

Consultation Paper on the *Motor Vehicle Standards Act 1989*

Submission: Australian Centre for Agricultural Health & Safety (University of Sydney)

Date: 19th June 2013

The Australian Centre for Agricultural Health and Safety (University of Sydney) is the national agency with a responsibility for research in the area of agricultural safety. Data compiled by the Centre through the National Coroners Information System has identified that quad bikes have been the leading agent of on-farm fatal injury in both 2011 and 2012.^{i ii} Based on media reports this pattern is also continuing to date in 2013.ⁱⁱⁱ Consequently, this submission focuses solely on our area of interest and expertise in relation to quad bikes. In particular, reference is made to Object 4 - regulate first supply to market of used imported vehicles.

General comments

Throughout the consultation document the term All Terrain Vehicle or ATV is used. As defined by both a Victorian Coroner and the US Consumer Product Safety Commission, such a description is misleading and erroneous as these vehicles are not made to traverse all forms of terrain.^{iv v} All future documents should use the term quad bike or quads.

Definition of Road Vehicles

The document cites:

“The Motor Vehicles Standards Act 1989 and its associated Regulations and instruments provide the regulatory framework to control the importation and first supply of road vehicles in Australia. Road vehicles are defined as: motor vehicles designed solely or principally for the transportation of people, animals or goods on public roads; motor vehicles permitted to be used on public roads; trailers designed to be towed behind road motor vehicles or partially completed road motor vehicles.”

Quad bikes are not made for public road use and any proposition for such should be strenuously challenged. Manufacturers already specify that use on sealed roads is contraindicated due to the low flotation tyres. Furthermore, even on unsealed public roads there have been fatal incidents occurring in Australia involving both single and multiple vehicle cases. Currently, on-road use in Australia is predicated on specific conditional registration requirements dictated by the States and Territories, we support these requirements for the agricultural sector and would like to see them strengthened with a mandatory inclusion of a crush protection device.

An important aspect that needs consideration if ADR's are to be extended to quad bikes is that any such move should not promote their increased use on public roads (sealed or unsealed). The inherent risks of use on public roads are clearly illustrated by data from the US where up until

December 2010, approximately 47% of fatal incidents occurred on a public road, this compared to just 16% in Australia.^{vi vii} Without question recreational use is more dominant in the US, however anecdotal evidence would suggest that recreational use is also increasing in Australia. In short we do not want to replicate the carnage caused by use of these vehicles on public roads and as such, any changes in regulatory status under a potential ADR that enables quad bikes to be more easily used on a public road, are not acceptable nor in line with the stated intent of the Act to enhance safety.

Focus of Act

“The first Object of the Act, at section 3(a) is - to achieve uniform vehicle standards to apply to new vehicles in Australia. This is aimed at reducing the regulatory burden on the automotive industry associated with complying with the ADRs, which at the time were applied slightly differently by each of the States and Territories.”

We concur with this approach however it is critical that standards as they apply to quad bikes in all international jurisdictions be enhanced. Currently the default basis for quad bike standards is the US American National Safety Institute Standard (ANSI),^{viii} with the vast majority of vehicles imported into Australia (95%+) being capable of meeting this criteria if required. This standard has also been adopted virtually verbatim in the European Union.^{ix} However, there is no agreed international standard which could be adopted under the UN 1958 Agreement and it is highly inappropriate to adopt either the ANSI or EU standard as they both fail to address two of the main safety factors: (a) lateral stability and (b) crush protection. Without these two issues being adequately addressed and incorporated into a standard, the safety of these vehicles will continue to be compromised which is contrary to the intent of the Act and consequently moves to adopt such proposals should not be contemplated. Furthermore, adoption of either of these standards without inclusion of these two elements would likely have little to no impact on overall safety associated with quad bikes (as most product imported already meet such standards).

While a base standard as may be required under any ADR is useful, evidence from the motor vehicle (passenger car) sector is strongly supportive of the role that performance based assessments such as the Australian New Car Assessment Program (ANCAP) have had in enhancing safety. There is no doubt that the ANCAP has substantially increased the safety of the passenger fleet in Australia, irrespective of the existing ADRs. To this end the current project being conducted by the University of New South Wales using a similar ANCAP approach for quad bikes, will provide a starting point to such independent assessments. As evidenced with passenger cars, it is our belief that this approach adopted for quad bikes will result in a greater and more rapid improvement in their safety than will an updated ADR. While this does not preclude the development of an updated ADR that incorporates quads, the longer term benefits are more likely to evolve from performance based assessments with public availability of the results.

