg motor vehicles used in Japanese driving schools), or may have come from a country other than that from which it was imported (eg used European luxury cars exported and used in Japan and then New Zealand). Disclosing the date of manufacture provides an indication of the period the vehicle has been used, and so goes some way towards addressing these problems.

4.3.7 Vehicle make and model**

It is proposed that vehicle make and model be disclosed because they assist in assessing the value of a vehicle (eg design features, safety features or engine specifications). It is also important that this information is accurately disclosed because this information is used to source parts for vehicle repair and maintenance.

*4.3.8 Engine capacity of the vehicle**

Engine size is important in determining a vehicle's value. It is proposed that the engine capacity of the vehicle be disclosed in metric units.

4.3.9 Fuel type

The current Motor Vehicle Dealers Act does not require the type of fuel used by a vehicle to be disclosed. It is, however, proposed that the type of fuel used by a vehicle be disclosed on the Vehicle Information Display, including those with dual fuels. This would alert the buyer to the fact that diesel and dual fuel motor vehicles face different regulatory requirements, such as road user charges or LPG/CNG cylinder compliance. Additional information on the back of the Vehicle Information Display would inform the buyer of these requirements.

*4.3.10 Distance travelled**

The distance a vehicle has travelled is a measure of vehicle use. Consumers typically use odometer readings as a primary indicator to assess a vehicle's value, alongside other indicators of age, period of registration and roadworthiness. However, there is



widespread concern that the odometer readings, particularly on used imported motor vehicles, are frequently inaccurate.³

Under the current Motor Vehicle Dealers Act, dealers who suspect that an odometer reading may not be accurate can disclose the odometer reading on the window card, provided that the following statement is included “Warning: odometer reading may be incorrect”.

It is proposed that the Vehicle Information Display disclose the distance travelled (ie the odometer reading) at the time a vehicle was displayed for supply. If suppliers have reason to doubt the accuracy of the odometer reading, they must fill out the field with the following proposed wording:

“I (name of supplier) cannot determine the distance this motor vehicle has travelled because the odometer reading may be inaccurate”.

This approach would allow suppliers of motor vehicles to avoid liability under the Fair Trading Act if they are not confident that the odometer reading is correct, while alerting buyers to the fact that the odometer reading may be an unreliable indicator of the vehicle’s value.

4.4 Damaged motor vehicles

It is proposed that the Vehicle Information Display disclose whether the vehicle has been flagged by the LTSA as damaged at the time of import. The market value of the vehicle will be affected if it is known that it has been damaged.

4.4.1 Previous proposals

In 1998 the Ministry sought submissions on disclosing damaged vehicle information and presented three options for consideration:

- set out a full account of the accident and repair history of the vehicle
- include all details of what the supplier knows about the accident and repair history of the vehicle, where the supplier has been made aware of these details by a previous owner or by their own investigation, or by any other means
- include all details of what an experienced and competent supplier should have known about the accident and repair history of the vehicle.

The submissions raised a number of concerns with these options. Firstly, there was no distinction between major damage and minor damage. In addition, accident history may affect vehicle insurance premiums (consumers would seek recompense for cost of repair and loss of value). Finally, verifying accident and repair history records is problematic as accidents and repairs are not always recorded. As a result of these concerns, these options have been discounted.

³ Odometer readings of used imported vehicles are recorded on the Motor Vehicle Register at the point of entry into New Zealand. Before 1995, vehicle owners supplied odometer readings. The accuracy of this data is, therefore, dependent on buyers giving accurate information to the LTSA.



4.4.2 *'Flagged' motor vehicles*

Border control officials from the Ministry of Agriculture and Forestry currently identify ('flag') damaged motor vehicles at the time of import. Such motor vehicles are required to undergo a safety inspection. This flag is recorded by the LTSA. As a result of the inspection, the flag may be removed (ie the vehicle is roadworthy and the damage is minor) or the vehicle may be required to undergo a certified repair. Whether a flagged vehicle has been required to undergo repair is recorded on the Motor Vehicle Register.

We believe that disclosure of whether a vehicle has been flagged in this manner overcomes some of the limitations in respect to damaged motor vehicles that were identified in submissions on previous proposals. This proposal is, however, limited to used imported motor vehicles.

