

Comments on the ACCC Report on ATV SAFETY

The inflammatory statement that “Quad bikes are the leading cause of fatalities in Australia” is couched in the class of consumer goods and needs to be called out for what it is. On average rollovers cause 10 deaths per year [60% of the total deaths attributed to ATV operators] In the last three years that death rate has fallen to 10 overall [6 caused by rollovers, 1 for each State per year on average-that’s not many people per annum is it?] So lets put this emotive topic in some perspective, Sugar kills far more people!!

Other examples? On average, 100 people are killed by knife attacks, (and it’s trending down) http://www.crimestats.aic.gov.au/NHMP/1_trends/#causeDeath

Knives are also a consumer good, there is legislation to punish those who commit homicide, but knives persist in the community, the death rate does not change, the myriad of attitudes of a few who commit such atrocities does not change (on average), nor do the attitudes of ATV operators who regularly play Russian roulette with the way they operate their ATVs (aside from inattentiveness).

Over the next 12 months another 100 people will die from a knife attack caused by people who lose the capacity to think properly , and another 10 people are going to die from ATV accidents by the same means as the last 10 did, and the 10 before them and the 16 before that etc, etc.

Animals kill more people per annum than ATVs for heaven’s sake.

<https://www.ncis.org.au/wp-content/uploads/2017/11/Animal-Related-Deaths.pdf>

As for deaths on our roads, we just sit there and tut tut (we really don’t know why, some are suicides, some are inattentiveness, some are medical episodes, some are criminal, some are inexperience, so many reasons) Same site again as the homicide info. (1141 people killed on the roads in the 2018 calendar year , looking worse for this year[430 so far]) Yet we legislate, we fine, we punish, we put in air bags, seat belts (OPDsfor ATVs?), blah blah blah, but so many still die every year.

http://www.crimestats.aic.gov.au/NHMP/1_trends/#causeDeath

So the Government does not believe it (ATVs) is a problem, it sees no need to regulate the ATV industry as it makes patently clear below (taken from the executive summary of the report) by directing the ACCC to come up with a Safety Standard and recommendations to put a Tag on the Handle Bar of new ATVs to indicate stability, some sort of OPD of indeterminate specifications and stop using Asymmetrical comparisons between ATVs to make choice easier (the latter is a good one)

You could ask the question why was a motorised vehicle ever classed as a commercial good, but that is off topic, they are a commercial good and fall under the auspices of the ACCC until the Govt believes they need to be regulated and classed as “whatever”.

On 24 October 2017, the then Minister for Small Business, the Hon. Michael McCormack and Minister for Employment, the Hon. Michaelia Cash MP jointly announced the ACCC led Taskforce would conduct an investigation to address quad bike safety as an urgent priority and the Taskforce

would work with the IDC to examine solutions to improve quad bike safety, including whether to introduce a quad bike product safety standard.

This Final Recommendation delivers on those commitments made by the Australian Government.

The Final Recommendation sets out the ACCC's recommendation to the Minister to make a safety standard under s. 104 of the ACL to reduce the fatalities and injuries associated with quad bikes in Australia.

Under s. 104 of the ACL, a safety standard can include requirements that are reasonably necessary to prevent or reduce risk of injury to any person. A safety standard **can**:

- ☐ mandate certain performance and design requirements
- ☐ require testing during or after the completion of manufacture
- ☐ require the provision of information in the form of markings, warnings or instructions.

Among other things, a safety standard under the ACL **cannot**:

- ☐ control use through age or passenger restrictions
- ☐ mandate that purchasers must undergo training
- ☐ prescribe speed limits
- ☐ mandate the use of personal protective equipment

The deaths caused by rollovers are Currently 6 per 186000 ATVs (186000 ATVs are thought to be out there, the ACCC doesn't know because the industry is not regulated), that is 3.2 deaths per 100000 ATVs per year, the national road toll is 1.55 times greater at 5 per 100000 people (2017). If you look at Quad rollover deaths per capita it's actually 0.024 per 100000 (204 times less than the road toll.....the govt doesn't see it as an issue, [it's 6 deaths per annum, how many died of complications from diabetes?], it just wants to be seen to care by creating a safety standard)

If the Govt is serious, wouldn't it look into the Sean's Law created in 2010 in Massachusetts where Children <14 are forbidden to ride ATV? (it's in the report) There's all the children saved.....but the ACCC cannot make a recommendation like that under s.104 of ACL when looking at a safety standard.

