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Motor Vehicle Traders
Ministry of Business, Innovation, and Employment
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MTA feedback on Motor Vehicle Traders Register Fee and Motor Vehicle Disputes Tribunal Levy Review

Introduction

The Motor Trade Association (Inc) (MTA) was founded in 1917 and has maintained over 100 years of trust with the NZ motoring community. MTA currently represents over 3,800 businesses within the New Zealand automotive industry and its allied services. Members of our Association operate businesses including automotive repairers (both heavy and light vehicle), collision repair, service stations, vehicle importers and distributors and vehicle sales. The automotive industry employs approximately 60,000 New Zealanders and contributes around \$3.5 billion to the New Zealand economy.

Submission

- 1. What is the overall impact of the MVTR fees and Tribunal levy at their current levels on your business?*

The overall impact of the MVTR fees and Tribunal levy is minimal on MTA member businesses.

- 2. What would the overall impact of the proposed adjusted fee and levy levels be on your business?*

On the basis that this increase is a one-off lift in the *fees and levy* the overall impact of the proposed fee and levy levels would be minimal on MTA member businesses. This is subject to our comments below in answering Question 4.

- 3. Are there any particular adjustments to the proposed fees that you think should be reconsidered? If yes, which fees and why?*

MTA does not recommend any adjustments to the proposed fees. If MTA were to start making suggestions on detailed points for the three prescribed options outlined for consideration by the Ministry, then all we will achieve is to highlight the need for a complete overhaul of the entire system.

More consultation with industry leading up to this paper would have been more helpful and may perhaps have allowed a first principles re-think of the levy structure (including assessing the use of fixed/variable mixes of levy and/or assessing levy payments based on the size of turnover or frequency of MVDT appearances).

4. Do you think the reasons for adjustments to the fees and levy are clear and understandable? If not, why not?

MTA understands the rationale for the adjustments; however, we repeat that the Ministry should have engaged with industry prior to the publication of the paper.

It has been almost 20 years since the fees and levy have changed, while the discussion paper states the MVTR fees and Tribunal levy have been “regularly reviewed”, we cast doubt as to how in depth these reviews have been. The proposed Tribunal levy is almost double the current amount. MTA recommends that the Ministry undertakes a thorough fee and levy review every five (5) years to prevent businesses from being stung by a significant increase in costs and provide businesses with certainty and predictability.

While we note above that the proposed increase would have minimal impact at this time, we should point out the context of increased operating costs for all businesses (minimum wage, supply chain disruption, commodity costs, covid-19 expenses, etc). We accept the need for an increase now, given the long time since they last changed, but doubling fees as a way to make up for past inaction is not good for anyone involved in this process.

5. Do you agree with the criteria used to assess the options for changes in MVTR fees? Why/why not?

MTA agrees with the criteria used to assess the options for changes in MVTR fees.

6. What is your view on creating a different fee for a MVTR registration and a renewal of a registration?

MTA believes in maintaining a single fee structure. Keep it simple avoid overcomplicating the process by introducing a different fee for registration and renewal.

7. What is your view on creating a different fee for individual traders and companies across all fees?

MTA does not support creating a different fee for individual traders and companies at this time because the Ministry has not engaged industry in a broader conversation about the structure of the MVTR system and the MVDT. In short, our view for now is “keep it simple”.

MTA would welcome the Ministry opening a discussion on differential fees and other mechanisms, but this consultation process is not the appropriate place. To talk about differential fees requires further discussion around how we differentiate and by how much – for example, an individual trader may be a less onerous task when it comes to registration vetting, but how many of the repeat participants of motor vehicle dispute cases are individual traders? Do they end up using more resource in the dispute area, versus a corporate entity which may be slightly more work to vet but less of a

drain on the dispute system. Even those statements would need to be examined and the data behind them reviewed. We may end up thinking that we need a complete overhaul of the entire system.

If there is to be a differential, it should be based on what the system hopes to achieve. Perhaps a review of the Motor Vehicle Sales Act 2003 would be an appropriate forum to discuss such issues.

8. There are three options outlined for changes in fees for the MVTR. Which option would you prefer and for what reasons?

MTA supports Option 1. Keep it simple! We are not convinced by the rationales behind Options 2 and 3.

9. Are there any other options that should be considered? Why?

No comment.

10. What is your view on the period over which the memorandum account deficit is recovered? Should it be shorter or longer?

