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**Australian Competition & Consumer Commission**

Our Ref; TBA

6 August 2002

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Dear Madam/Sir

### **Mandatory Consumer Product Safety Standard for Vehicle Jacks**

I am writing to you as I understand that Audi Australia Pty Ltd is the Australian importer and/or distributor for the brand Audi motor vehicles including accessories supplied with these vehicles such as vehicle jacks.

As you may be aware vehicle jacks supplied with new motor vehicles to the Australian market must comply with the requirements of the mandatory consumer product safety standard for vehicle jacks as notified in *Commonwealth of Australia Gazette No. 11, 19 March 1997*. I enclose a copy of the Gazette Notice for your information and note that the mandatory standard for vehicle jacks is based on Australian/New Zealand Standard AS/NZ 2693:1993- Vehicle Jacks ("the mandated standard").

The mandated standard prescribes requirements for the design, construction, performance and labelling of jacks designed to raise vehicles. The mandated standard applies, albeit not exclusively, to all suppliers who supply vehicle jacks with new vehicles, such as manufacturers, importers, distributors and retailers.

Supply of a vehicle jack which does not comply with the mandated standard is prohibited by section 65C of the Trade Practices Act 1974 ("the Act"). I advise in this regard that the Australian Competition & Consumer Commission ("ACCC") is responsible for the administration and enforcement of the Act and that this responsibility includes enforcement of the mandated standard. I note also supplying goods which do not comply with a mandatory standard is an offence under the Act and may attract substantial monetary penalties.

I advise that staff of the Melbourne office of the ACCC attended the Penfold Audi new vehicle retail show room located at 71 Burwood Highway, Burwood, Victoria on 31 July 2002. The purpose of the visit was for ACCC staff to assess user information and safety warnings stated on jacks provided with new vehicles and published in the vehicle owner's manuals for compliance with the marking and instructions requirements of Clause 7 of the mandated standard.



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I refer you to Annexure A which details the provisions of Clause 7. I note this is only a small excerpt from the mandated standard. If you require a complete copy of the Australian standard upon which the mandated standard is based you should contact the publisher, Standards Australia.

## **Jack labelling**

On the basis of the product safety survey referred to above it is my opinion that that the jack supplied with the vehicle model A6 allroad quattro does not comply with Clause 7 of the mandated standard as it is not marked with all the stipulated information and safety warnings.

Specifically, I am concerned that clause 7.1(d) of the mandated standard has not been complied with.

Clause 7.1(d) – Although a ‘Maximum Load’ is marked on the jack itself, the wording is not consistent with that required by the standard, in that the nominated capacity should be stated as ‘Safe Working Load ...’ in kilograms.

Furthermore, it is my opinion that that the jack supplied with the vehicle model TT quattro also does not comply with Clause 7 of the mandated standard as it is not marked with all the stipulated information and safety warnings.

Specifically, I am concerned that clauses 7.1(b), 7.1(c), 7.1(d) and 7.1(g), of the mandated standard have not been complied with. I shall deal with these clauses individually.

Clause 7.1(b) – This clause requires that the vehicle manufacturer’s name be given on the jack, however in this case, the only indication of this is the Audi 4-ring symbol engraved on the side of the jack.

Clause 7.1(c) – The name of the model(s) of vehicle that the jack is intended for use with is not given on the jack.

Clause 7.1(d) – Although a ‘Maximum Load’ is marked on the jack itself, the wording is not consistent with that required by the standard, in that the nominated capacity should be stated as ‘Safe Working Load ...’ in kilograms.

Clause 7.1(g) – The jack is not marked with a warning notice concerning the danger of getting under a jacked vehicle as required by the standard.

## **Instructions for jack use.**

As part of their conduct of the survey staff were also provided with the Vehicle owners manual for both the Audi A6 allroad quattro and the Audi TT quattro. I have considered the manuals and in particular pages 155-160 (sections titled ‘Tools and jack’, ‘Spare wheel’ and ‘Changing a wheel’) of the TT quattro manual; and pages 232-236 (sections titled ‘Spare wheel’ and ‘Changing a wheel’) of the A6 allroad quattro manual in terms of its compliance with Clause 7.3 of the mandated standard.

