



**National Council of  
Women of New Zealand**

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Wahine O Aotearoa

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**Submission to the Ministry of Economic Development  
on the Discussion Document:  
Motor Vehicle Sales – A Proposed Regulatory Regime**

The National Council of Women of New Zealand (NCWNZ) is the umbrella organisation for 43 national societies, and has 34 Branches attended by representatives of those societies, and some 150 other societies throughout the country. Individual women are also increasingly joining local Branches. The Council's function is to serve women, the family and community at local, national and international level through study, discussion and action. Documents such as this, and Parliamentary Bills are studied by the general membership when time permits, and by members of the 10 Standing Committees, composed of women with interest and expertise in particular issues.

The National Council of Women welcomes the opportunity to comment on this proposal, and are glad that progress is being made on the development of regulations for the Sale of Motor Vehicles. The Council's submission on the Motor Vehicle Dealers Bill of 1998, expressed dissatisfaction with both the Act and the proposed changes, and are pleased that matters of concern noted by the Council have been addressed in this discussion document.

Members of the Council's Standing Committee on Consumer Affairs were asked to comment on experiences they had had in buying motor vehicles. This submission uses responses received to that question, material drawn from previous submissions on the issue, and policies on expectations of information and fairness for consumers developed through discussion at national meetings over many years.

## **1. Executive Summary**

### 1.2 Proposals to be included in a new Motor Vehicle Sales Act:

We welcome the wider scope for the regulation of motor vehicle sales to include car auctions, display-for-sale outlets, car fairs, and anyone dealing in more than six cars per year.

Sellers of cars must be required to disclose adequate information on a "window card"; a standard for this, prepared under the Fair Trading Act, is protection for consumers.

It is important to achieve fairness between the rights of the purchaser of a car, and those already holding a financial interest in it. We trust that the proposals will achieve this balance.

Occupational regulations for those involved in the motor vehicle trade are essential, but must be simple enough to ensure that the regulations are complied with, but strong enough to ensure the purchasing public is protected from irresponsible dealers.

Widening the jurisdiction of the Motor Vehicles Disputes Tribunal to include claims under the Consumer Guarantees Act 1993, the Fair Trading Act 1986 and the Sale of Goods Act 1908, is a sensible proposal.





### 1.3 Principles

NCWNZ supports the stated principles: accurate information; credible and accessible redress; coverage of a full range of sales without distinction between different types of sales outlets; strong incentives for compliance by trades with effective enforcement and penalties; the ability to bar unsuitable people from taking part in the trade.

## **2. The Consumer Motor Vehicle Market**

### 2.1 Risks associated with motor vehicle sales

The Council agrees with the statement that the combination of risks for persons purchasing motor vehicles is uncommon, and supports this reason for regulation of the trade.

### 2.2 Characteristics of motor vehicle sales.

Members of the standing committee were surprised to learn that only about 28% of used motor vehicle sales are transacted by licensed motor vehicle dealers, and that it is probable that about 40% of used imports are sold by unlicensed dealers. These figures show clearly why it is so important for purchasers to have better protection with a guaranteed complaints procedure through which they can seek redress on unsatisfactory vehicles.

## **3. Problems with the existing situation**

### 3.1.4 Problems with redress

The difficulties in gaining a hearing with the Motor Vehicle Dealers Tribunal was matter of concern at the time NCWNZ presented its submission on the 1998 Bill. Other disputes procedures such as the Banking and Insurance and Savings Ombudsman schemes allow customers to seek redress, without a 'doorkeeper' from the industry, and we considered then, that this Tribunal needed to have the same freedom of access. We are pleased that the other difficulties listed, including the few number of vehicles actually covered by the scheme, and the monetary limit of \$12,000 are now being addressed.

## **4. Proposals for occupational regulation**

These proposals seem very reasonable to the members of the Consumer Affairs Standing Committee. We agree that private sales cannot be covered, and recognise that there are avenues of redress through ordinary court and tribunal procedures.

In response to the questions posed:

- We support the criteria listed which would prevent persons from registration.
- We support the arguments advanced for licensing regular traders in the many currently unlicensed areas, as well as those for whom it is currently required. Purchasers expect to be able to have their complaints about unsatisfactory vehicles dealt with.
- Auctioneers who auction motor vehicles exclusively or as the principle part of their business should be required to register.
- Only registered vendors should be allowed to import used motor vehicles.

## **5. Options for consumer protection**

In answer to the questions:

- In general NCWNZ supports the proposals for consumer protection as outlined in this chapter.
- The Council considers that the Consumer Guarantees Act would be sufficient protection; matters of consumer protection should be as simple and clear as possible.
- We are not able to comment on the proposal to offer consumers the choice of purchasing a mechanical warranty.
- It seems reasonable to cease to restrict dealers as to their place of business, but their address for service must be clearly stated and in such a way, that they can be easily located. The recent survey of e-tailers, found that a very high proportion of traders did not include their physical address. Purchasers of motor vehicles must be able to contact the person/organisation from whom the vehicle was purchased.



- The Council would support the proposal to make it an offence for all sellers, including private individuals, to alter the reading of an odometer, but is unlikely to support reversing the burden of proof, despite the fact that this would make prosecution easier. NCW NZ strongly supports the principle of innocent until proved guilty, and is reluctant to see this standard lessened.

## 6. Title Protection

NCW NZ considers that it is vital that the purchaser must be assured of good title. We see little reason for there to be exceptions.

## 7. Options for improved enforcement and redress

### 7.1 Wider jurisdiction for the Motor Vehicle Disputes Tribunal

As noted previously, NCW NZ strongly supports the right for consumers to take their complaint directly to the Tribunal, without having a preliminary consideration by the Motor Vehicle Dealers Institute.

#### 7.1.1 Extending the Tribunal's jurisdiction

While supporting the proposed extensions, we suggest that the consequences of the considerable extension of the classes and therefore the number of traders to be licensed, the lack of a filtering process for complaints, and an increase in the monetary jurisdiction, will greatly increase the work load of the Tribunals. They must be sufficiently resourced so that complaints are not unduly delayed. This would negate one of the reasons for removing the role of the Institute.

Including private sales in the Tribunal's jurisdiction has considerable merit, in that the dissatisfied customer can seek redress without the costs associated with taking legal action. Court costs would make most claims uneconomic, and very often the sum involved would be too high to be considered by a Disputes Tribunal. Although the private seller, who may only very occasionally sell a car, would probably not be aware of the possibility of being taken to the Motor Vehicle Disputes Tribunal, s/he may also be glad at not having to face court costs.

The increase of jurisdiction from \$12,000 to \$50,000 seems a large increase, but if \$12,000 was set at the time of the original legislation, twenty six years ago, even \$50,000 is probably not equivalent.

#### 7.1.2 Membership of the Tribunal

We welcome the continued role for a consumer representative. The removal of such a representative was a matter of considerable concern under the 1998 Bill.

## 8. The Fidelity Fund

We are not able to comment on what form such a fund should take, but feel strongly that there must be some provision to ensure money is available to recompense consumers, although all the systems suggested have considerable disadvantages. However, any difficulty traders might have in gaining insurance cover, whether through performance bonds or compulsory indemnity insurance would act as a further control on the probity of the dealer, and thus give greater consumer protection.

## 9. Comparison of the current Act, the existing Bill and the proposed Act

This table has been very useful in understanding the proposals. NCW NZ looks forward to the introduction of a new Bill, and hopes that its enactment will proceed without long delays.

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