

Important ACCC advice to VACC on treatment of used dealer stock from today re Battery/Coins

**** This bulletin contains revised guidance with the way a used motor vehicle is treated under the Standard ****

VACC has been in communication with members over the past week with regards to how the new Button/Coin Battery Standard (the Standard) is to be applied to used motor vehicles.

A comprehensive bulletin was forwarded to VACC members on 16 June that outlined how the new Standard may impact members.

The Standard is active from 22 June 2022 (tomorrow) and thus becomes law.

What is the issue?

Members have commented that when referring to key fobs that the Standard does not take into consideration the number of times a vehicle may change ownership. The treatment and durability of an imported \$5 torch (for e.g.) or musical greeting card that is powered by a button/coin batteries to a securely imbedded battery coin in a key fob of \$30,000 automobile is an unrealistic comparison. However, we must deal with the law as it is intended and stated.

VACC agrees with its member view that the Standard is confusing and difficult to comprehend. VACC, car manufacturers and the ACCC have differing interpretations on whether, and what, used vehicle inventory must have the warning label attached to key fobs and inserted in owners' manuals.

The differing interpretations are primarily related to wording in the ACCC Guidance and Standards announcement that the Standard applies to *'all new and second-hand items first supplied on or after 22 June 2022.'*

To help alleviate this confusion VACC has requested that ACCC provide specific guidance to the automotive retail industry by tabling the following query:

Q. Is a new vehicle that was retailed prior to June 22nd, then resold as a used car to a customer on or after 22 June required to comply with the warning labelling standard?

What has VACC previously advised its members?

Previous advice provided to VACC from ACCC on 16 June was that all motor vehicles sold/retailed (as used or new) to consumers, on or after 22 June 2022, that have a key fob that contains the lithium button/coin battery fall under the new standards framework and must have the appropriate warning labels attached. The ACCC have revised how used vehicles should be treated. As stated above, VACC asked ACCC to specifically provide guidance on used vehicle stock. Yesterday evening the ACCC advised the following specific advice to VACC (in red type):

ACCC answer:

To directly address VACC's question, it is the ACCC view that a new vehicle, including its accessories that was first supplied to a consumer prior to 22 June 2022, then re-supplied to a consumer on or after 22 June 2022 **does not need to comply with the button/coin batteries information standards**. The explanatory statement supporting the standard probably explains it best. It states,

The information standard does not apply to consumer goods that were first supplied to a consumer before the requirements became mandatory. Consumer goods that are supplied after the requirements became mandatory are subject to the requirements of the information standard, including when re-supplied as second-hand goods, unless the re-supply is a one-off transaction being made by a consumer, such as private sale.

VACC has referenced a footnote from page 5 of the ACCC supplier guide, which may be the source of confusion. In its current wording it gives the impression that all second-hand goods that are re-supplied regardless of when they were first supplied must comply with the standard, when this is not the case. ACCC will organize for that footnote to be updated.

ACCC advises that this is not legal advice and individual businesses should seek their own advice to ensure that their products comply with the standards.

Summary

The Standard will apply to any product that contains button or coin batteries. The consequence of this is that approximately 100 per cent of new keys and key fobs delivered to consumers on or after 22 June 2022, either with a new vehicle and/or or sold as replacement parts are captured under the Standard as those items contain coin batteries.

VACC urges dealers to follow the ACCC advice and to take note of the sentence in the explanatory statement '*Consumer goods that are supplied after the requirements became mandatory are subject to the requirements of the information standard, including when re-supplied as second-hand goods.*' **This will mean a vehicle sold as new vehicle from today, and then is resold after today (e.g., traded in, demonstrator brought into trading stock) will become a used vehicle and will be captured under the Standard.**

Other

It is anticipated that Stickers for key fobs will be available in the next 24-48 hours. Independent used vehicle traders should consider whether they require to order stickers immediately. You may not require them to comply with the Standard for some time. New vehicle dealers who have not received factory support are urged to order by visiting www.ourautoistore.com.au. I will advise you all of when they are available.

VACC thanks those members who have called to query the ACCC guidance. A special thanks to the Blood Group, Poyzers of Bendigo, the Morley Group, Dwyer's Motor Group, Kyneton Toyota, Reagan Peugeot, and Graham Crawley at MTAWA.

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