No comment.

11. Do you have any concerns about the memorandum account deficit recovery? If so, what are they?

MTA has no concerns about the memorandum account deficit recovery.

12. What is your view of the activities and services (e.g. an IT upgrade and increased monitoring and enforcement) that are proposed to be funded by the fee increases (i.e. will they benefit your business and/or the sector)?

MTA supports the proposed IT upgrades and increased monitoring and enforcement.

MTA also supports the consumer awareness and trader education service. We address this further under General Comments. As the leading trade association in the automotive industry, MTA assists traders and consumers to resolve disputes on a daily basis.

13. What impact would the proposed Tribunal levy adjustment have on your business?

The impact would be minimal on businesses, that is not to say it isn't a significant increase from current levy amount. However, MTA has some recommendations on MVDT application fees and issues with repeat offenders:

1. The fee for filing a claim should increase from \$50 to \$90. This aligns with the Disputes Tribunal fee for claims between \$2,000 - \$5,000 (whereas the MVDT complaint limit is much higher). Our review of recent cases suggests that consumers succeed in their claim about half the time. One inference from this is that the cost of entry is so low that even consumers with a thin basis for complaint feel that they can "have a go", incurring significant cost on the trader and the MVDT for a failed complaint.

2. The vast majority of motor vehicle dealers never end up before a tribunal, however there is a select few that are “repeat offenders”. MTA believes that there should be a mechanism to disincentivise traders from appearing frequently before the tribunal. At present, a majority of traders, who take care in their customer relationships and the quality of their offering, end up subsidising the cost of a dispute function they do not need to use.

For example, perhaps dealers get to defend two cases in any calendar year and, after that, they are charged a “hearing fee” for every additional case in which the complainant’s claim is upheld **and** where the order is significantly better than any settlement offer previously made by the dealer¹.

General comment on the jurisdiction of the MVDT

While outside the scope of this consultation, MTA suggests further work should be undertaken to review the scope of the MVDT jurisdiction. In particular, MTA believes the MVDT remit should be widened to encompass all motor vehicle related disputes, including disputes over vehicle repair.

At present, the MVDT is concerned only with disputes arising from a vehicle sales transaction. A core benefit of the MVDT is its access to technical assessors who can assist adjudicators with arguments concerning technical issues. Often, disputes relating to repairs are over similar technical problems but adjudicators in the Disputes Tribunal system do not have regular access to technical advice. MTA is aware of many DT cases that have been delayed and prolonged because further technical evidence was needed and then debated, with only one side (the repairer) having clear technical expertise. Certain details would need to be ironed out, such as how repairers would contribute to the system, eg “at the door” or through an annual levy?

Further General Comments

Traders applying for registration should show or demonstrate knowledge and understanding of their obligations under consumer protection law. Arguably, there could be fewer cases going to the Tribunal if dealers were trained on the Consumer Guarantees Act and the Fair Trading Act and less likely to find themselves in a dispute.

MTA has industry experts and a consumer disputes helpline which work closely with traders and customers, educating them on their rights and obligations. In the calendar year for 2021, the MTA helpline service assisted dealer and repairer members and their customers in close to 2,250 dispute situations. The majority of those (80%) were able to be resolved in an amicable manner between the parties.

Our understanding of current practices indicate that the Citizen Advice Bureau often refer customers to the MTA for any “motor vehicle” issue, even if the company involved is not an MTA member. MTA spends time and money assisting customers and trader’s to resolve disputes – while we do not provide

¹ It is not uncommon for settlement offers to be rejected by the customer, the case then goes to MVDT, and the outcome is similar to what had previously been offered by the dealer. The dealer should not face extra penalty where a suitable settlement was offered and rejected, but they perhaps should face extra cost where the settlement offered was not truly made in good faith.

a full service to customers of non-members, we often provide them with a basic understanding of how to get their complaint moving with the business concerned.

We also understand that many government helpline services, such as Consumer Protection and the Commerce Commission direct consumers to MTA's helpline and recent feedback suggests MTA provides a crucial role in motor vehicle dispute resolution.

MTA is seeking funding to increase support to customers and be able to extend support non-member businesses.

Thank you for the opportunity to provide comment on the Motor Vehicle Traders Register Fee and Motor Vehicle Disputes Tribunal Levy Review.

Yours sincerely,



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