

## VIA's concerns explained:

### **1. Application of a flawed safety regime to eligibility to Clean Car Programme subsidies that unfairly disadvantages light efficient used imports.**

- a. VIA has concerns with the strategy beyond the current vehicle safety programme. It is a zero-sum solution that demonstrably does nothing to reduce road toll and leads to increased harm from the entire system in the name of crash worthiness.
- b. The current rating system is misleading the public about vehicle safety.
- c. The current rating system is contributing to an anticompetitive system by being applied in an unbalanced way between OEM sponsored importers and parallel importers (NCAP and UCSR rate completely different things in completely different ways yet are used in complimentary distribution that benefits OEM sponsored importers with higher ratings for lighter vehicles and reinforces their marketing).
- d. Other concerns about the design and implementation of "safety" and how they interact with the Clean Car Programme are expansive and can be provided separately.

### **2. Unequal and unfair treatment of PHEVs depending on whether imported by a parallel importer or OEM sponsored importer.**

- a. For example, the 2017+ PHEV Toyota Prius available in Japan is being rated at over 80gCO<sub>2</sub>/km while the same car available new in Australia and New Zealand is rated at around 20gCO<sub>2</sub>/km. The difference is OEM sponsored importers are allowed to apply EV-only range when calculating PHEV efficiency then do their own conversions and simply report WLTP-3p results to NZTA. Parallel importers must report the unconverted efficiency/emissions and the VEED rule does not specify a way for NZTA to include EV-only range.
- b. We have proposed a methodology that is equivalent to what OEM sponsored importers are using as defined by ADRs and EU regulations but have not heard back.

### **3. Redesign of the used vehicle penalty scheme that is unfair and counter to previous agreements and first principle design justifications of the Programme.**

- a. Used car importers, OEM sponsored and parallel, agreed to have access to half the credit of new imports, OEM sponsored or parallel, based upon the premise that for the average used import, half the life of the vehicle has already been consumed in a foreign jurisdiction and vehicle importers and buyers should only be penalised and rewarded for the impact the vehicle will have to the New Zealand fleet. Therefore, used cars should only incur penalties and credits at half the rate of new cars.
- b. At some point, the government redesigned the fees and penalties without consultation so that new and used imports incur penalties at the same rate while used imports only incur credits at half the rate on new car imports.
- c. When this change was identified, after implementation, VIA challenged the fairness and the government compromised, meeting us in the middle, so currently used imports incur penalties at 75% the rate of new car imports but still only incur credits at 50%.

### **4. The use of "unladen weight" as opposed to "tare weight" without consultation or justification.**

- a. The Ministry of Transport and industry (OEM sponsored and parallel importers) negotiated this point and we all agreed tare weight would be used.
- b. The VEED rule specifies a new variable called "unladen weight" the intended use which was not explained or clarified. We have since found out it is the intended metric to be used for the soon to implemented Clean Car Standard.
- c. For OEM sponsored importers "Unladen weight" will be the tare weight of the vehicle, for parallel importers, "Unladen weight" is tare weight - 25kg.
- d. This might seem like a small issue, but that decrease in weight will force parallel importers to meet a slightly stricter target, leading to loss of significant value in reduced credits and increased penalties when applied universally to all parallel imported vehicles across the next decade.

