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Re: Draft Consumer Goods (Quad Bike) Safety Standard 2019

Thank you for the opportunity to comment on the Consumer Goods (Quad Bike) Safety Standard 2019. I commend national messaging and guidance on quad bikes. The proposed standard goes some way to achieving this. But I also believe this is an opportunity for joint action across government departments, in partnership with industry.

Whilst I understand the ACCC remit has limitations I believe there is more that the Consumer Goods Safety Standard could do. It doesn't go far enough.

My experience

These observations and comments are submitted as an individual with over 30 years' experience in work health and safety (WHS), in operational and policy functions. My background includes an honours degree in Chemistry and Graduate Diploma in Occupational Hygiene, and my role in development of the WHS legislation, as a member of Safe Work Australia.

I am currently consulting.

I offer these comments as an experienced professional with an interest in improving health and safety.

Working with other government departments

I recognise that the ACCC is able to look at design safety, warnings/labels, interim bans and compulsory recall but not other much needed measures. The ACCC Issue Paper notes that it cannot legislate or enforce age restrictions, mandate training, or impose passenger restrictions, speed limits or helmets and other personal protective devices.

This means that ACCC can be only a part of any national approach established to reduce fatalities and injuries associated with quad bikes.

The ACCC consumer standard is appropriately based on selection and design. But it could and should look more widely and exploit available technology rather than confine itself to the usual written warning labels and the operator protection devices mentioned in the exposure draft.

For example other design characteristics such as audible warning devices should be considered as well. There are also higher-level engineering controls available. More on these devices later.

Some of what is needed is indeed beyond ACCC's bailiwick – such as:

- raising community awareness of the risks involved
- ensuring children do not use adult quad bikes
- addressing recreational use as well as work-related use
- using the full range of risk management measures in combination (for example controls that include using helmets)

Although outside the remit of ACCC I would also hope that a licensing regime that ensures proper selection and training and education for owners of the vehicles purchased can be implemented. Can the standard state that licenses are required, even if simply part of a checklist or contact list for other government departments for further information?

A joint cross-government national approach is vital. It should include ACCC pre-market actions as outlined in this exposure draft standard **and** information on these out of scope issues. The ACCC standard could also clearly state that it is only a part of the overall package of measures on quad bikes.

Instructions and information

Under WHS legislation quad bikes are considered mobile plant, and Safe Work Australia (SWA) has, amongst other advice, produced a national information sheet Quad bikes in rural workplaces. This Information sheet importantly notes that

"*Quad bikes are not safe for use in all terrains or for all tasks*."

The SWA Information Sheet outlines advice on risk management that includes consideration of the work being undertaken, the rider, loads and towing, and passengers. Further it urges selecting a vehicle fit for purpose and encourages alternatives to using quad bikes.

This nationally agreed SWA Information Sheet should accompany any sales/purchasing documentation. The ACCC standard could include a requirement to supply a package of information/instructions that includes SWA guidance. Such instructions could include contact information regarding licensing and accredited training and education.

A full Risk Management approach

The ACCC Exposure Draft Standard could look at the full range of controls in the hierarchy used for risk management. A standard risk management approach looks at a hierarchy of solutions or controls:

- **design and engineering** controls
- **administrative** controls such as education and awareness, limiting access to ignition keys or shut off switches, alarms etc.*
- requirement for provision of appropriate **personal protective equipment****

* Note: Active riding as means of control should be firmly discouraged.

**An ACCC recommendation on an Australian Standard for helmets, when worn, for example should be possible and would be consistent with the SWA Information Sheet.

Unsurprisingly, a **combination of such controls** is often the most effective. ACCC standard could note that a combination of controls should apply in conjunction with the ACCC standard.

The ACCC's focus is on design and engineering controls and selection of vehicles. But some administrative and protective devices (personal ones such as helmets) should be considered too. Maybe helmets could be considered an Operator Protection Device.

More can be done to reduce the risks through greater user-acceptance and through behaviour change by users.

