

Public Submission In Response To ACCC Quad Bike Safety Standard Exposure Draft

To Whom It May Concern,

My name is Dirk Price, I am writing this submission as a representative and director of the company Aussie Powersports.

Aussie Powersports is an importer and distributor of parts and accessories for ATV (*Quadbikes*) and UTV/SSV (*Buggies & Side By Side*) vehicles. Our focus is primarily on ATV and UTV accessories and we currently distribute these to over 400 Motorcycle Dealers and Trade Customers Australia wide, also maintaining an online retail store. This makes us one of the largest distributors of products specifically targeted to ATV's and UTV's in Australia. Our company is based in regional Queensland with our distribution centre located in Charters Towers, North Queensland.

I am also a chartered engineer of Australia (MIEAust CPEng), with 12 years experience in the structural engineering industry with 5 of those as a chartered engineer and RPEQ.

I have written this submission as there are sections of the Draft Consumer Goods (Quad Bikes) Safety Standard, that I believe need further investigation and modification as they will have a significant detrimental effect on the ATV industry.

Personal Experience:

In addition to the industry exposure I have as a director of Aussie Powersports, members of my family own and operate a cattle station in Cape York Peninsula upon which I have worked over the past 15 years. Many of the tasks performed were completed using ATV's as they are the best purpose vehicle for the activity, for example; checking and repairing fence lines, mustering of cattle and the only means of transport effective during the wet season. Through this work I am very familiar with the function of an ATV and how they perform and are used in a working farm setting.

There is a misconception by people with minimal experience in farming or the ATV industry that SSV's are an equivalent replacement to all functions that an ATV can perform. For some tasks an SSV can outperform an ATV (towing, load carrying, comfort, etc) but the increased visibility, smaller size, lighter weight, greater manoeuvrability and better offroad ability makes ATV's far more suited to many tasks than any other vehicle.

I have also had the traumatic personal experience of a close family member who was involved in an accident involving an ATV, sustaining critical and life threatening injuries. They were very fortunate to survive and were in a critical condition in intensive care for a large period of time, so I fully understand the injury potential that an accident involving an ATV can cause. For this reason I am a supporter of practical safety measures that can be implemented to improve rider safety for ATV's.

ATV Safety:

An ATV is a purpose built offroad vehicle that performs many essential functions to farmers and businesses throughout Australia not easily replicated by other machinery. If not used responsibly or by inexperienced or not age appropriate (old or young) users they have the potential to be dangerous. These are not characteristics exclusively limited to ATV's but also apply to many other purpose built machinery or vehicles that are widely used in farming and other industries including chainsaws, motorcycles, tractors, forklifts, earthmoving equipment, etc. However ATV's are widely available and easier to operate than some of these other types of equipment which can make them very tempting to be used by inexperienced operators, especially children.

As a company we always promote responsible and safe operation of both ATV and UTV vehicles and support the safety initiatives developed by the industry and FCAI found at <http://atvsafety.com.au/>. Our opinion is that safety devices such as helmets, increased rider awareness of the danger that ATV's can pose and rider training are the best ways to minimise accidents and by extension injuries caused by ATV's.

In the Final Recommendation to the Minister the ACCC highlights that over the past 3 years there has been a reduction in fatalities attributed to quad bikes. The ACCC attributes this to the following factors:

- Increased training and awareness of quad bike safety amongst consumers
- An increase in the uptake of OPDs
- Substitution by some quad bike operators to SSVs
- An increase in uptake of personal protective equipment, including helmets.

They also acknowledge that the reduction is likely to be as a result of the increased safety campaigns and rebates offered by governments and industry players, which would include the 5 Star ATV safety initiative developed by the FCAI and mentioned above.

Our experience indicates that of the 4 factors identified above, the substitution of quadbike operators to SSV's, increased training and awareness and the increase in personal protective equipment are the most influential factors in the reduction. The transition to UTV or SSV is an ever increasing trend which is supported by the latest FCAI sales data but also Aussie Powersport's own parts and accessory sales.

An increase in the uptake of OPDs is not something that we have noted as widespread in the industry. Highly critical, but information lacking the required detail from the ACCC report is the actual number of OPD's vs ATV sales and the regions that they have been sold in. Certain state governments have offered sales incentives and rebates for these types of products. This data should be obtained and correlated against injury reduction in these regions, before any significant impact of fatality reduction over the last 3 years is attributed to OPD devices.

