



# **MOTOR INDUSTRY ASSOCIATION**

## **CODE OF CONDUCT**

Relating to

**SAFETY RELATED RECALLS FOR USED IMPORTED  
VEHICLES WHICH HAVE BEEN IMPORTED BY PERSONS  
OTHER THAN MOTOR INDUSTRY ASSOCIATION  
MEMBERS**

**September 2005**

## BACKGROUND

- A. *New Zealand law (and in particular the Consumer Guarantees Act 1986, the Fair Trading Act 1993, and the Vehicle Standards Compliance Rule 2002 (Standards Compliance 2002 Rule 35001/1) places responsibility upon the importer and trader of used vehicles to ensure that those vehicles are safe. Both traders and importers of used vehicles provide those vehicles to consumers subject to a statutory guarantee that the vehicle is safe. Traders of used vehicles, or the importers of those vehicles are therefore fully responsible for all safety related recalls and all costs associated with the rectification of used vehicles they have imported.*
- B. *This Code sets out the minimum circumstances in which the official representatives of the vehicle marque in the New Zealand market, in conjunction with the vehicle manufacturer, is prepared to carry out rectifications to a vehicle imported into New Zealand as a used vehicle by a third party, where the model of vehicle may be the subject of a safety related recall campaign carried out in New Zealand or in the source country of the vehicle.*

## 1. DEFINED TERMS

### 1.1 In this Code the following terms have the following meanings:

<i>Accepted Campaigns</i>	A Safety Related Recall Campaign undertaken by a Member for used imported Vehicles.
<i>Franchise Dealer</i>	A car dealer which is franchised to a Member.
<i>LTNZ</i>	Land Transport New Zealand.
<i>Manufacturer</i>	The manufacturer of the Vehicle, or if the Vehicle has been manufactured by one manufacturer but rebadged as another manufacturer's product, the manufacturer whose badge the Vehicle bears.
<i>Member</i>	A Member of MIA.
<i>MIA</i>	The Motor Industry Association Incorporated
<i>Outstanding Campaign</i>	A Safety Related Recall Campaign carried out either before the date of importation of the Vehicle to New Zealand in accordance with clause 2.3, or a Safety Related Recall carried out in the source country of the Vehicle prior to the date of importation of the Vehicle to New Zealand.
<i>Rectification</i>	A repair or modification of a Vehicle required pursuant to a Safety Related Recall Campaign or Outstanding Campaign.

<i>Safety Related Recall Campaign</i>	A safety related recall of Vehicles.  (i) instigated by a Member; or  (ii) instigated by the manufacturer of the Vehicle and identified by LTNZ as a recall that may be applicable to used imported Vehicles in the New Zealand market, and accepted by a Member.
<i>Service Campaign</i>	A campaign to rectify faults in Vehicles that are not safety related, including (but not limited to) recalls relating to a failure to maintain Vehicles, or recalls relating to modifications of Vehicles.
<i>Vehicle</i>	A previously used motor vehicle imported into New Zealand by a person other than a Member which is within the criteria specified in clause 2.2.

## **2. SCOPE OF THIS CODE**

- 2.1** This is a voluntary code of conduct. Even though Members will not have been the importer of Vehicles subject to this Code, and will therefore not have any legal liability arising from a Safety Related Recall Campaign in relation to that Vehicle, this Code is intended to set out the minimum circumstances in which Members will voluntarily carry out a Safety Related Recall Campaign, and the manner in which that Safety Related Recall Campaign will be carried out.
- 2.2** This Code is intended to cover Vehicles which have been imported into New Zealand by persons other than Members which are either:-
- 2.2.1 Vehicles which, at the time of their importation into New Zealand, have been registered for use on a road in any country for fewer than seven years; or
- 2.2.2 If the Vehicle has never been registered in any other country, then fewer than seven years have elapsed from the date of manufacture of the vehicle until the date of its importation into New Zealand.
- 2.3** The date of importation into New Zealand shall be the date of the border inspection carried out in accordance with Section 4 of the Vehicle Standards Compliance Rule 2002.

## **3. SAFETY RELATED RECALL CAMPAIGNS**

- 3.1** This Code shall apply to Safety Related Recall Campaigns which:-
- 3.1.1 Are instigated by a Member;

3.2.1 Are identified by LTNZ and accepted by a Member.

*(Note: As Members will have no control or knowledge of what Vehicles are imported by third parties, or the markets from which those Vehicles are sourced, no Member will be responsible for monitoring Safety Related Recall Campaigns in overseas markets.*

*Members undertake to use reasonable endeavours, working with the Vehicle manufacturer, to monitor Safety Related Recall Campaigns that may affect Vehicles in the New Zealand market.*

*As the vast majority (currently approximately 95%) of Vehicles are sourced from Japan, the MIA maintains that the primary responsibility for monitoring of Japanese Safety Related Recalls must rest with LTNZ as the agency charged with ensuring the ongoing safety of the New Zealand fleet. If LTNZ identifies a Safety Related Recall that may be applicable to used imported Vehicles in the New Zealand market, LTNZ may refer that Safety Related Recall to the Member and the Member may accept that Safety Related Recall Campaign by electing to carry out the Safety Related Recall Campaign in New Zealand.)*

#### **4. ACCEPTANCE OF CAMPAIGNS**

4.1 Each Member is to determine whether it shall accept a Safety Related Recall Campaign. In determining whether or not to accept, a Member shall have regard to:-

4.1.1 The Member's new vehicle code for the relevant marque and model;

4.1.2 The views of LTNZ;

4.1.3 Such other matters as the Member considers relevant.

#### **5. PROCEDURE FOLLOWING ACCEPTANCE**

5.1 Once a Member has accepted a Safety Related Recall Campaign it will:

5.1.1 Carry out the Safety Related Recall Campaign in full; or

5.1.2 Advise LTNZ so that LTNZ may assume responsibility for contacting the registered owner of any affected Vehicle to advise that the Vehicle is subject to a Safety Related Recall Campaign and that the owner should contact a Franchise Dealer to have the Vehicle Rectified.

