

MOTOR VEHICLE EMISSIONS — TESTING PROCEDURES

3060. Hon Matt Benson-Lidholm to the Minister for Commerce
- (1) Does the Department of Commerce, Consumer Protection Division, Motor Vehicle Branch continue to rely on Australian Standards AS4430.2 and AS4430.1 for testing procedures used in the assessment of motor vehicle emissions, and for products that influence motor vehicle emissions?
 - (2) Is it correct that the Minister has been told that AS4430.2 and AS4430.1 are regarded by some as being flawed?
 - (3) Is it correct that the Australian Automotive Aftermarket Association (AAAA) has not endorsed or supported the publication of these two Australian Standards due to their view that the standards are flawed?
 - (4) Is it correct that the Commissioner for Consumer Protection has, as recently as February this year, issued a negative media release concerning a family-owned Bellevue business, which 'named and shamed', that business and its owners as a result of the Commissioner relying on the flawed testing procedures based on AS4430.2?
 - (5) In that instance, is it correct that the testing procedures, carried out by Orbital Australia Pty. Ltd. on the Commissioner's behalf and with vehicles that were supplied by the Department's Motor Vehicle Branch, did not themselves conform with the test procedure requirements of AS4430.2 in that the age of the vehicles supplied and tested was not in conformity with the test procedures that are specified in the Standard?
 - (6) If yes to (5), why has the Commissioner relied on the results from testing that failed to satisfy the specified test procedures?
 - (7) What action does the Minister intend to take to ensure that in future —
 - (a) the Department relies only on testing procedures that have undisputed integrity; and
 - (b) the Commissioner does not unfairly target local businesses without first clearly establishing the facts of the case beyond reasonable dispute?
 - (8) What action has the Minister taken, or what action does he intend to take, to attempt to repair the damage that has been done to this local family business as a result of the Commissioner publicly defaming its owners while relying on the faulty application of flawed Australian Standards test procedures?
 - (9) Has the Minister received a letter dated 5th July 2010, from the owner of the affected Bellevue business in which the owner set out his reasons for concern about the standards AS4430.1, and AS4430.2 and their application by the department and which set out a possible resolution to the issue?
 - (10) Has the Minister replied to that letter of more than four months ago?
 - (11) If yes to (10), when?
 - (12) If no to (10), why not?

Hon SIMON O'BRIEN replied:

- (1) Yes. In the absence of any other recognised Australian testing standard for the evaluation of devices, additives and processes which claim to improve vehicle performance this is the recognised and appropriate standard.
- (2) I have been informed that the manufacturer of the device marketed as a fuel saving device, Fuelstar, considers that the current standard (Part 2 of AS 4430), is flawed. This manufacturer's product was tested against the standard and failed to demonstrate any significant benefits for motorists. Standards Australia has reviewed the AS 4430 and in July of last year advised the Commissioner that it was not "...appropriate to withdraw AS4430.1 and AS 4430.2 ...".
- (3) I am advised that Australian Automotive Aftermarket Association (AAAA) did not endorse the publication of AS4430 when it was developed in 2004. The AAAA is an industry association representing businesses concerned with manufacturing, re-manufacturing, wholesaling, distribution and retailing of all vehicle parts, accessories, tools, equipment and services. It does not represent the interests of consumers.
- (4) Yes, the Commissioner issued a press release warning consumers that the Fuelstar Combustion Catalyst failed to deliver the petrol savings and emission reductions claimed by the promoters of the product.

The product was sold by WA distributor of Fuelstar, Major Auto Technics of Bellevue, which advertised that the catalyst will reduce fuel consumption by 6% and reduce tailpipe emissions by 20% in petrol engine vehicles. The Commissioner relied on testing undertaken by a testing agency, Orbital Australia Pty Ltd, approved by the Federal Government to test new vehicles against Australian Design rules for emissions and fuel consumption. Orbital Australia Pty Ltd was engaged by Consumer Protection and used the only currently recognised Australian standard for testing fuel consumption in second hand vehicles.

- (5) No. The test procedures complied with Part I and Part 2 of AS 4430. The vehicles tested were a six cylinder 2007 Holden Commodore and a 2007 Nissan Tiida. The AS 4430 standard requires that vehicles of different ages should be tested when "...a product is intended to be used in a range of vehicle classes." In this case the products provided by Major Auto Technics of Bellevue were specific to vehicles of particular engine capacity. Consumer Protection did not test a Fuelstar catalyst suitable for a range of vehicles and therefore the testing against vehicles of a similar age did not invalidate the tests.
- (6) As above.
- (7) (a) The Department relies on the only approved Australian procedure evaluating devices, additives and processes which claim to improve vehicle performance, the Australian Standard, AS 4430. AS 4430.2, which is the procedure for evaluating those devices in "spark ignition engine systems, references the Australian Design Rule (ADR 81/01) "Fuel consumption labelling for light vehicles", which is now applied to all new vehicles sold in Australia. This testing regime underpins the Australian Design Rule system.
- (b) The Commissioner has not only authorised extensive testing in accordance with Australian Standards, but also offered the promoters of the Fuelstar product, Fuelstar Combustion Technology Limited and Major Auto Technics, the opportunity of providing independent test results to refute the findings established under the tests conducted. Fuelstar Combustion Technology Limited provided only one report provided by the company California Environmental Engineering (CEE) dated 2003 claiming fuel consumption reductions in a diesel truck. Although the report claimed 5 separate tests the report provided test data for only the first and last (before and after tests) and showed results in terms of percentage improvement, not absolute results.
- (8) Given that neither the standards nor the testing procedures have been demonstrated to be flawed, it is inappropriate for me to intervene. The Commissioner for Consumer Protection will continue to critically analyse fuel consumption claims made by businesses that appeal to the "green" aspirations of consumers. Promoters and retailers will be required to justify their claims if insufficient evidence is proffered to substantiate the claims being made.
- (9) No. My office can find no record of a letter from Major Auto Technics of Bellevue. This includes a search of Ministerial correspondence to the former Minister. However, there are records of correspondence between the former Minister and Mr Cornelius of Fuelstar of 3 June 2010 and 3 August 2010 that span the period. The letter of 3 June 2010 was responded to on 15 July 2010. The letter of 3 August 2010 from Mr Cornelius did not require a response.
- (10) No. There is no record of a 5 July 2010 letter to prompt a response.
- (11) Not applicable
- (12) There is no record of a 5 July 2010 letter.