The LTSA is developing a proposal to categorise the damage of flagged motor vehicles. If this proceeds, it is proposed to include additional information on the Vehicle Information Display, to prompt buyers to seek further information from the LTSA on the damage history of the vehicle.

4.5 Vehicle title

It is proposed that buyers be alerted by the Vehicle Information Display to any outstanding security interest on a motor vehicle (ie the previous owner used the vehicle as security for a loan and has not paid this off).

4.5.1 *Personal Property Securities Act 1999*

The Motor Vehicle Securities Act 1989 provides that when a consumer⁴ acquires a vehicle from a licensed dealer, any security interest on the vehicle ownership is extinguished and the consumer receives good title (ie full ownership), except if they are given a written notice saying that there is a security interest on the vehicle. These provisions are being carried over into Part 6 of the Personal Property Securities Act 1999 and come into force in April 2002.

This protection does not apply to consumers purchasing motor vehicles from private sellers (who are not registered). This means that where a vehicle is sold in a private sale, the financier who holds the security interest can legitimately repossess it. Buyers can avoid this possibility prior to purchase by checking the Motor Vehicle Securities Register on the internet or by using a phone service provided by private companies such as Baycorp, to ensure that the vehicle is not subject to a security interest.

4.5.2 *Should the existence of a security interest be disclosed on all Vehicle Information Displays?*

Requiring the disclosure of a security interest on the Vehicle Information Display needs to be considered. The effect of disclosing a security interest is that a buyer will not acquire the vehicle free of that security interest.

⁴ 'Consumer' in this context means any person other than a manufacturer, wholesaler, dealer or finance company. This is a much wider definition than under the Consumer Guarantees Act 1993.



An argument in favour of not requiring disclosure is that, if the security interest were disclosed, the buyer might misunderstand or ignore it and would not, therefore, be guaranteed protection from repossession.

The alternative is to disclose the existence of an outstanding security interest through prescribed wording that can be understood by as many buyers as possible. The wording must be consistent with, and not contradict, any information recorded on the Personal Property Securities Register. Buyers would also be prompted to look on the back of the Vehicle Information Display for information about the Personal Property Securities Act.

4.5.3 *Benefits of disclosure*

Disclosure of a security interest by prescribed wording, such as “*Money is owed on this motor vehicle*”, is the preferred option, because it benefits both registered traders and buyers. It would:

- Ensure that buyers, purchasing motor vehicles from those private sellers who are required to display Vehicle Information Displays (eg at car fairs) are alerted to the existence of an outstanding security interest. This would limit the opportunities for some private sellers to fraudulently dispose of motor vehicles while still owing money on a hire purchase agreement.
- Provide a clear and certain test for registered traders as to whether or not they have disclosed the existence of any security interest.
- Standardise the way information about a security interest is provided to consumers. This would limit any ambiguity or buyer confusion.

In theory, very few motor vehicles would be sold with an existing security interest, because the buyer would not purchase a vehicle if they had information about the security interest. However, this does depend on the buyer’s ability to understand its effect.

4.6 Comparison between proposed changes and the current system

Motor Vehicle Dealers Act 1975 Requirements	Proposed Vehicle Information Display Requirements
The name and business address of the licensee.	Supplier's name. Supplier's registered number (where applicable). Supplier's address (voluntary field for private sellers). Additional contact information (optional).
Except in the case of a vehicle offered for sale at a public auction, the cash price of the vehicle.	Except in the case of a vehicle offered for sale at a public auction, the cash price (including GST) of the vehicle.