#### **6. RECALLS EXCLUDED FROM THIS CODE**

6.1 Subject to clause 7 (*Vehicles in Transit*), Members shall not accept responsibility for Outstanding Campaigns that have occurred prior to a Vehicle being imported into New Zealand.

**6.2** If, while a Member is undertaking repairs on a Vehicle (whether as part of a Safety Related Recall, or otherwise), or if in any other circumstance the Member becomes aware that Rectification is required pursuant to an Outstanding Campaign, the Member:

6.2.1 Will advise the owner of the Vehicle that Rectification is required;

6.2.2 May carry out the Rectification at the cost of the owner with the owner's consent.

**6.3** If the owner refuses to have the Vehicle Rectified at its cost, the Member reserves the right to notify LTNZ that a safety related defect has not been Rectified on the Vehicle.

**6.4** This Code does not include Service Campaigns. There is no obligation upon a Member to carry out a Service Campaign.

*(Note: Members are not prepared to accept responsibility for carrying out Rectifications pursuant to Safety Related Recalls which have occurred prior to the importation of the Vehicle into New Zealand. Owners of Vehicles may seek compensation for the cost of Rectification from the trader and/or the importer of the vehicle (reimbursement may not be available if a Vehicle was imported by other than a company in the business of selling Motor Vehicles i.e. a private person.)*

## **7. VEHICLES IN TRANSIT**

**7.1** If, at the time a Member undertakes a Safety Related Recall Campaign, a Vehicle is in transit from its source country, the Member will carry out Rectifications upon the Vehicle in accordance with the terms of this Code, provided that the Vehicle is imported (refer clause 2.3) within twelve weeks of announcement of the Safety Related Recall Campaign.

## **8. COST OF SAFETY RELATED RECALL**

**8.1** If the Vehicle's manufacturer agrees to reimburse the Member for all costs involved in carrying out a Safety Related Recall Campaign in relation to Vehicles, the Member will bear all costs of Rectification excluding consequential costs.

**8.2** If the Vehicle's manufacturer will not reimburse the Member for all costs of carrying out the Safety Related Recall Campaign, the cost of Rectification (or that part of the cost which is not reimbursed by the Vehicle manufacturer) is payable by the Vehicle owner. In that case:-

8.2.1 The Vehicle owner will be advised prior to the Rectification being carried out that there will be additional charges to the owner, and the amount of those charges;

8.2.2 If the Vehicle owner refuses to have the Vehicle repaired at the owner's cost or partial cost, the Member is not obliged to proceed with the Rectifications, and reserves the right to notify LTNZ that a Safety Related defect has not been rectified on the Vehicle.

*(Note: The Vehicle owner can seek full reimbursement of these additional costs from the trader and/or the importer of the Vehicle if the importer was a commercial importer and vendor of motor vehicles.)*

## **9. PUBLICATION OF RECALLS ON MEMBER WEBSITES**

9.1 Members may elect to include information regarding Safety Related Recalls on their own websites. If such information is included on a Member's website, the Member will make it clear on the website whether or not the information covers used imported Vehicles.

## **10. SUPPORTING MEMBERSHIP**

10.1 The following Members have agreed to adopt this Code:

Ateco Automotive New Zealand Limited	Auckland
BMW New Zealand Limited	Auckland
CablePrice (New Zealand) Limited	Wellington
Continental Vehicle Distributors	Auckland
Daimler Chrysler New Zealand Limited	Auckland
European Motor Distributors Limited	Auckland
Ford Motor Company of New Zealand Limited	Auckland
Hino Distributors (New Zealand) Limited	Palmerston North
Holden New Zealand Limited	Auckland
Honda New Zealand Limited	Auckland
Hyundai Automotive New Zealand Limited	Auckland
Inchcape Motors New Zealand Limited trading as Subaru of New Zealand	Auckland
Intertruck Distributors (New Zealand) Limited	Mount Maunganui
Iveco Trucks New Zealand	Auckland
Kia Motors New Zealand Ltd	Auckland
MAN Automotive Imports (NZ) Ltd	Amberley
Mazda Motors of New Zealand Limited	Auckland
MG Rover New Zealand	Auckland
Mitsubishi Motors New Zealand Limited	Porirua
Motorcorp Distributors Ltd	Auckland
Motorcorp Holdings Limited	Auckland
Nissan New Zealand Limited	Auckland
Sime Darby Automobiles New Zealand Limited	Auckland
Southpac Trucks Limited	Auckland
Ssangyong New Zealand	Auckland
Suzuki New Zealand Limited	Wanganui

Titan Plant Services Limited  
Toyota New Zealand Limited  
Truck Investment Group  
UD Truck Distributors (New Zealand) Limited

Auckland  
Palmerston North  
Palmerston North  
Auckland