ACCC could also be a partner in a broader programme - launching a standard in conjunction with other government responses. Further, such an approach will demonstrate that the government's response is based on a **combination of controls.**

ACCC role in Behaviour change

The ACCC concluded that general-use quad bike models cannot be safely operated across all the terrains or conditions that **consumers commonly believe they can be.** The resulting foreseeable use or misuse has led to serious injuries and fatalities. User understanding, acceptance and behaviour change is needed. ACCC notes that it is

> *….reasonably foreseeable that quad bikes would also be operated by a range of operators, with differing:*
>
> - *levels of training*
> - *levels of experience*
> - *abilities to actively ride*
> - *anthropometry (height, weight, etc.)*
>
> *These differing characteristics of operators should also be considered at the **design** stage*. (emphasis added)

I believe the draft exposure standard does NOT adequately address this.

The ACCC also found that consumer perceptions of risk vary.

This further endorses the need for a **combination of controls** including strong **engineering controls;** and the need to have licences, nationally accredited education and training for successful behaviour change.

Prevention is actually the main objective, so to be effective we need joint national actions (that include industry and users) that

- Improve the **range of controls** from **design** and **administrative** controls to **personal protective equipment**
- Aid **selection** of the appropriate vehicle at purchase
- Increase rider/driver **awareness of risks**
- Improve rider/driver **skills and management**
- Drive **community acceptance of the need for a high level of protection**

Indeed, quad bikes should be used only for the purposes for which they are designed. At the earliest possible stage, at selection, information/instructions must be available and promoted. The information/instructions should clearly define the purpose of the particular quad bike and should reinforce that the quad bike should not be used beyond the manufacturer's specifications – its carrying capacity, the slope across which it can safely travel, the slope down

or up which it is safe to travel, that it is not suitable for children to drive, and so on.

In order to ensure that quad bikes are fit for purpose, premarket standard must apply and:

1. the needs and intentions of the user should be identified at the point of sales – **select the vehicle appropriate for the task**
2. the attributes of the vehicle to meet these needs should be considered by the seller – **sell the vehicle appropriate for the task**
3. the seller should consult the supplier and others with relevant and up to date knowledge as to its safe and appropriate use and should communicate that knowledge to the buyer – **information package**
4. potential purchasers must receive **national accredited training**
5. **purchasers must be licensed**

Selection systems such as a pre-market star rating system, a licence before purchase (with renewal and refresher training) and a full package of instructions are all important for behaviour change. As identified in the standard the testing assurances prior to importation (in conjunction with star rating system) should also help with this product selection.

Use of a pre-market Australian star rating system for awareness and selection

I believe the ACCC should further consider the advantages of designing such a system. It could be similar to the ANCAP system used for cars. It would compliment what currently appears in the exposure draft standard, summarizing and matching those requirements for the type of vehicle. This could be supplementary or an addition to current table on Types and Categories of Quad Bikes. Of course, a star rating system is not enough on its own.

But a star system is a simple way of providing instant meaning to the purchaser. A 5-Star ANCAP rating is better than a 2-Star ANCAP rating. Of course it must include assessment of risks involved each and every time the quad bike vehicle is used. A star system provides an “instant” category that includes characteristics and limitations. This is similar to cars so 5 stars does not provide absolute safety but it does provide assurance in selection that the vehicle has certain safety features.

A wide communication and awareness programme to promote responsible purchase and operation of the equipment must still be conducted. The criteria for selection of appropriate devices for the tasks and the inherent risks of these tasks should be communicated throughout the supply chain.

This all points to a package of information/instructions with assurances on test results, star rating system, advice from SWA, licensing and referral to accredited education/training.

Warning Labels – audible warnings

Consistent nationally agreed information should be reinforced on **warning labels** on the quad bikes. However, audible warnings are also useful. For example, there are a number of products available that will sound a warning when the incline is inappropriate for the vehicle.[1]

This occurs in real-time and is therefore much more effective. It should supplement advice on any written warning label that is read before operation of the quad bike. Audible signals could also be used at ignition stage to restrict access by child/minor, and when there is a shifting weight or risk of overloading. A car uses this system to identify and ensure use of passenger and driver seat belts. Also there should be alerts calling for adequate maintenance of quad bike e.g. brakes, tyres, etc and for other criteria. As mentioned some of these alerts already exist in cars.