Motor Vehicle Dealers Act 1975 Requirements	Proposed Vehicle Information Display Requirements
Where the vehicle is equipped with an odometer, the reading on the odometer at the time the vehicle was displayed for supply. Where there are reasonable grounds to believe that the odometer reading is incorrect the dealer may put up the following notice: <i>“Warning: Odometer reading may be incorrect”</i> .	Distance travelled. If suppliers have reason to doubt the accuracy of the odometer reading (indicating distance travelled) they must fill out the field with prescribed wording: <i>“I (name of supplier) cannot determine the distance this motor vehicle has travelled because the odometer reading may be inaccurate”</i> .
The year in which the vehicle was first registered.	Date vehicle was first registered in New Zealand.
	For imported used motor vehicles, date first registered in country from which vehicle was imported.
If the vehicle was first registered overseas, the words <i>“ex-overseas”</i> following registration date.	Country from which vehicle was imported as recorded on the Motor Vehicle Register.
	Date of manufacture (ie the date at which a vehicle was assembled to the point that it can reasonably be expected that a consumer could purchase it).
The model designation (if any) of the vehicle.	Vehicle make and model.
Engine capacity of the vehicle.	Engine capacity of the vehicle.
	Vehicle fuel type.
Current registration number of the vehicle.	Current registration number of the vehicle.
	Vehicle VIN number.
Where the motor vehicle has been rebuilt and the certificate of registration is endorsed to that effect, the words <i>“Rebuilt vehicle. No warranty”</i> .	Whether the vehicle has been imported as damaged (ie it is recorded as being ‘flagged’ at time of import by LTSA).
Where the motor vehicle has been repossessed and is to be sold pursuant to a hire purchase agreement or motor vehicle leasing agreement, the words <i>“Repossessed vehicle. No warranty”</i> :	Whether the vehicle is subject to an outstanding security interest as recorded in the Personal Property Securities Register. Where there is an outstanding security interest the following prescribed wording must be used: <i>“Money is owed on this vehicle”</i> .
Whether the vehicle is or has been used as a taxi.	
Whether the vehicle is or has been used as a rental-car.	
The number of previous owners (other than trade owners).	
Where the motor vehicle is offered or displayed, by the licensee on behalf of a principal, for sale by tender, the words: <i>“For sale by tender. No warranty”</i> .	
Whether the motor vehicle is a category A motor vehicle, a category B motor vehicle, a category C motor vehicle, or a category D motor vehicle.	



Issues for discussion

1. Is there any information proposed for the Vehicle Information Display that you think should not be there? Why not?
2. Is there any information that you think is missing from the Vehicle Information Display? If so, what, and why should it be included?
3. What do you think of the proposals to include the following in the Vehicle Information Display?
 - a) the supplier's name and registration number, and full address details
 - b) the distance travelled or the wording, "I (name of supplier) cannot determine the distance this motor vehicle has travelled because the odometer reading may be inaccurate"
 - c) the date the vehicle was first registered overseas, if it is an import
 - d) the country from which the vehicle was imported (as opposed to the words "ex-overseas")
 - e) the date of manufacture
 - f) the type of fuel the vehicle uses
 - g) the Vehicle Identification Number (VIN)
 - h) whether the vehicle has been imported as damaged
 - i) whether the vehicle is subject to an outstanding security interest as recorded on the Personal Property Securities Register.



5. FORM AND MANNER OF DISCLOSURE

It is proposed that all the details to be disclosed under the Consumer Information Standard must be displayed on an information card, and electronically for supply over the Internet, in a prescribed form. This means that all used motor vehicle transactions to which the Consumer Information Standard applies must have the information set out in this form. Where practicable, the Vehicle Information Display would be attached to one of the side windows of the vehicle. Otherwise, it would be attached to the vehicle in a prominent position where a potential buyer is most likely to see it. There is additional room on the mock up of the Vehicle Information Display for any other details the supplier chooses to provide, eg the deposit required if the vehicle is bought on credit.

5.1 Supplier to supply a copy of the Vehicle Information Display

The Motor Vehicle Dealers Act requires that, following the supply of a vehicle, the licensed motor vehicle dealer keeps a copy of the window card, and gives another copy to the buyer. It is proposed that the Consumer Information Standard require the supplier to provide a copy of the Vehicle Information Display to the buyer. The supplier would not be required to keep a copy. This is because the Motor Vehicle Sales Bill already requires registered traders to keep a transaction record of motor vehicles sold. To require that traders keep a copy of the Vehicle Information Display would duplicate this.

Buyers would be encouraged to keep copies of the Vehicle Information Display for future reference. This would provide a 'paper trail', and so reduce the cost of gathering the information for a future supply of the vehicle. It would also provide consumers with written information about a vehicle from which they can seek redress if the information turns out to be false or misleading.



6. WHO THE CONSUMER INFORMATION STANDARD WILL APPLY TO

Note: The Government has decided which suppliers the Consumer Information Standard will apply to. This section discusses the background to those decisions and raises one other possible area of application that the Ministry seeks comment on.