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I am concerned that not all the safe usage instructions referred to in this Clause are addressed in either of the manuals. Recommendations are made in the Owner's Manual (page 158 of the TT quattro manual, page 233 of the A6 allroad quattro manual) that the wheels of the vehicle should be chocked *if* the vehicle is on a gradient. The standard (Clause 7.3(b)(ii)) requires that this recommendation be made in all situations including when the vehicle is on a flat surface (ie not only when the vehicle is on a gradient). Owners are also advised in the instructions for jack use (for both vehicles) to use stands when working under the car. However, no warning is given to the effect that no person should place any portion of their body under a vehicle that is supported only by a jack (Clause 7.3(b)(iii)) - for instance when only a jack is being used to change a tyre.

I consider these to be further examples of non-compliance with the mandated standard. Additionally, I note also the instructions contained in the manual do not strictly follow the wording as it appears in Clause 7.3 and I would appreciate your comments regarding adherence to the actual wording used in Clause 7.3 of the mandated standard.

## **Non-compliance with the mandatory standard**

Supply of a new vehicle with a jack that fails to comply with the requirements of the mandated standard as outlined above may constitute a safety hazard of a potentially serious nature to consumers. If this is the case then immediate consideration should be given as to the manner in which any hazard to consumers may be minimised, if not eliminated. At its highest level such consideration may lead to action to recall the affected jacks so that they may be labelled to comply with the mandated standard. I attach for your information in this regard as Annexure B document titled *Product Recall- A guide for Suppliers*.

I also point out that Part VA of the Act contains provisions dealing with product liability. Under these provisions consumers may seek compensation or damages for personal injuries or other loss caused by a defective product. I note goods are considered *defective if their safety is not such as persons generally are entitled to expect*. I note further it is usually manufacturers or importers of products who are liable under these provisions.

## **Response sought**

I would appreciate your response to the issues I have raised in this letter to assist me in determining what, if any further action should be taken in the matter. Further to this I note the ACCC has a range of options available to it where it considers a breach of the Act has occurred. These options may include administrative resolution based on court enforceable undertakings by the business concerned or the institution of civil proceedings for injunctive relief and other orders. I note also in some cases parties may be prosecuted for a breach of the Act.

On the basis that you are unable to provide any documentation which may substantiate the subject jack supplied by your company complies with the mandated standard I would appreciate it if, when providing me with your reply to the issues I have raised, you would also address the following matters:

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1. The action you propose to take as a result of this letter;
2. Your assessment of the level of safety hazard posed by the non-compliance with the mandated standard and the basis upon which that assessment has been made;
3. The number of vehicles supplied with the non-complying jack and the period of time over which that supply has occurred;
4. Details of the other models of Audi vehicles imported and/or distributed by your company and whether the jacks supplied with these vehicles are marked in accordance with the provisions of Clause 7 of the mandated standard. If so, to the extent applicable, please provide an assurance from your company to this effect signed by an appropriate officer having authority to speak for and on its behalf. If other jacks are sold with vehicles that do not comply with the mandated standard then please provide details of the number of such vehicles supplied with the non-complying jack and the period of time over which that supply has occurred. In addition I would appreciate you providing me with a copy of any information and warning labels Audi affixes to jacks supplied with each model of new Audi vehicle supplied in Australia.
5. Details of any incidents/accidents or complaints involving any non-complying jacks supplied with new vehicles distributed and/or imported by your company;
6. Details of your company's compliance program(s) designed to facilitate its compliance with the Act including particulars of those persons within your company who are responsible for the program's implementation and observance;
7. Whether your firm will be issuing a recall in relation to affected vehicles to remedy any non-compliance with the mandated standard; and
8. Any other matter you consider I should have regard to in considering whether any further action should be taken.

I would appreciate your urgent reply to my letter and in any event by no later than Wednesday 14 August 2002. Please note I intend to refer the matter for the consideration of the Commissioners as soon as practicable after this date irrespective of whether your reply has been received.

If you wish to clarify any issue raised in this letter please contact myself, Mr Colin Pennell on PH: (03) 9290 1917 or Ms Heidi Snell on PH: (03) 9290 1966.

Yours faithfully



for James Small  
Acting Assistant Director