Benefits & Costs To Industry

The discussion paper highlights:

“It is a long-standing government policy that regulation should not restrict competition (choice) unless it can be demonstrated that the benefits to the community outweigh the costs and the objective of the legislation can only be achieved through placing restrictions on choice.

It is conceivable that quad manufacturers will use the above as a means to attempt to block any design changes regarding lateral stability and crush protection requirements in Australia. As Australia is a small global market (estimated 5%), manufacturers have repeatedly claimed that changes to suit the Australian market are not commercially viable. This we believe is a furphy and has more to do with protecting the legal position of manufacturers,^x particularly in the US market where there are over 11,000 fatalities recorded on these vehicles.^{xi} Recent Australian data covering fatal incidents from 2001-2010 indicates that quad fatalities impose a conservative cost burden of \$30 million on the economy each year.^{xii} In addition, this fails to take account of the costs associated with the large number of life-changing and permanent injuries (spinal/head) and considerable numbers of minor injuries requiring medical intervention. It is our contention that such changes to design and their inclusion in a relevant standard (lateral stability & crush protection requirements), would have a significant community benefit in Australia and indeed globally if adopted.

Summary

In summary, we support the proposal for inclusion of quad bikes within an updated ADR on the proviso that this:

- a) includes a mandatory lateral stability requirement;
- b) includes a mandatory crush protection requirement;
- c) does not increase the scope for quads to be used on public roads (i.e. existing conditional registration requirements remain in place but with the mandatory fitment of crush protection); and,
- d) be complemented and enhanced through a formal and ongoing performance based assessment system as currently being utilized by the University of New South Wales.

References

-
- ⁱ Herde E, Lower T. *Farm Related Injuries Reported in the Australian Print Media 2011* [Internet]. Moree (AUST): Australian Centre for Agricultural Health and Safety; 2012 [cited 2013 June 6]. Available from: www.aghealth.org.au
- ⁱⁱ Herde E, Lower T. *Farm Related Injuries Reported in the Australian Print Media 2012* [Internet]. Moree (AUST): Australian Centre for Agricultural Health and Safety; 2013 [cited 2013 June 6]. Available from: www.aghealth.org.au
- ⁱⁱⁱ Peachey K, Lower T. Farm Related Deaths and Injuries: [Media Monitors Snapshot: January 1 - March 31 2013](#) [Internet]. Moree (AUST): Australian Centre for Agricultural Health and Safety; 2013 [cited 2013 June 7]. Available from www.aghealth.org.au
- ^{iv} Elder J, Leland E. 2006. CPSC Staff Response Regarding Follow-Up Questions from Commissioner Moore after the June 15, 2006, ATV Safety Review Briefing (3286) [Internet]. Bethesda (MD): U.S. Consumer Product Safety Commission; 2006 [cited 2013 June 6]. Available from: <http://www.cpsc.gov/LIBRARY/FOIA/FOIA06/brief/atvmoore.pdf>
- ^v Olle J. Investigation into Deaths of Vince Tobin, Joseph Jarvis Shepherd, Jye Kaden Jones, Peter Vaughn Crole, Thomas James Scutchings, John Neville Nash, Patricia Murray Simpson, Elijah Simpson with Inquest. Melbourne (AUST): State Coroner Victoria; 2009.
- ^{vi} Garland S. 2010 Annual report of ATV-related Deaths and Injuries. Bethesda, MD: Consumer Product Safety Commission, 2011.
- ^{vii} Lower T. 2013. National Coroners Information System (unpublished data).
- ^{viii} Speciality Vehicle Institute of America. American National Standard for Four Wheel All-Terrain Vehicles ANSI/SVIA 1 - 2010. California, USA.
- ^{ix} European Union. Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles. [Internet]. Brussels; 2013 [cited 2013 June 7] Available from: <http://ec.europa.eu/enterprise/sectors/automotive/documents/directives/motorbikes/>
- ^x Lower T. Quad bikes - tobacco on four wheels. *Australian & New Zealand Journal of Public Health*, 2013.
- ^{xi} Garland S. 2011 Annual report of ATV-related Deaths and Injuries. Bethesda, MD: Consumer Product Safety Commission, 2013.
- ^{xii} Lower T, Pollock K, Herde E. Australian quad bike fatalities - what is the economic cost? *Australian & New Zealand Journal of Public Health*, 2013; 37 (2): 173-8