6.1 Current requirements

Under Section 90 of the Motor Vehicle Dealers Act, only a licensed motor vehicle dealer is required to display a window card. However, it is estimated that licensed dealers only account for around one third of all used motor vehicle transactions. The information disclosure requirement under the Motor Vehicle Dealers Act does not apply to a large percentage of used motor vehicle transactions. The window card does not apply to:

- motor vehicles sold at auction, car fairs, display for sale venues, or by motor vehicle importers and wholesalers, rental businesses and finance companies which sell motor vehicles directly to the public
- motor vehicles sold privately
- supply of new motor vehicles
- supply of commercial motor vehicles.

6.1.1 Car fairs, roadside sales and display for sale operations

Car fairs involve owners selling their motor vehicles themselves, alongside other owners at a venue organised by an operator. There is concern that some motor vehicle suppliers are trading at car fairs and roadside sale operations and choosing not to licence as dealers. Such suppliers avoid the requirements of the Motor Vehicle Dealers Act, and buyers are generally not afforded the protection of the Consumer Guarantees Act 1993 as they are misled into believing that the supplier is a private seller. The recent conviction and sentencing (for various offences relating to odometer tampering) of an unlicensed South Auckland dealer who sold an estimated 900 motor vehicles at car fairs and roadside sales highlights this concern.

6.2 New regime

Under the Motor Vehicle Sales Bill, suppliers of motor vehicles who are in the business of purchasing, selling, exchanging or leasing motor vehicles will need to be registered. People selling more than six, or importing more than three, motor vehicles a year are presumed to be in the business of trading under the Bill and must register.

However, Consumer Information Standards apply to the supply of goods by any person, not just those who are in the business of selling, exchanging, leasing or purchasing motor vehicles. It is intended that the Consumer Information Standard for motor vehicles will have broader coverage than the current window card, so specific attention needs to be given to the precise range of suppliers, and transactions, that it will apply to.



6.3 Application of the Consumer Information Standard to motor vehicles

6.3.1 *Used motor vehicles of a kind ordinarily required for personal use*

The Consumer Information Standard will require the Vehicle Information Display be applied to those used motor vehicles “drawn or compelled by mechanical power that are of a kind ordinarily acquired for use by consumers on ordinary roads”. It is proposed that power cycles and motor cycles of less than 60 ccs be excluded. This definition is the same as the definition of motor vehicle in the Motor Vehicle Sales Bill.

6.3.2 *New motor vehicles*

The Consumer Information Standard would not apply to the supply of new motor vehicles. Consumers do not face the same problems when accessing information about new motor vehicles. This is because the term ‘new’ implies that the vehicle is roadworthy, has not been damaged or used, and has been recently manufactured.

In almost all cases new motor vehicles will be sold by registered traders. This provides consumers with a point of contact if they need to seek redress. It is unlikely that a new vehicle will be subject to an outstanding security interest (ie have money owed against it).

6.4 Application of the Consumer Information Standard to transactions

The Motor Vehicles Sales Bill applies to the sale, exchange or lease of motor vehicles. The Consumer Information Standard will apply to these transactions, as it is in these situations that the buyer needs information to make an informed choice.

Motor vehicles supplied as gifts or for short-term hire (for periods of less than four months) will not be covered by the Consumer Information Standard.

6.4.1 *Internet sales*

The Consumer Information Standard will apply to motor vehicles offered for supply over the Internet where the contract for supply can be entered into or completed online. It is particularly important that buyers receive this information, because they cannot carry out a physical inspection of the vehicle.

Internet traders will be required to provide the Vehicle Information Display details for motor vehicles displayed for supply electronically, in a way that makes those details readily accessible to viewers and that conforms with the prescribed requirements.



6.5 Application of the Consumer Information Standard to suppliers

The issue in this section is who should have to provide a Vehicle Information Display when selling a vehicle, and in what circumstances. The Government has decided that all registered traders, auctioneers and all suppliers (including private sellers) at car fairs must comply with the Consumer Information Standard. A key issue is whether the requirement should be extended to more informal settings, such as private sales and roadside sales.

