
Subject: Inquiry into the increase in Victoria's Road Toll
Attachments: 200720 FCAI Media Release - Takata Website reaches 11 Million .pdf

To the EIC council secretariat,
Thankyou for the opportunity to present today and we hope that the inquiry was able to gain some benefit from our presentation.

As requested there were 2 x follow-up items that the council requested as follows:

1. Executive Officer Liability for Automated Vehicles (Level 3+)

FCAI received the following extract communication from DITRCD, which summarises the Executive Officer Liability proposal which was agreed between the National Transport Commission (NTC) and the Transport Infrastructure Council (TIC) on the 5th June 2020.

As you can see the issue of Executive Officer Liability has been approved for development as follows:

UNOFFICIAL

Hi Tony,

To answer your question, I can confirm that the following recommendations were agreed by Council on 5 June:

AGREED that the Automated Vehicle Safety Law:

a. complement existing road safety legislation by regulating parties not explicitly covered in current legislation

b. establish a general safety duty on the automated driving system entity (ADSE) to ensure the safety of the automated driving system (ADS)

c. establish due diligence obligations on executive officers of the ADSE to support ADSE compliance with the safety duty

d. establish a national regulator for in-service safety including necessary functions, powers and duties, subject to further development of options for implementation under recommendation 6c.

e. authorise the regulator to regulate the ADSE, ADSE executive officers and remote drivers (teleoperators)

Hope that provides you with the clarity you were seeking.

Kind regards,

Laura Bew
A/g General Manager
COVID Action,
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Division
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The FCAI position on Executive Officer Liability is as follows:

The new vehicle industry manufacturers/wholesalers are more than prepared to accept their responsibilities (as we do now) for the “in service safety” of the vehicles that are sold.

FCAI arranged for the NTC to speak to several manufacturer CEOs who have advised that should EO Liability be introduced, then Automated Driving Systems are unlikely to be made available in the Australian market. FCAI have urged NTC to consider international developments first (in consideration that Australia is a technology taker) rather than NTC being the first in the world (as acknowledged by NTC) to extend regulations to Executive Officer Liability

FCAI recommended that NTC look at UK, who have proceeded down the path of an insurance based model.

To ensure that the FCAI position is clear, the manufacturers position is:

- Manufacturer importers already have an overwhelming social and commercial, market driven incentive to ensure that their vehicles are safe just as they do currently.
- Executive Officers in Australia have no capacity to influence the design or manufacture of the vehicle or the Automated Driving System (ADS)
- The only area that Executive Officers have any influence over is the monitoring, reporting and handling of safety issues occurring within the Australian market which is currently provided for under Product Liability Laws, the ACL and or MVSA/ADR and by extension provisions for vehicle safety recalls.
- Any engineering redesign or rectification will be undertaken by the overseas manufacturer of the ADS/Vehicle.
- The existing regulatory regimes are more than adequate to ensure the in-service safety of Automated Vehicles.

2. Takata Airbag Recall – Completion outstanding

As discussed, the recall is now into its final stage and we look forward to support from all State and Territory jurisdictions.

The ACCC publishes a quarterly report and the 2nd quarter report is expected to be published in August, however the 1st quarter report is available from the following link:

<https://www.productsafety.gov.au/recalls/compulsory-takata-airbag-recall/takata-recalls-progress-data>

Some tables that may be of interest from the report are:

Table 1. Recalls progress overview

	Number	Percentage (%)
Total airbags replaced	3,618,444	88.1%
Total airbags to be replaced	228,764	5.6%

	Number	Percentage (%)
Unreplaceable airbags	259,205	6.3%
Total vehicles remaining	196,299	6.4%
Total vehicles rectified	2,643,499	86.5%
Unreplaceable vehicles	216,138	7.1%

Table 2. State and territory breakdown of airbag replacements

	Airbags replaced		Airbags to be replaced (excluding critical alpha and non-alpha airbags)		Critical alpha airbags to be replaced		Critical non-alpha airbags to be replaced	
NSW	1,089,923	93.98%	67,612	5.83%	571	0.05%	1,575	0.14%
VIC	924,445	93.18%	64,967	6.55%	517	0.05%	2,199	0.22%
QLD	742,685	94.99%	37,382	4.78%	353	0.05%	1,445	0.18%
WA	381,101	95.35%	17,977	4.50%	70	0.02%	538	0.13%
SA	238,141	95.52%	10,852	4.35%	35	0.01%	280	0.11%
TAS	87,274	95.25%	4,285	4.68%	10	0.01%	53	0.06%
ACT	69,784	94.05%	4,223	5.69%	45	0.06%	150	0.20%
NT	24,101	92.98%	1,734	6.69%	15	0.06%	70	0.27%
Other*	60,965	83.78%	11,366	15.62%	279	0.38%	161	0.22%

Since this report Brands have been extremely active in replacing airbag inflators and the number of outstanding vehicles has reduced, however there still some way to go before the December deadline and we appreciate support from all of the Departments of Transport to escalate the urgency and call to action to have the repair conducted. Interestingly the FCAI hosts a website [“Is My Airbag Safe”](#) and last weekend we achieved a milestone of 11 million enquiries since launch, I have attached a copy of the FCAI’s press release for your reference.

Best Regards

Rob Langridge | Director – Emerging Technologies
Federal Chamber of Automotive Industries



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