Concern with Proposed Standards:

As highlighted earlier in my submission our company is in support of practical and reasonable measures to increase the safety of ATV's in Australia. The introduction of a safety standard, in principle I believe to be a good thing for the overall industry which should help provide clarity on safety requirements and help support the current safety initiatives.

The proposed safety standard **will only be successful** in its goal to reduce the number of operator fatalities in Australia if it has buy-in and support from the ATV's manufacturers and the relevant industry bodies. In its current form the draft standard **does not** have this support and will not be successful in its goals.

The following recommendations in Part 2 of the Draft Safety Standard appear to be reasonable practical measures that will have a positive influence on safety and increase rider awareness about the danger of rollovers on ATV's.

- Compliance with international standards
- Additional rollover warning labels
- Lateral roll stability testing
- Lateral roll stability tag

Part 3 of the Draft Safety Standard contains the following section which we believe requires significant revision before the standard is made into law:

- 15 - General use quad bikes – operator protection devices
- *This section is discussed in section 10.4 of Final Recommendations to the Minister*

The mandatory fitment of an OPD to all quad bikes without a defined design standard or testing requirements in my opinion as an engineer is a risk to rider safety. The requirement for mandatory fitment of an OPD is not required by any other international standard and in my opinion has not been investigated or subjected to a rigorous enough engineering design process to be introduced with the other requirements in the proposed draft safety standard.

As highlighted in section 10.4 of the Final Recommendations to the Minister there is no clearly defined testing data to confirm that fitment of an OPD device improves the rider safety on an ATV, with testing data and professional opinions supporting cases on both sides of the argument. 3 coronial inquests, all of which would have reviewed all available evidence and professional opinions in very close detail have not recommended that fitment of an OPD be made mandatory.

Specific concerns with Section 15 of Draft Standard:

- Most current manufacturers have publicly stated they will exit the ATV market if draft is made law in its current form
- Manufacturer exit may lead to a largely unregulated industry
- No minimum design or testing requirements for OPD devices included in the draft standard
- Very generic language used about the requirements for OPD devices – open to interpretation

Current Manufacturer Exit from Market:

Most of the current manufacturers within the Australian market have publicly stated that they will exit the ATV market if the draft standard is made law in its current form. As stated previously in my submission, I believe it is essential for the draft standard to be developed in consultation with the manufacturers and the relevant industry bodies to ensure full buy-in from the entire industry.

As also previously highlighted the demand for ATV's will continue in Australia as they are a vehicle best suited to some tasks in farming and commercial operations. The current manufacturers in the Australian market have many years of experience in the design and sale of ATV's, their exit will create a market vacuum that could lead to the following problems:

1. Other small manufacturers potentially with inferior products entering the market
2. Grey imports (2nd hand imports) from overseas entering the market
3. Older ATV's continuing to remain in the market as a lack of new alternatives are available

The aim of new entries to the Australian market or secondhand importers mentioned in points 1 & 2 above may not be to provide the best, safest and most innovative OPD device as the ACCC would like to encourage. It will be to provide the cheapest, most cost-effective device to meet the minimum requirements of the draft standard. As the draft standard does not specify any minimum requirements just a generic reference to other aftermarket OPD devices there is a risk this may lead to substandard OPD devices being introduced to the market. Further detail regarding the concerns with the generic wording of the OPD requirements is discussed in a following section of this submission.

A further concern in relation to second hand imports is the ability for an importer with minimal disassembly of an ATV to import it into Australia as 'parts' then easily reassemble once cleared customs and sell on the second hand market. The ACCC recommendations have given this a cursory consideration by including a provision in section of the draft standard for imports of 'second hand' quad bikes. I believe that this requirement could be easily circumvented by the above method and would be extremely difficult to monitor or police by the ACCC or any other organisation.

If the current manufacturers are no longer present in the Australian market then the current ATV's that are in use of which the ACCC estimate there may be approximately 186,000 will continue to be used and repaired potentially well in excess of their current normal usage life. A lack of new suitable alternatives would discourage the replacement of these older models with newer and potentially safer ATV models.

No minimum design or testing requirements for OPD in draft standard:

Based on the statement by the ACCC in the Final recommendation to the minister on page 79:

"The ACCC is of the view OPDs should not restrict innovation and should recognise manufacturers are best placed to assess design and structural requirements for OPDs. The requirements for an OPD standard should be flexible and allow manufacturers to develop innovative OPDs, or assess which after-market OPD to attach, based on the specifications and performance of its quad bike models. For these reasons, this general, performance-based requirement is preferred."