The ACCC standard should encompass use of technology, not just labels.

Furthermore, the quad bike design could include the facility to communicate with others when used in remote locations or in isolation.

Specific comments under Section 11 Rollover-warning label.

It is noted in the ACCC Issues Paper, that *if the operator considers an injury likely to happen to them personally (personal), they may take direct action.* The standard needs to recognise the need for this personal identification - the behaviour change required to reduce the risks. The ACCC standard alone cannot achieve this.

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[1] **An example of an audible warning product:** Please note I do not have any interest or involvement with this product, this is provided as an example only.

The Inclinometer Elite model *incorporates GPS technology, which also enables data logging of both incline and over-speed events. These triggered alarms are then time-stamped with the GPS location of where and when an event occurred. All information can be accessed straight from the password protected device. The Audio Alert System is designed to provide vehicle operators clear and precise verbal alerts. It can be customised to prioritise different warnings for the operator, as well as the frequency and volume of certain verbal messages*. For example:
'Please Apply Handbrake'
'Roll-Over Warning'
'Door Open'
'Engine Oil Pressure'

The recommended labelling is an improvement. However, more positive messaging has been shown to be effective in gaining behaviour change. Phrases that provide stronger positive actions could be used.

For example
“WARNING: Risk of rollover - use only with accredited up-to-date licence”
“WARNING: Risk of rollover - use only appropriate star rated vehicle for task”
“WARNING: Risk of rollover - assess the terrain before each task”
“WARNING: Risk of rollover - use only on flat terrain”
“WARNING: Risk of rollover - use only on gentle slopes or gradual inclines”
“WARNING: Risk of rollover - Maximum angle <45 degrees”
“WARNING: Risk of rollover - use only gentle turns”
“WARNING: Risk of rollover - use by adults only”
“WARNING: Risk of rollover - zero alcohol”

The label to indicate the Stability Test Result is slightly confusing in use of minimum and maximum angles. Perhaps a warning that *use only up to maximum angle of 45 degrees* or *use on slopes <45 degrees.*

The statement that quad bikes with higher numbers are more stable, will only work to change behaviour when combined with some instruction/training.

Maintenance

Enforcing good maintenance is another major challenge. Similar to that which applies to cars, a combination of a star rating system, a licensing and education combination should encourage good maintenance.

Again using audible alerts for scheduled maintenance or where a part needs replacement are possible. As with cars, service contracts with suppliers are also valuable in encouraging continual maintenance.

National Approach

A co-ordinated national approach is vital. This draft standard goes someway towards it. But no single approach can achieve on its own, the required controls, acceptance and behaviour change.

The best outcomes would be gained by

- Using a **united national approach that is consistent** across the whole of Australia and that involves industry including national agreed information/instruction
- National Government-led, **consistent communication and awareness programmes** (that is targeted, recognise the risks, limitations, styles and uses and explain the selection process)

- Using the **full suite of risk management measures** (design, administrative and personal protective measures), not just a selected few, and these should all be based on reliable evidence
- **Accredited education and training and licensing** system.

In summary

The ACCC proposed Consumer Standard is a constructive start, but can only be a part of a broader, co-ordinated and consistent national approach across government.

Aids to appropriate selection, warnings, alerts and guidance will each go some way to reducing the risks; but even these controls need to be seen in a broader context. The full suite of risk management measures - engineering, administrative and 'personal' protection control measures must apply. And each should be addressed or referenced in the Consumer Standard.

The use of technology to improve designs must be encouraged; technology that addresses a wider range of issues than those currently covered. And an appropriate standard for helmets, for example, should be specified.

Hence I recommend further consideration of including

- Acknowledgement that a consumer standard is only part of a national approach
- Information such as the SWA Information Sheet and that refers to or gives direction on licensing and accredited training
- A risk management approach that includes the full suite of controls and acknowledges that a combination of controls is most effective
- A Star rating system
- Wide use of audible warning devices
- Reference to an appropriate standard for helmets

Carolyn Davis