In the ACCCs report, it acknowledges that the death toll has dropped significantly from the average of 16 to 10 over the last 3 years, but does not know why. It suggests the following reasons copied from p20;

The New Zealand and Australian markets offer substantially similar quad bike models. Instead, the reduction in Australian fatalities over the last three years is likely to be due to a combination of factors,including:

- ☐ 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.

Many of the above factors are likely to be as a result of the increased safety campaigns and rebates offered by governments and industry players

But clearly, it offers no supporting data to back up any of these assumptions. The 1st and 4th points are not in the jurisdiction of the ACCC at all, so it is not obliged to delve into that (they are probably significant factors given the level and prominence of WHS training these days-but who am I to speculate?) The 3rd point is a spectacular fail on the ACCCs part-if you look at fig 5 in the report and take a ruler out to measure the proportion of SSV sales to Quad sales over the last 10 years, they are split 10:100, if you then look at the split of fatalities over the same period they are 13:126, (pretty close to 10:100?)ie the risk of fatality is the same if you use an SSV or a Quad, therefore point 3 is incorrect based on the evidence the ACCC presents-and the really sad part of this is that while only 14% of deaths using Quads were children, they are 38% in SSVs.....and if Sean's Law was adopted, there would be significantly fewer fatalities by banning children from using them, but that's not under ACCCs power of authority either. The fact that Sean's Law even turns up in this report which is not within the terms of reference in Safety Standard development is acknowledgement and recognition (I believe) by the ACCC that what they are being asked to do is not going to work-but they've been given a job to do by the ministers and they have completed it. Whether the Ministers pick up on this?-who knows. The point is this, SSVs have a huge roll cage, ATVs don't yet the same proportion of deaths per vehicle "class" occurs.

So it has the fall back position of the 2nd point to suggest that increased adoption of OPDs are a factor, OPDs being the only thing it has authority to recommend now that points 1,3 &4 are effectively irrelevant because two of them are not the ACCCs jurisdiction and the other is plainly missed. However the ACCC might use their summary as a defence in that it clearly states that they cannot rely on any quantitative analysis associated with the assessment of the criteria for any of the options! WOW, and that's how we wind up with one suggestion for each of its areas to assess on, namely, a stability control test, a tag to put on the handle bar to assist with making asymmetrical information more consumer friendly and an OPD of indeterminate specifications, all based on qualitative inferences from anecdotal evidence-that's embarrassing. In the body of the report it justifies its decision making processes based on some incredibly vague notions.

In the ACCC report Summary it states;

The large degree of uncertainty associated with the assessment of the above options makes a quantitative analysis unreliable. Instead, the regulatory options are analysed against a multi-criteria qualitative assessment of the likely benefits and costs.

Reading this report (which has hardly changed from the preliminary discussion paper) suggests to me that children should not use ATVs at all, seat belts be worn on SSVs, and OPDs on Quads are not going to save an operator from inappropriate use of their machine based on all the case studies presented in the report.

The Ministers Cash & McCormack have asked for an ACCC led Taskforce would conduct an investigation to address quad bike safety as an urgent priority and the Taskforce would work with the IDC to examine solutions to improve quad bike safety, including whether to introduce a quad bike product safety standard. And that's what they got-and it's flawed, and it highlights better

pathways to safety that are not within its terms of reference for the ACCC to comment on [Sean's Law]...banning children on adult ATVs. Are we serious about ATV deaths overall, or just the ones involving roll-overs?? Get the kids off them, they are not toys, they are heavy, cumbersome and unstable in the hands of youngsters.

Kind Regards,

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