6.5.1 *Identification of traders*

It is particularly important that consumers are able to determine whether or not a supplier is in the trade of selling, leasing or exchanging motor vehicles. If a supplier is in trade, consumers have protection under consumer law. For example:

- If a vehicle is not of acceptable quality, under the Consumer Guarantees Act the buyer may have the right (depending on the nature of the problem) to a repair, replacement or refund. There is no redress available under the Act if the supplier is not in trade (ie private sales). Sales by auction and by tender are also excluded.
- The Motor Vehicle Sales Bill will provide that claims made by consumers buying motor vehicles from registered traders under the Fair Trading Act and Consumer Guarantees Act will be allowed to be heard in the Motor Vehicle Disputes Tribunal.
- Under the Personal Property Securities Act, any outstanding security interest on a car bought from a registered trader is extinguished and the buyer becomes the full owner, unless they are told in writing of a security interest on the vehicle.

The Vehicle Information Display will require a supplier to state whether they are a registered trader or not.

6.5.2 *Registered traders*

All motor vehicle suppliers who are required to be registered under the Motor Vehicle Sales Bill will be required to provide a Vehicle Information Display when offering motor vehicles for sale, lease or exchange.

This is a broader application than the current Motor Vehicle Dealers Act and includes transactions undertaken by existing motor vehicle dealers, auctioneers, wholesalers, importers, car rental agencies and finance companies that sell used motor vehicles to the public. It also applies to people selling, leasing or exchanging more than six motor vehicles per year.

This broader application reflects changes in the used motor vehicle market. It will increase the number of situations where buyers will receive useful information to help them assess a vehicle's value and make an informed decision. It will also provide a level playing field for all suppliers in the used motor vehicle market.

6.5.3 *Car fairs*

While the Motor Vehicle Sales Bill requires that car fair operators register as traders, they only provide a venue and do not themselves sell or act as an intermediary in the supply of motor vehicles. They are not involved in the supply of the actual vehicle and would not be subject to the Consumer Information Standard.



The nature of car fairs means that suppliers at these venues can be registered traders, private sellers, and individuals acting in trade who deliberately (but wrongfully) fail to register as traders.

If all suppliers at car fairs are not required to provide a Vehicle Information Display, some traders who are registered (or should have registered) might be tempted to pass themselves off as private sellers.

Therefore, all *suppliers* of used motor vehicles at car fairs (private sellers as well as suppliers required to register under the Motor Vehicle Sales Bill) must provide a Vehicle Information Display on motor vehicles offered for supply. The supplier is responsible for this, not the car fair operator.

6.5.4 *Auctioneers*

Auctioneers will be required to display a Vehicle Information Display on motor vehicles offered for sale by auction. This will be the responsibility of the auctioneer not the person who submits the vehicle for auction.

However, auctioneers should not be required to display the name of the owner of the vehicle, or a cash price for the vehicle.

6.5.5 *Impact on private sellers*

Requiring sellers to provide a Vehicle Information Display when selling privately might be considered onerous because private sellers:

- may not be familiar with their legal obligations
- would incur a cost in time, money, and effort to gather the information required on the display
- if prosecuted, would face a maximum fine of \$30,000 for failure to provide the Vehicle Information Display or to fill it in correctly.

However, no matter who the supplier is, buyers all benefit from the same information so, on balance, it is important that private sellers at car fairs be required to provide a Vehicle Information Display.

It should not be difficult or time-consuming to fill out a Vehicle Information Display because:

- the information is readily available from public sources at low cost
- if the buyer keeps a copy of the Vehicle Information Display, subsequent suppliers can use most of the information, as it does not change over time
- private sellers can be supplied with additional information, such as brochures or pamphlets, to assist them in filling out the Vehicle Information Display
- any cost to the private seller must be assessed against the benefit received through using a venue that attracts a critical mass of potential purchasers.

Requiring all suppliers at car fairs to provide a Vehicle Information Display also provides clear and certain application of the standard. This will assist enforcement agencies in monitoring compliance by registered traders and remove any ambiguity that may result for suppliers in determining whether or not they must comply with the standard.



6.5.6 *Informal sales – possible coverage*

There are a number of venues where suppliers gather (without an operator in charge of the venue or having to pay a fee) to sell used motor vehicles. These are usually on the side of the road (eg in a layby) or in some other prominent public place.

Concerns arise about people acting in trade at these informal sale venues deliberately trying to avoid their obligations under the Motor Vehicle Sales Bill. This could be a growing problem given that all suppliers at car fairs will have to provide a Vehicle Information Display. This could encourage some suppliers to find a way around having to provide a Vehicle Information Display.