- e. The use of “unladen weight” was not consulted on (at least with VIA) and we still have not seen justification nor evidence supporting a rationale for the change.
  - f. Since we have not seen the draft Clean Car Standard regulations, we have not yet been official notified of this change.
- 5. Incomplete vehicle data coupled with an unwillingness to work with parallel importers to accept vehicle data.**
- a. The government does not have complete information on vehicles available in source markets and they are not willing to accept data that is not provided by an OEM or foreign government.
  - b. Parallel importers are not trusted to provide details on the goods they provide to market even though the law is clear that they have all the responsibilities of a manufacturer, and it is illegal to knowingly provide false information.
  - c. It is worth noting that in early discussions on this programme, we made it very clear to government that parallel importers could not be beholden to OEMs to provide vehicle data; we would not support any system that required this. This creates a de facto method for OEMs to restrict competition by simply not providing the data. It is simply absurd to have a system where a competitor in a market is beholden to another competitor for the right to compete. The government agreed with our concerns and guaranteed we would have options and flexibility if we were required to provide data at all.
- 6. The inability to accurately identify vehicles consistently.**
- a. Since the government does not have information on all the models and variants that have been available in source markets and they do not trust importers to provide the information, the government cannot know all the options and therefore cannot accurately identify vehicles consistently.
  - b. This failure is well demonstrated.
- 7. A supplemental data rule, Vehicle Efficiency and Emissions Data (VEED) 2022, prioritises the deflection of liability over the provision of accurate data.**
- a. The VEED rule specifies that the government is in the right if they provide the best information on vehicles that they have available to them at the time.
  - b. There is potentially an enormous difference between accurate information and the “best information at the time”.
  - c. This dynamic negates any responsibility to improve the system or even to provide accurate information at all.
- 8. The willingness to knowingly use flawed data in calculating feebates**
- a. For example, in #2 we highlighted a significant issue with how PHEVs from Japan are being rated. Although we have highlighted this issue to government, provided a well-researched and fair solution, there is no evidence that government has an interest in fixing the problem.
  - b. The government continues to steal from consumers by not fixing the problem.
- 9. Deflection or denial of responsibility for known errors in vehicle data and in the application of that vehicle data.**
- a. Statements from government have suggested there are extremely limited issues from the Clean Car Programme while the industry suffers from the weight of the issues we are seeing ongoing and repeated.
  - b. This has led to a significant decline in trust by industry in the government, the regulator, and the programme in general.
- 10. Failure to communicate known issues with industry and the public.**
- a. Similar to #9 we are not notified of known issues, such as changes to data on specific models.

- b. Without this knowledge, we cannot address related issues on our end such as reprinting efficiency documentation for advertising and consumer information.
  - c. We need to be notified of changes in a manner similar to “Patch Notes” in software development.
- 11. Failure to provide appropriate communication channels or timeframes for resolving data issues.**
- a. Under the way the government has set up the Clean Car Discount, car dealers may not know there is an issue with a vehicle’s data and/or CO2 values until the point of sale and they are trying to register the vehicle for the customer.
  - b. Any attempt to rectify data can take between 5-14 days, which will likely result in a loss of the sale.
  - c. The industry and public need a process that can lead to a faster solution.
- 12. Unwillingness to recognise parallel importers as responsible agents for the goods they import.**
- a. When a good is imported, the imported should have the rights and responsibilities related to that good, it is their product, not someone else’s.
  - b. Consumer law mandates that parallel importers are construed to be the manufacturer of the good, including all responsibilities. These responsibilities should come with all the rights but does not.
  - c. This is an ongoing bias that extends across policies.
- 13. Unfair treatment of parallel importers versus OEM sponsored importers in the application of the VEED in general.**
- a. For example, #1, #4, and/or #5.
- 14. Unequal treatment of functionally new vehicles.**
- a. The Clean Car Programme solidifies the false premise that there are two types of importers, used car importers and new car importers. In reality, there are OEM sponsored importers and parallel importers.
  - b. Just as OEM sponsors importers can import both new and used cars, parallel importers should be able to import both new and used cars.
  - c. The current system bases the classification of new and used on the importer and the conditions of import as opposed to the condition of the vehicle itself.
  - d. “New” and “used” are descriptors that should define the condition of a vehicle.
- 15. Failure to provide the industry with a letter of indemnity for knowingly allowing the government to misrepresent vehicles and mischarge car buyers through the application of flawed or unfairly applied data.**
- a. Due to #5 and #6, and the fact that VIA has access to complete data and the capability to accurately identify vehicles, the industry is well aware of when we are lying to our customers about vehicle emissions.
  - b. Due to #1, the industry is well aware of when we are providing false or misleading information to our customers about vehicle safety.
  - c. Car dealers have a duty of care and obligations under consumer law to provide accurate information to our customers.
  - d. VIA has requested a letter of indemnity from the government to address this conflict when providing “official” information that is misleading or wrong.
  - e. The government has not fulfilled our request.