I believe the intention of the ACCC is to have the manufacturers integrally involved with the design and selection of appropriate ATV OPD's for the models that they produce. This is a reasonable assessment as they will be best placed to understand the full design implications and requirements of the OPD devices relevant to their product. However if the current ATV manufacturers pull out of the Australian market this will be counter productive to this goal and leave the design and development of the OPD devices to aftermarket manufacturers who may be far less qualified to fully understand the impact the devices will have on the overall performance of the ATV's.

See below for Section 15 wording as presented in the draft standard:

15 General use quad bikes—operator protection devices

A general use quad bike must have one of the following devices fitted, or integrated into its design:

(a) an ATV Lifeguard, in the model manufactured by Ag-Tech Industries Ltd. (New Zealand) and available for supply when this instrument commences;

(b) a Quadbar, in the model manufactured by QB Industries Pty Ltd. and available for supply when this instrument commences;

(c) a device of a type that offers the same, or better, level of protection for operators from the risk of serious injury, or death, as a result of being crushed or pinned in the event of a rollover, as is offered by a device of a type mentioned in paragraph (a) or (b).

As an engineer I am very concerned with the generic wording of this section and believe it leaves the design requirements for an OPD very open to interpretation. Specific queries I would raise about this section include:

- Why are there no specification for minimum design requirements or testing procedures ?
- Who is qualified to assess that a proposed device offers the same or better level of protection than 2 specified proprietary OPD's ?
- What standards/testing procedures have the specified OPD's been designed for ?
- Is the testing data on both OPD's publicly available for review and design comparison ?
- Both OPD devices referred to are very different designs and will have different performance characteristics, does an OPD device need to be the equivalent of one or both ?
- Does the design of an OPD device need to consider what it is fixing to or its effect on other parts of or performance of the ATV ?

The lack of any minimum design requirements or testing standards means that potentially the adequacy of an OPD device will only be tested in the event of a rollover by the end of line user of the ATV. There is no limits placed on who can design or manufacture an OPD device which I believe potentially presents a high amount of risk to the end of line operator of an ATV.

When Section 15 is reviewed in comparison to the detailed testing requirements specified in Section 16 *“General use quad bikes – minimum lateral roll, forward pitch and rearward pitch requirements”* it appears that there is a distinct lack of design and testing requirements in Section 15 despite the extensive discussion and large amount of data presented in section 10.4 of the Final Recommendation to the Minister.

Impact to Our Business and Community

As mentioned earlier in this submission, Aussie Powersports is based in Charters Towers, regional North Queensland. We currently have 6 fulltime employees, and 5 casual employees who rely on us for their income and lively hood. Our business also supports other businesses and employment in the region, including supporting local freight companies who also rely on our business.

If the current ATV manufacturers withdraw from the Australian market as they have indicated will happen if the draft standard is passed in its current form, then this will have a huge impact on our business effectively wiping out half of our current yearly revenue.

The growth in sales of SSV's and potential increase in sales of these units if ATV's are removed from the market will not cover the shortfall as due to the higher vehicle cost the overall volume of sales will be much smaller.

It will not only be our business that will be significantly impacted by the proposed standard, the town of Charters Towers also contains 2 motorcycle dealerships and several fabricators who manufacture products for ATV's and are also heavily reliant on this industry. The loss of this business as well as the reduced spending from farmers in this industry will have a huge flow on effect and negative impact on the economies of many small regional towns like ours throughout Australia.

Alternate Recommendations and Conclusion

As previously discussed, our company is fully in support of practical and reasonable measures to increase the safety of ATV's in Australia. Many of the recommendations in the proposed draft safety standard are reasonable, however we believe that the recommendations in Part 3 of the proposed standard, particularly section 15 need significant revision or deletion from the draft standard before it is passed into law.

If the ACCC feels that further safety requirements in addition to international standards and other recommendations in Part 2 of the draft standard are required, then we encourage them to consider the following ideas:

- Licencing or compulsory training for ATV users
- Rider Education
- Government incentives to encourage manufacturers to develop OPD's for ATV's

Thankyou for receiving my submission on behalf of Aussie Powersports, I am willing to meet with the ACCC or any relevant parties to further discuss this submission at their leisure.



Dirk Price

Director

Aussie Powersports