It needs to be considered how to apply the Consumer Information Standard to people selling motor vehicles at informal venues. Options include:

- all suppliers of motor vehicles, including private sellers under all selling circumstances, must provide Vehicle Information Display
- all suppliers (including private sellers) of used motor vehicles who display their motor vehicles for supply to the public in a public place, other than a location that is within the immediate proximity of their usual place of residence, must provide Vehicle Information Display.

6.5.7 *Motor vehicles sold to, or between, registered traders*

The Consumer Information Standard will not apply to used motor vehicles that are sold or traded in to registered traders, or traded between registered traders. This is because registered traders do not face the same information problems as consumers when determining the value of a vehicle. Registered traders should have knowledge of the industry, market values, vehicle type, and roadworthiness.

Requiring that the standard apply to transactions between traders would therefore impose unnecessary compliance costs on the industry.

6.6 Summary – application of the Consumer Information Standard

In summary, the Consumer Information Standard will apply to the supply of all motor vehicles *except*:

- new motor vehicles
- motor vehicles supplied by way of short-term hire or gift
- motor vehicles supplied to registered traders.

There are two options for applying the Consumer Information Standard to private sales. Either:

- all private sales, or
- private sales at car fairs and where the vehicle is displayed for sale in a public location other than the immediate proximity of the seller's usual place of residence.



Issue for discussion

How should the Consumer Information Standard apply to private sales?

- Should it apply to all private sales in all selling circumstances?
- Should it apply to all private sales where the vehicle is displayed for sale to the public in a prominent public place (other than within immediate proximity of the seller's usual place of residence)?
- Should it apply only to private sales at organised car fairs or display for sale outlets?



APPENDIX

Part II of the Fair Trading Act 1986

The Fair Trading Act is administered by the Ministry of Consumer Affairs and enforced by the Commerce Commission. The Act prohibits certain conduct and practices in trade, such as making false or misleading representations (section 13). It sets out requirements for the disclosure of information about goods and services, and it promotes product safety. In particular, Part II of the Act provides for the creation of a Consumer Information Standard to ensure that information is supplied to help consumers with their buying decisions. Consumer Information Standards are regulations that are made by Order in Council.

Under section 27(1) of the Act, the Minister of Consumer Affairs may recommend to the Governor General the creation of Consumer Information Standard regulations relating to:

- a) the disclosure of information relating to the kind, grade, quantity, origin, performance, care, composition, contents, design, construction, use, price, finish, packaging, promotion, or supply of the goods or services, and/or
- b) the form and manner in which that information is to be disclosed on or in relation to, or in connection with, the supply or re-supply, or possible supply or re-supply, or promotion of the supply of the goods or services.

Section 27(3) of the Act requires that when Consumer Information Standards are being prepared, the Minister shall not make a recommendation to the Governor General unless:

- there has been consultation beforehand with parties that the Minister considers will be substantially affected by the proposed regulation
- those parties have had the opportunity to provide comment on the matter
- the Minister has considered those comments.

Fines and offences under the Fair Trading Act

The Commerce Commission enforces the Fair Trading Act. However, any person may take action under the Act. As a Government enforcement agency, the role of the Commerce Commission is particularly important when discussing breaches of the Act.

Section 40 of the Fair Trading Act states that it is an offence to contravene various provisions of the Act, including Part II, which deals with Consumer Information Standards. This means that where a person fails to comply with any of the requirements of the standard, they are effectively contravening the Fair Trading Act. The result is that the person involved can be liable to a fine of up to \$30,000 (for private individuals) or \$100,000 (for companies).

While section 40 sets out details regarding offences under the Fair Trading Act, section 44 sets out the corresponding defence provisions. These are available for defendants being prosecuted under section 40.



Other enforcement and remedy avenues that may be pursued fall under the heading of civil proceedings. Details covering civil proceedings are set out in sections 41 to 43 of the Act. It should be noted that there is no section 44 defence available in civil proceedings under the Fair Trading Act.

In summary, the Court has the power to:

- grant injunctions for the contraventions of Parts I to IV of the Act (section 41)
- order people to disclose information or publish advertisements (section 42) or
- make orders relating to the validity of contracts, directing the payment of certain monies, and declaring the return of the properties (section 43).